Legislative Council

Tuesday, 26 November 1991

THE PRESIDENT (Hon Clive Griffiths) took the Chair at 3.30 pm, and read prayers.

BILLS (6) - ASSENT

Messages from the Governor received and read notifying assent to the following Bills -

1. Australia and New Zealand Banking Group Limited (NMRB) Bill
2. Margarine Repeal Bill
3. Honey Pool Repeal Bill
4. Medical Amendment Bill
5. Financial Institutions Duty Amendment Bill
6. Queen Elizabeth II Medical Centre Amendment Bill

ACTS AMENDMENT (REPRESENTATION) BILL

Second Reading - Defeated

Debate resumed from 14 November.

HON E.J. CHARLTON (Agricultural) [3.40 pm]: The National Party opposes the Acts Amendment (Representation) Bill, which has nothing to do with what the Government portrayed it to be about publicly and in the other place. This Bill is not about fair representation; it is a misappropriation of the facts. I have heard it said repeatedly that the Government is of the opinion that the people of the metropolitan area of Western Australia have been disfranchised. It is about time this Government realised the extent to which people who reside outside the metropolitan area have been disfranchised. If ever there was an occasion that we should consider the basic economic facts concerning the future of this State and nation it is now, and we should dealing with that with far more sincerity than this legislation portrays. I cannot understand the Government's motives for bringing forward this Bill. Again, the Government is merely appealing to the majority of the population; it wants to be seen to be putting forward something that gives it a warm feeling. This Bill is not about fair representation and neither were similar Bills which were introduced previously.

As members know Western Australia comprises a large land mass and scattered throughout the State are a whole range of communities. The majority of people who live in Western Australia reside in the Perth metropolitan area which comprises an area with a radius of approximately 50 kilometres. Those people are represented by 34 members of Parliament in the Legislative Assembly and 17 members of Parliament in the Legislative Council. It appears that that representation is not enough for this Government; it wants to demonstrate to the public that the majority of members of Parliament should be within a stone's throw of each other. This is nothing but a political stunt by the Government. It wants the majority of members of Parliament to represent the Perth metropolitan area in both the Legislative Assembly and the Legislative Council. Without any disrespect to the people of the metropolitan area I advise the House that it is not enough for the Government to have greater representation in the metropolitan area; it now wants to increase that representation by decreasing the existing representation in country Western Australia. I could understand it if the Government said that it wanted to decrease the number of country seats and retain the number of city seats. There could be a financial justification for putting forward that suggestion, but there is absolutely no justification for the proposal contained in this legislation; that is, to reduce the number of seats in country Western Australia and increase the number of metropolitan seats.

Without going into specific detail, what this Government is doing is simply decreasing representation in excess of 1:3 out of the country Assembly seats and about one half in the Council seats. This Bill clearly demonstrates this Government's attitude towards the contribution made to this State by country people. The Minister for Parliamentary and Electoral Reform has said repeatedly that the people in the metropolitan area are

underprivileged in respect of political representation in this State. We do not have to look very far to see what happened on the Federal scene when the so-called one-vote-one-value came into operation. I will give three examples of what happened: The Federal seat of Kalgoorlie, which comprises a large area of Western Australia, has one vote in Canberra.

Hon Tom Helm: He is a good member.

Hon E.J. CHARLTON: It is a pity that members opposite do not follow the lead of the Federal member for Kalgoorlie. Every time he opens his mouth he criticises the Labor Party, both Federal and State. I am looking forward to members opposite taking up his suggestions about the Aboriginal Legal Service, Aboriginal funding and the mining industry. It is pleasing to know that Hon Tom Helm is totally supportive of Graeme Campbell, the Federal member for Kalgoorlie.

The metropolitan areas of this nation would be destitute if it were not for areas like the area comprising the Federal seat of Kalgoorlie, but it has only one vote in the Federal Parliament because of what is perceived to be fair representation; that is, the so-called one-vote-one-value. Anyone who thinks about this clearly would know that it is one vote and no value. The people of Kalgoorlie do not have any value from the one vote they have in the Federal Parliament, and yet that area is the catalyst for the wealth of this country. A number of members who represent Federal seats within a 10 kilometre radius, and who have no commitment to the future of Australia, can outvote the contribution from the seat of Kalgoorlie. In addition the seat of O'Connor, which is responsible for the next highest export base of this nation's economy and is the backbone of the agricultural industry's export potential this year, again has one vote in Canberra. To a lesser extent the Federal seat of Forrest, which is another great wealth producing area of Western Australia, again has one vote. Those three Federal seats represent a very large area of Western Australia in Canberra and the people who reside in those areas are treated as second class citizens because regardless of their commitment to this State and nation they have only three votes in Canberra. The State Government, which sees great value in what has happened in Canberra, wants to implement the same sort of so-called democracy at a State level.

Everyone knows that all that one-vote-one-value has done in South Australia, Victoria and New South Wales, in particular, is to rip off economically the people in country areas, because their lack of representation and political clout has led to the transfer of the wealth of this nation over the last 10 years to those people who live in the cities. As soon as one places a concentrated group of members of Parliament into a confined area, they respond to the particular population which they represent with handouts and giveaways, and they try to outdo one another, no matter what may be their political persuasion, because politics is all about our representing people and giving them what they want to the best of our ability. The end result is that one-vote-one-value has done nothing to benefit country people in those States. I will be the first to support one-vote-one-value or fair representation, or whatever one wants to call it, when the Labor Party can demonstrate that a Labor Government will provide the opportunity and will encourage people to live in other parts of this nation rather than being concentrated in one place where they can be manipulated. I say that not simply because I come from a non-metropolitan area but because it is a fact that Australia's economy will continue to depend on country areas for the next 20, 30, 40 and probably 100 years.

Hon J.M. Berinson: Your party was in national Government for eight years on the basis effectively of one-vote-one-value, so are you seriously saying that your own party while in Government could not produce the goods?

Hon E.J. CHARLTON: Yes, absolutely. I have said it a thousand times.

Hon J.M. Berinson: So do you think the Federal system should change as well?

Hon E.J. CHARLTON: Yes, most definitely, and if the Attorney General wants me to say it again I will say it again, as often as he likes. It is no coincidence that the economy of this nation was in far better shape when there was more representation in the outlying areas of Australia.

Hon Tom Helm: What about Queensland?

Hon E.J. CHARLTON: The member should ask the Labor Party about Queensland, because it was a Labor Government which did that in Queensland, for its own benefit initially, and it

was beaten at its own game. Members opposite can jump up and down, but I can tell them that when Joh Bjelke-Petersen left Parliament, unlike some people in this State he did not receive a big golden handshake, nor did he receive financial assistance to appear before the Fitzgerald Royal Commission. As if it were not good enough that certain people ruined this State, we are still paying for their deeds by giving them financial assistance to appear before the Royal Commission! It was a different story in Queensland. Queensland, particularly when the current Government came into office, had absolutely and by a country mile the greatest and strongest economy of all the States; and that is no coincidence either.

This proposal should be treated with the contempt it deserves, and should be cast aside promptly, because it will do nothing for the future of this State economically and it will do nothing for the people who live in the metropolitan area. I do not want to criticise those people who live in the city, because it just so happens that from the beginning of this nation politicians have encouraged people to concentrate in the cities and along the coastline of Australia -

Hon Tom Helm: Like Queensland.

Hon E.J. CHARLTON: I think the member would know that Queensland is the most decentralised State in the nation. It is a shame that Western Australia has not gone more down that path than it has. That may happen when the member has an influence in the Labor Party and is able to get more activity in the Pilbara.

This Bill proposes to decrease the representation of people in country areas. However, country members of Parliament find it difficult even now, with the vote weighting that we currently enjoy, to represent their constituents, and it will be impossible for them to do the job if we halve the representation of country people. Members of Parliament are invited to many functions and meetings, and are expected - rightfully so - to attend, because they have made the commitment to represent people and they should honour that commitment. A member of Parliament in a metropolitan area is able to attend many functions, simply because he does not have to spend the travelling time that is required in country areas. In many cases, country members do not find it practical to travel by aeroplane. They have to spend four, five or 10 hours travelling in a motor car, without seeing anyone, just to attend a particular function. People in country areas have little enough voice as it is because they are outnumbered by people in the metropolitan area. Another factor is that we currently have a Government which has a policy of doubling the population of the metropolitan area of Perth.

Hon J.M. Berinson: From where did you perceive that policy?

Hon E.J. CHARLTON: From the lady who sits next to the Attorney General.

Hon J.M. Berinson: Did she say that was a policy or something that we could reasonably expect?

Hon E.J. CHARLTON: Both.

Hon J.M. Berinson: I do not think so. I think you have confused two separate matters.

Hon E.J. CHARLTON: I will dig it out of *Hansard* for the Attorney General. I heard Mr McGinty, the Minister for Housing, say the same thing only a few weeks ago. He said that in order to cater for the doubling of the population we will need high-rise buildings in the inner city areas because we cannot afford to pay for freeways and for the communication costs, as well as provide the land and the housing. The quarter acre block is out. That is history. That has all gone by the board; Mr McGinty said that. He said we must have some nice high-rise buildings and ghettos in the centre of Perth. Each Government member who has tripped around the world has seen what has happened to other nations which have concentrated their populations largely in one place. Our State, and our capital city, have uncontrolled crime. This Government has not been able to respond to that because its members cannot bring themselves to move away from the do-gooder syndrome. As a result we will have a doubling of the population over the next 30 years.

Hon Fred McKenzie: Tell us how you will do that.

Hon E.J. CHARLTON: By taking away a few of the burdens of those who want to live in country Western Australia, where the action is and where every dollar is first produced for the State. If the Government gave them an opportunity to do their own thing without penalising them, more people would go to country areas. The next time members of the

Government are on the top floor of this building they should look out over the city area and tell me how many dollars are produced by that area for everybody to share.

Hon Fred McKenzie: It is easily said but it is not an economic reality.

Hon Mark Nevill interjected.

The PRESIDENT: Order!

Hon E.J. CHARLTON: Hon Mark Nevill must be a little embarrassed by the situation. He is part of a Government faction and represents a country region yet he must sit there and support what the Government is trying to do. He is battling now to hold his place on the ticket. He will be written into the history books.

There is no justification for this legislation. As some country people said to me the other day, it might be a good thing if this Bill were passed because then we would have a proper war and secession, not only from the Eastern States but also from the Perth metropolitan area. How would the Government get on then, if it did not have the good country fellows here to keep it in line and give a bit of balance?

Hon Peter Foss interjected.

Hon E.J. CHARLTON: We had better not get onto the subject of Telecom - that is another story and it is a good example of what is happening right now. Telecom is taking a great many of its staff from country Western Australia and putting them in the metropolitan area where deregulation is taking place. No private operator will want to compete in country Australia. The only place they want to compete is in the metropolitan area.

Hon Tom Stephens: The metropolitan areas of Sydney and Melbourne, if you ask me.

Hon E.J. CHARLTON: That is absolutely right. I always knew Hon Tom Stephens was a cut above the rest, and now he is starting to demonstrate it.

All jokes aside, this is no joke. This is the most serious piece of legislation to come into this place for a long time, because of the effect it could have in the depletion of country representation. As I said at the beginning, not only are country people a minority of the State's population, but also they are in the minority when it comes to political representation.

Hon Garry Kelly interjected.

Hon E.J. CHARLTON: Hon Garry Kelly is right - they should have a majority. If it were taken on one-vote-one-value, and if the right emphasis were placed on the word "value", members opposite would see that the contribution of country people to the value of the State is far greater than that of people who are not from country areas, and therefore we should have more country people. If Parliament House were in the Pilbara, or Kalgoorlie, or somewhere like that it would probably be even better. Not that we want to have another Canberra; we would not want to have it in a sheep paddock somewhere.

The National Party absolutely and vehemently opposes this Bill and hopes that members who have a conscience on this subject will vote accordingly.

HON P.G. PENDAL (South Metropolitan) [4.05 pm]: I suppose the first thing that can be said about the Acts Amendment (Representation) Bill is that it truly represents the annual dosage of paranoia on the part of the Australian Labor Party towards rural Western Australia.

Hon J.M. Berinson: You do not think it demonstrates an interest in democratic representation, by any chance?

Hon P.G. PENDAL: Not even Hon Joe Berinson believes that, incidentally.

Hon J.M. Berinson: As a matter of fact, I do. I have sometimes heard you speak as though you did.

Hon P.G. PENDAL: The second thing that can be said about the Bill is that there are at least eight ALP members of the lower House of this State who are, right at this minute, on their knees praying. Even those who do not believe that there is a divine being are on their knees praying that the Bill today will be defeated.

Hon Fred McKenzie: You should vote and see. Put it to the test.

Hon P.G. PENDAL: We know those people - Mr Grill, Mr Taylor, Mr Bridge, Mr Leahy, Mr Graham, Mr Read, and Philip and David Smith - are hoping to see this Bill defeated.

Hon J.M. Berinson: So your speech is just to protect them, is it? That is very solicitous, Mr Pendal.

Hon P.G. PENDAL: We are very benevolent towards those eight people, most of whom will not be there anyway after the next election, even on the current boundaries. I use that example because that would be the effect of the passage of this Bill. I do not intend to speak for anywhere near as long as the previous speaker because I do not think the Bill warrants it and I think most members on this side of the House do not expect that we would give it more than a cursory examination. However, I will quickly run over it.

At the moment there are 34 metropolitan lower House members and 23 country lower House members. A quick look at one-vote-one-value indicates that it would result in seats being equalised across Western Australia, with each seat having about 16 800 voters. Because there are just over 250 000 voters in non-metropolitan Western Australia, that would immediately mean that country representation would drop from the existing 23 country seats to the proposed 15 country seats. Not only would that mean a reduction of eight country members of the Legislative Assembly, but also it would immediately ensure that those eight were transferred to city representation. The overall result, therefore, would be that the Legislative Assembly of Western Australia would comprise 42 city members and 15 country members. For those who are statistically minded, one-vote-one-value would mean that two seats would disappear from the Mining and Pastoral Region. Incidentally, I wonder which two lower House members representing the Labor Party would be first to have to collect their pensions?

Hon J.M. Berinson: Why can the New South Wales members face that prospect and you cannot?

Hon P.G. PENDAL: I will tell the member why, Mr President: It is clear that Mr Berinson does not understand his geography, because if he wants to compare outback and remote Western Australia with so-called outback and remote New South Wales, it delivers of him a greater degree of ignorance than that for which I would have given him credit.

Hon J.M. Brown interjected.

Hon P.G. PENDAL: Of those members who represent the Agricultural Region in the Legislative Assembly, two more seats will disappear. Those members who represent the South West Region in this Chamber -

Hon J.M. Brown: You don't know; will somebody tell him?

Hon P.G. PENDAL: It never fails to amaze me that the member interjects so often from his position in the Chamber that he defies his actions when he is somehow bequeathed with the Chair and asks people not to interject. I suggest that the member should be more consistent, and he would not sound quite so stupid when he interjects in the way he does.

Hon J.M. Brown: Do you want applause for that statement?

Hon J.M. Berinson: Don't you recognise the difference between occupying the Chair and a member's position in the Chamber?

Hon P.G. PENDAL: I recognise the difference between the attitudes adopted by some members, and mainly by the member to whom I referred.

Hon J.M. Berinson: You must be desperate for an argument to descend to that.

Hon P.G. PENDAL: To give an idea of the effect of one-vote-one-value on this Parliament, I challenge Government members to indicate what steps they will take to translate the same principle to the Federal arena in respect of Senate representation. If members opposite believe in one-vote-one-value applying to this Chamber and another place in this Parliament, they must also subscribe to one-vote-one-value in the Senate. The Government does not subscribe to that application, and that is hypocritical in the extreme.

Several members interjected.

The PRESIDENT: Order!

Hon J.M. Berinson: If ever there was a threadbare argument, this is it.

Hon P.G. PENDAL: If we were to apply the one-vote-one-value argument - which would decimate non-metropolitan representation in this State - to the Federal arena, not only would

Western Australia lose half of its current Senate representation, but also the State of New South Wales' Senate representation would double from 12 to 24.

Hon Tom Stephens: We are not arguing that case, and you know it.

Hon P.G. PENDAL: The Government must argue that case!

The PRESIDENT: Order!

Hon Tom Stephens: We have a federation, and the member knows it.

Hon P.G. PENDAL: Is the member suggesting that if a federation exists, he does not need to subscribe to the principle of one-vote-one-value? We all know that 90 years ago one of the prices of federation was that Senate representation would be equal. It amuses me to hear Federal and State Labor members continue to argue, "It is okay to sell your principles in order to establish a federation, but not to enable someone in Kununurra to have the same level of representation as someone in the metropolitan area."

Several members interjected.

The PRESIDENT: Order! I call honourable members to order once again. I will not tolerate this constant lack of consideration for the member addressing the Chair. The interjections must stop. If members cast their minds forward an hour or two, they may regret an indiscretion at this stage of proceedings.

Hon P.G. PENDAL: Finally, in a debate which does not warrant a great deal of attention, the Labor Party does not practise what it preaches. It does not use - certainly it did not four or five years ago - the one-vote-one-value principle at the Australian Labor Party's national forum. The supreme Labor Party body in Australia does not suggest that one-vote-one-value should apply to that body. Also, no suggestion is made by the proponents of this system within the Labor Party that the United Nations - co-founded by one of its members - should implement the one-vote-one-value principle. The Labor Party has not suggested that the figures should be altered at the party's national forum, at which a disproportionate system applies so that the level of representation from smaller States is maintained. It cannot be argued both ways!

I repeat that the people who have the greatest amount to lose - apart from rural Western Australians - are the eight members of the Labor Party and the one Labor Independent in another place. The Labor Party is not serious about this matter; it never has been. Year after year it introduces legislation designed to make its members feel that they are achieving party policy without actually having to implement it. There are Labor members in this Parliament who believe that one-vote-one-value is simply inequitable. Recently Arthur Bickerton, a former member for Pilbara, was openly scornful of the suggestion that it is possible to properly organise an electoral system based on one-vote-one-value; and he was not the only person to express that view.

Hon Garry Kelly: He was wrong.

Hon P.G. PENDAL: He was not wrong at all. A huge difference of opinion can be found on this matter.

Hon T.G. Butler: Just because Arthur Bickerton does not agree with it?

Hon P.G. PENDAL: No; also Mr Willesee, a former leader of the Labor Party in this place -

Hon J.M. Brown: A very good one.

Hon P.G. PENDAL: He was, I believe. He took the view that one-vote-one-value was a nonsense. Members opposite know that to be the case. The fact that this legislation arrives in this place five minutes before the end of the session should indicate to people outside this place, who are strung along by Labor Party promises and protestations on these matters, that the Labor Party is as much committed to this matter as it is to other nonsense it bowls into the Parliament in the express hope that this House will reject it. This House should do exactly what the Labor Party wants it to do; that is, defeat this Bill to ensure that parliamentary representation in Western Australia retains some modicum of equity for a few more years to come. I oppose the Bill.

HON MURIEL PATTERSON (South West) [4.18 pm]: The phrase "one-vote-one-value" slips off the tongue very easily; it is almost like the law of gravity. However, what the Acts

Amendment (Representation) Bill is all about is blindly obvious, and further comment will be a waste of breath. Unquestionably, "one-vote-one-value" is such a slick and easy to remember phrase that it could be a first class advertising slogan; it is cunningly designed to short cut any rational debate of the measure.

Hon B.L. Jones: It is called democracy.

Hon MURIEL PATTERSON: As such the phrase is on a par with the French Revolution's "Liberty, equality and fraternity"; or Comrade Lenin's promise in 1917 of "Bread, land and peace". However, with the benefit of hindsight, politically aware Western Australians have learnt to be cautious about accepting at face value seductive phrases like "one-vote-one-value".

Hon Mark Nevill: What was wrong with the French revolution?

Hon MURIEL PATTERSON: Aware people know how little liberty, equality and brotherhood the people of France have enjoyed over the last couple of hundred years; and also that, in the face of Lenin's founding lie, the Russian breadlines are still as long, the shops are still empty, the collective farmlands are woefully neglected, and lasting peace seems to be a thing of the future.

With these lessons in mind I ask members to consider the effects of one-vote-one-value on the one-tenth of the Western Australian population which lives and works beyond the metropolitan area. Current projections suggest that without weighting of rural votes the number of parliamentarians representing country people would fall by 16, from 40 to just 24. At the same time, the number of city electorates would rise from 51 to 67, leaving a credit of 43 seats in favour of city interests and a debit of that number against country men and women. The editorial in the *South Western Times* of Thursday, 14 November states -

> If there was a much greater spread of population, half a dozen other major population centres like other States, or any indication that decentralisation was working, the one vote, one value argument has greater weight.
>
> But successive Governments have not been able to arrest Perth's continuing population dominance, nor is there likely to be any significant change for 50 or 100 years, probably much longer.
>
> People living outside the metropolitan area need to ask if that sort of domination, translated to political power, is healthy or desirable for the future of WA.
>
> The answer, in both cases, is no.

Such an illogical distortion of numbers would be acceptable only if it could be demonstrated that not only would one vote have one value but also that every Western Australian voter would have the same value as every other person on the State's electoral roll. To achieve this democratic ideal it would first have to be proved that all country Western Australians would have equal access to amenities similar to those available to city people. I suggest that country people pay more for fuel and travel further for education and hospitals than city people and that a limited range of employment is available to them. However, they represent the same rural minority which is required to grow the most and mine the most in order to earn the State's export income which the suburban nine-tenths of the population enjoy in relative comfort.

The high cost of human life and work in the country was recognised by the State School Teachers Union of WA when it placed an advertisement in *The West Australian* on 9 December 1986 which stated -

> "Country jobs have many drawbacks"
>
> High rents, poor accommodation, lack of resources, inadequate facilities, insufficient preparation, little professional advice or assistance - these and other drawbacks make country postings unattractive to teachers.

Unfortunately for farmers and country businessmen - the rural workers and their families - the option of well paid secure work in city suburbs does not apply to them. Heavens knows, it is difficult enough now to win social justice proportionate to country areas' needs and output. If the number of parliamentary representatives were axed by a further 16 or more representatives the country areas would effectively be disfranchised. One does not need to

be a Nostradamas to predict the results of such an unbalanced division of spoils. In case members of the Government lack that degree of foresight I remind them of the American colonists' message to King George: No taxation without representation. We all know full well this debate is not about abstract principles of natural justice.

Hon J.M. Berinson: Why not?

Hon MURIEL PATTERSON: This debate is, and has always been, about the nuts and bolts of political power. Before any member of the Government objects to that fact, I conclude by proposing a simple test of abject sincerity. Similarly to Hon Eric Charlton, I suggest the Government offer to reduce the number of Western Australian Senate members in the Federal Parliament if it believes one-vote-one-value carries merit. We should talk sense on this subject; instead of one-vote-one-value we should be talking one-vote-for-value. I oppose the motion.

HON R.G. PIKE (North Metropolitan) [4.27 pm]: I want to deal with the integrity, or lack of it, in the Australian Labor Party. Hon Fred McKenzie, sitting on the far side of the Chamber, would identify this blue and white how-to-vote card as a Liberal how-to-vote card. However, a member sitting closer to me would be staggered to find that it is a Labor how-to-vote card for the Geraldton by-election. If I were to hold in the other hand the Liberal how-to-vote card members would remark on the similarity of those cards. We all know that, historically, the Labor Party chooses the correct colour for the Labor Party; namely, red. Its how-to-vote cards are traditionally red and black. We must take note of the fact that in Geraldton during the by-election the Labor Party, in its normal devious and misleading way in grasping for electoral vantage, sought to make its how-to-vote card, in both size and style, so close to the Liberal Party how-to-vote card that it would cause confusion at the polls.

Hon J.M. Berinson: That is a good argument against one-vote-one-value!

Hon R.G. PIKE: The Leader of the Opposition always demonstrates his lack of understanding. Nevertheless, if he listens I will speak slowly for his benefit.

Hon Sam Piantadosi: You said the Leader of the Opposition.

Hon R.G. PIKE: I am sorry; I meant the Leader of the Government.

Hon J.M. Berinson: You do not know what side you are on.

The PRESIDENT: Order! I indicated earlier that I was not prepared to tolerate interjections. That means precisely that; it does not mean anything else. Honourable members who wish to stay in here for the later part of this debate should come to order.

Hon R.G. PIKE: I would have liked to show members some information, but unfortunately I filed it away and could not find it in the short time prior to this debate. However, I will give the House a word picture of what the Australian Labor Party did at the last Federal election. It embarked upon a similar program of hypocrisy and deviousness to manipulate the electorate, although we have heard in this place today and in another place that it is imbued with great integrity and purity. However, that has never been the case with the Federal Labor Party. Hon Eric Charlton said earlier today that the biggest gerrymander ever effected, from memory, was by Ryan in Queensland in 1922. We all know that this Bill is all about manipulating the electorate to the Labor Party's advantage. On the very morning of the last Federal election there appeared pseudo-Democrats who in fact were Labor Party people in disguise handing out yellow and green how-to-vote cards.

The PRESIDENT: Order! I am failing to associate what the honourable member is saying at the moment with the Bill. Perhaps there is some connection, albeit very remote. If there is I would like to know about it.

Hon R.G. PIKE: I point out to you, Mr President, the motivation of the party that introduces such a Bill. On the one hand it desires to reek of integrity and propriety, yet on the other hand it shows by its performance that it is the very opposite, which is a significant and pertinent matter in the debate. The motivation for this Bill, which is what I am dealing with, is the substance of my contribution. I will shortly quote Mackerras to further illustrate that point. We now know, do we not, that Hogg, the Federal Secretary of the Labor Party -

Hon Garry Kelly: Do you mean Mr Hogg?

Hon R.G. PIKE: - on the day of the last Federal election, by deviousness and subterfuge, set

out to mislead the public by putting out a how-to-vote card similar to that of the Democrats in order to detour votes from that party to the Labor Party in two party preferred preferences. Therefore, the quick strikes are: Geraldton, where the how-to-vote cards were identical, for manifestly mendacious political purposes; the last Federal election -

Several members interjected.

The PRESIDENT: Order!

Hon R.G. PIKE: The hip-hip-hoorays can have their say in a moment.

More particularly, this is a matter of grave import for the northern sections of this State. The former Liberal Government found it necessary to amend the Electoral Act so that enrolment forms had to be in the hands of the Electoral Commission within 31 days of the day on which they were signed and properly witnessed. That was because the Electoral Commission found that such was the manipulation of the roll by the Australian Labor Party at that time -

Hon Garry Kelly: What rubbish!

Hon R.G. PIKE: The facts speak for themselves; words will not supplant the facts. It found that the Labor Party was manipulating the roll by keeping the enrolment forms and dropping them in within three weeks of the declaration of an election so that it was impractical and impossible for the Electoral Commission to check on the bona fides of the applicants. In many cases, the applicants were duplicated and triplicated. The arguments about that being tripe and rubbish were the same arguments that were put up then. We should also remember that the first act of the Labor Party on becoming the Government in 1983 was to repeal that legislation. That background reveals the mendacity and hypocrisy of the Labor Party.

One of the first acts of then Minister Tonkin was to appoint as his adviser somebody from the hills who was forever writing to the newspaper on one-vote-one-value. That partisan nominee of the Labor Party was parachuted into the Electoral Commission for the singular purpose of propagating one-vote-one-value and it was done without apology and without regard for the great tradition of the Public Service in this State. These lackey advisers still exist and it is that partisan attitude to this problem that we have to approach. I wonder whether they will look forward with equal relish to the introduction of voluntary voting into this State when we become the Government. The integrity of this Australian Labor Party stands manifestly discredited by the facts that I have just given to the House. It is balderdash and bunkum for the Labor Party to claim that the how to vote cards for the Geraldton by-election were not a rort to deceive the voters in that electorate. I ask members whether the Australian Labor Party how to vote ticket for that by-election could be mistaken by Mrs Murphy for a Liberal card? Of course, it could. Was it an accident or was it done purposely with malice aforethought? That is an indication of the integrity of the Labor Party which is trying to thrust this legislation upon us.

In *The Australian* of 20 November, Mr Malcolm Mackerras, one of the leading psephologists in this country, said -

> Not only has the "one vote one value" argument helped Labor to the perceived high moral ground, it has also, in practice, conferred an advantage on Labor electorally.
>
> . . . the "one vote one value" argument has become a disaster for the Liberals and Nationals.

Members should note the following figures well. It continues -

> Recent experience illustrates the point. The Commonwealth (Hawke), Victorian (Cain), South Australian (Bannon) and West Australian (Dowding) Labor governments were all re-elected at the most recent polls notwithstanding that Liberal-Nationals won a majority of the two-party preferred vote (50.1 per cent Liberal-National for the Commonwealth in 1990, 50.5 for Victoria in 1988, 52.0 for South Australia in 1989, and 52.5 for Western Australia in 1989.)

Notwithstanding the many attempts by this failed socialist Labor Party to impose its will upon the people of Western Australia, this is a last gasp attempt by it to gerrymander the elections in the name of one-vote-one-value to give it what will be a dismal and slender, if not an impossible, chance for victory at the next election. The how to vote cards for the Geraldton by-election are an example of the way the Labor Party will stop at nothing in its

relentless pursuit of office without regard for the integrity of the voters of this State. I ask the House to throw out this Bill.

HON GARRY KELLY (South Metropolitan) [4.35 pm]: As usual, we have heard a speech by Hon Bob Pike which is a heap of old rubbish!

Hon P.H. Lockyer: Here is the Labor Party's secret weapon.

Hon GARRY KELLY: I thank Hon Philip Lockyer. Hon Bob Pike's speech did not contain a semblance of truth. The motives for changing the electoral system of which he accuses the Labor Party could be turned around and applied to the Liberal and National Parties. Hon Phillip Pendal referred to concern for the people in the remote areas of this State. In 1981, Sir Charles Court gerrymandered the electorates in this State whereby, by the judicious movement of a line on a map, that very close inner city seat of Pilbara was altered to contain 15 000 electors and the very remote, hard to get to seat of Kalamunda was altered to contain 8 500 electors! The record of the Liberal and National Party in terms of commitment to electoral justice and a fair electoral system is lamentable.

Between 1974 and 1983 the State was blessed with the Court and O'Connor Liberal Governments. During that time an arbitrary line was drawn around the metropolitan area, one side of which was country and the other side of which was metropolitan. Areas which one would normally expect to be classified as urban or metropolitan were, for reasons of convenience, part of the rural zone. That line had the effect of classifying Labor voting areas from country to metropolitan so that Labor voters were no longer included in the very strong rural and outlying seat of Mundaring! As a result of that redrawing of the boundary, that seat was retained by a Liberal member at the 1977 election. Vote weighting was retained. The Court Government, realising that there was an imbalance in representation between city and country, increased the members of Parliament by four members of the Legislative Assembly and two members of the Legislative Council. The Parliament retains those increases. Politicians are not very popular in the electorate and one means of addressing the imbalance in representation is by increasing the number of seats in the metropolitan area! However, it is a rather expensive operation and does not get to the root of the problem. At the moment, we have a fundamental imbalance between the number of people represented by country members and members representing city areas. I concede that the commitment of the Labor Party to one-vote-one-value has not always been a strong one.

Hon P.G. Pendal: At least you are honest about it.

Hon GARRY KELLY: I will take that as a compliment. The Queensland gerrymander was instituted by the Labor Party back in the 1920s and 1930s. The Hanlon Government refined that gerrymander in the 1940s. Gerrymanders have a habit of coming back to bite those who set them up. When the Labor Party split in Queensland in 1957 Vince Gair and most of his Cabinet walked out of the Labor Party. I think if I check the records I may find that Premier Nicklin and the Country Party, as it then was, were in favour of a fairer distribution. I would not go so far as to say they supported one-vote-one-value. They did not support the zonal system set up by the Labor Party in Queensland. When Mr Nicklin got into power he had the numbers -

Hon R.G. Pike: In a unicameral Parliament.

Hon GARRY KELLY: Let us not be sidetracked by the issue of a bicameral versus a unicameral Parliament. The new Government refined the system set up by the Labor Party and made it damned near watertight. Eventually Bjelke Petersen became Premier and further refined the system, which worked well until 1989. However, when the chickens came home to roost the landslide was so great that the National Party suffered a severe rebuff because of the imbalances in the system. Eventually a gerrymander comes back to bite those who perpetrate it.

I return to the record of fairness of the Conservative Government. Mr Pike mentioned enrolment procedures and the 31 day rule. That was a bit abstract for me. I do not think most Australians of either political party are so hung up on politics that they go around trying to stack enrolment numbers. It is too hard to do and too time consuming.

Hon R.G. Pike: The facts are very different.

Hon GARRY KELLY: The Court Government made it as hard as possible for people to get

on the roll. In a democracy Governments should encourage the population to become interested enough in the political process to enrol and ensure that it is made as easy as possible for them to do so. What did the Court Government do? Instead of having the electoral claim card able to be witnessed by an elector or someone qualified to be an elector, it had to be witnessed by a justice of the peace.

Hon N.F. Moore: That was a recommendation of the Kaye report, which was a judicial inquiry into the system.

Hon GARRY KELLY: I know; but, with respect, Mr Kaye was wrong. Royal Commissioners are not always right and Governments do not have to accept the recommendations brought down by Royal Commissioners. Mr Kaye was misdirected and got on the wrong train. Western Australians are not interested in rorting enrolment procedures. In any event, if it was to disadvantage anyone it would disadvantage those in remote areas because JPs are harder to come by in those areas. The Liberals disadvantaged their own perceived constituencies by making a requirement of the electoral claim card that it be witnessed by a JP, which is not the way to do it as it makes it harder for people to get on the roll. That is another example of how the fairness was taken out of the system.

The old Electoral Act sought to balance the spending limits of competing forces in an election campaign. At the end of a campaign a candidate had to fill out a return stating how much he or she had spent. If the amount spent was over the limit certain penalties were prescribed in the legislation. However, the Court Government said that was too hard so it abolished spending limits, making it open slather. One could spend what one liked on an election. The implication of that was that if one had enough money to buy an election, so be it. I am not saying that spending limits are easy to enforce, because they are bureaucratic and difficult to enforce, but unless something is done to the electoral laws in this State or nation to restrain the amount of money that can be spent on elections we will end up with the sort of free for all that occurs in the United States of America where anyone who aspires to elected office requires megabucks to gain that office.

I said in my Address-in-Reply speech when talking about the Federal Government's proposed legislation to abolish electoral advertising on television that in the United States the most successful party in the Congress was not the Republicans or the Democrats but "the Incumbency Party". At the 1990 Congressional election 96 per cent of incumbent congressmen and senators were re-elected. That was because they had access to funds from the corporate sector and community interest groups. Those groups know that a congressmen or a senator has contacts so they will put money into re-electing that sitting member. They do not wish to elect a new member who will have to learn the ropes, so the incumbent has enormous advantages in attracting campaign funds.

Several members interjected.

Hon N.F. Moore: It applied to Mr Burke.

Hon Mark Nevill: If it applied to Mr Burke it was chicken feed when compared with the situation in the United States. The system in the United States is so ingrained that meaningful change will be very difficult to make. The American political system is almost immune from the sorts of reforms required to make the electoral system fairer.

The decision made by Sir Charles Court to redraw the Pilbara-Kimberley boundary resulted in one Liberal member of this Chamber, Mr Bill Withers, resigning because he regarded it as a gerrymander.

Hon N.F. Moore: No, he said one-vote-one-value was being introduced.

Hon P.H. Lockyer: He said we were taking on your platform; that is why he resigned from the Parliament.

Hon Mark Nevill: Do you think Sir Charles Court did the right thing in changing the Kimberley electoral boundaries?

Hon P.H. Lockyer: Mr Withers left because he thought we were embracing your policy.

Hon N.F. Moore: That is correct.

Hon GARRY KELLY: I will give an example of a country where a gerrymander is having a distorting effect on the economy. In Japan the rural lobby, a small group of Japanese farmers, has a disproportionate influence on the Liberal Democratic Party.

Hon Peter Foss: That is the wealthiest country in the world.

Hon GARRY KELLY: Yes, but a severe distortion exists in the economy. The weighted rural vote means that farmers have a disproportionate influence over the LDP and have restrictive agricultural policies. It is very difficult to get food products onto the Japanese market. Recently the Australians and the Americans have tried to export rice to Japan and they have come up against restrictions. Try to tell the Japanese consumer that it is in his interests to have a system where steak costs $30 or more a kilo! Is that in the interests of the average Japanese consumer? The situation is the same with rice. Hon Peter Foss said that Japan is one of the most affluent countries in the world. It certainly is. It is a manufacturing country with many high tech industries. Why does it want to prop up its inefficient agricultural producers when it could buy all the meat, wheat, wool and rice it needs from places in South East Asia, and spread some of its largesse throughout that region? Because the LDP depends to a large extent on small Japanese farmers who are very inefficient and who produce high priced commodities, the Japanese consumer is saddled with exorbitantly high food prices.

Several members interjected.

Hon GARRY KELLY: I know that. The French farmers are the same, but that is no justification. I am just quoting one example.

To pick up what Hon Eric Charlton said about one-vote-one-value being anathema to country people, and that we should do something to encourage people to move into the remoter areas and populate them by setting up enterprises and stimulating the economy, he said this proposition would concentrate electors in the cities dotted around the coast. I think the argument is the reverse. In South Australia, Don Dunstan used this argument when setting up the one-vote-one-value system. He accused the Liberals of not wanting to bring industrial development and more people into the remote areas because it would weaken the hold of the Liberal and Country league, as I think they were then, by bringing in Labor voters. He was able to promote the argument quite successfully that it was the desire of the Liberal Party to hold onto office at all costs by thwarting any decentralisation or industrial development in South Australia outside metropolitan Adelaide.

I have covered the main thrust and principles behind this Bill. In this House and in the other place we do not represent square kilometres or hectares of wheat, sheep or economic interests; we represent people and electors. Parliament is representative Government representing the people. The geographic size and economic production of an area is unimportant; this is a Westminster democracy where we represent people, and this Bill is designed to raise that principle to the ultimate practical extent of one-vote-one-value with a tolerance of plus or minus 10 per cent. I support the Bill.

HON BARRY HOUSE (South West) [4.54 pm]: Like other speakers on this side of the Chamber, I do not support the legislation. That could be interpreted as a political stance, as I stand on this side of the Chamber, but it is fair to get an objective assessment from a rurally based newspaper which has already been partly referred to by Hon Muriel Patterson. The *South Western Times* of Thursday, 14 November, ran an editorial headed "Vote change bad for WA". The *South Western Times* is based in Bunbury, which is the largest regional centre outside Perth, therefore one could argue that Bunbury has less to worry about in regard to this legislation than any other rural centre in Western Australia. The editorial reads -

> One vote, one value - the ultimate democratic formula - or is it?
>
> The State Government insists we are headed for political Utopia. But country people are more likely to be on the way to political oblivion.
>
> Proposed legislation will dramatically reduce the representation of country people in State politics. The number of country seats could drop from 40 to 24 and city seats rise from 51 to 67.
>
> The democratic purists suggest that one vote, one value is the fairest system of representation. But purists take no heed of the special demographic, geographic and economic forces at work in a place as big and varied as WA.
>
> It is not fair that one country vote should be worth up to 11 city votes, as was the case 10 years ago. Electoral redistribution now has that ratio at less than 1:2 - it's a ratio that West Australians should be happy to live with.

The legislation will have the effect of allowing-Perth based politics to dominate decision making like no other capital city in Australia.

So when it comes to a vote on education, health or transport facilities for WA, or a vote on noxious industry or waste disposal sites, it doesn't take a Nostradamus to predict which way the vote will go.

And if the country people kick up, who cares? Their protest can be stifled by the numbers.

If there was a much greater spread of population, half a dozen other major population centres like other States, or any indication that decentralisation was working, the one vote, one value argument has greater weight.

But successive Governments have not been able to arrest Perth's continuing population dominance, nor is there likely to be any significant change for 50 or 100 years, probably much longer.

People living outside the metropolitan area need to ask if that sort of domination, translated to political power, is healthy or desirable for the future of WA.

The answer, in both cases, is no.

That editorial sums up the situation for rural based people very well. I fully endorse those comments. Western Australia, as other speakers have mentioned, is vastly different from other parts of Australia and other parts of the world. In the south west this proposal will result in a reduction of Legislative Assembly seats from 10 to five, and Legislative Council seats from seven to three. That is an overall reduction of members representing the south west from 17 to eight. That more than halves the representation for an area of the State which is diverse in its nature, which is developing rapidly, and which needs good representation.

In a way, the rural based members of this Chamber can relate to what is being proposed in this legislation. Under the current system we represent larger electorates, and we have done for the last three years. Legislation to introduce this form of representation was enacted just before my election to the South West Province at a by-election in October 1987. That was the last of the elections under the old boundaries. The South West Province at that stage covered the three lower House seats of Bunbury, Mitchell and Vasse, and the current system means that I, together with the six other members of the South West Region, represent an area extending from north of Mandurah to the other side of Albany. If members representing that region were honest, they would acknowledge it is impossible to cover that area adequately. Whoever introduced that system before I became a member should examine how it is operating at the present time and be prepared to change it. I for one do not think it is an adequate system and it should be reviewed. This system means that we owe our positions in this Chamber to our party allegiances rather than to how we represent individual people, and I do not think that is a very healthy state of affairs.

Hon Doug Wenn: Are you saying that we need to have a House full of Independents?

Hon BARRY HOUSE: No, not at all.

[Questions without notice taken.]

Hon BARRY HOUSE: I quoted the editorial from the *South Western Times* of 14 November because it gives an objective assessment of what the proposals contained in this Bill will mean to country areas. The objective assessment clearly indicates that any vote change along these lines will be detrimental to rural Western Australia. I also referred to the situation facing many members of Parliament under the current electoral system; that is, having to represent a very large area in the country. I think all members in that position acknowledge the difficult, if not impossible, task of representing their electorates and it does not satisfy anyone.

In summary, the proposals contained in this legislation will not produce better representation and I am certainly not prepared to accept an assault on the right of electors in the South West Region and in country areas throughout this State to have adequate representation in this Parliament. For those reasons I oppose the Bill.

HON J.N. CALDWELL (Agricultural) [5.32 pm]: I signify my absolute opposition to the Acts Amendment (Representation) Bill.

Hon T.G. Butler: Why?

Hon J.N. CALDWELL: I am one member in this place who could say I do not care less about this legislation; perhaps it will not affect me at the next election because I may not be contesting it. However, it is very important to the people I represent that I speak on this Bill.

I was interested to hear the comments of Hon Garry Kelly because he has a special interest in this Bill. It appears from articles I have read in the Press recently that his hold on his seat in this House may be in jeopardy and I can understand his interest in this Bill. I would be very disappointed if he were to lose his seat because he was one of the members who participated in the tour of the rural areas organised by Hon Eric Charlton to witness, at first hand, the difficulties being experienced by country people.

I would also like to congratulate Hon Tom Butler and Hon Tom Stephens for participating in that visit. We were able to visit only a few of the towns I represent because time did not permit us to visit all of them. It was a tiring couple of days and it was interesting that our three friends from the Labor Party could not see out the distance. They became worn out and tired and a plane was chartered to take them home so that they could have a rest.

Hon T.G. Butler: That is an unfair comment. Hon Tom Stephens stayed for the whole trip.

Hon J.N. CALDWELL: It is interesting to note that those members were ably replaced by Hon Jim Brown. However, the visit to rural Western Australia gave those members I mentioned an appreciation of the difficulty of representing a large region. I point out to them that we probably visited about two per cent of the entire area of my region, and it involved about four towns only. It takes an enormous effort to represent such a large area of this State, and country members cannot rely on the telephone or the fax machine all the time. As a result members have to travel extensively. Some members receive an allowance for air travel and those who do appreciate it. However, some members do not receive a travel allowance and they are required to travel extensively in a vehicle, which takes up an enormous amount of time.

Hon Sam Piantadosi: I will take you around the North Metropolitan Region to show you what it is like to get around it.

Hon J.N. CALDWELL: The member could get around that region on a skateboard. Actually there is a Bill before the House which concerns power assisted pedal cycles and perhaps Hon Sam Piantadosi could travel around his region on one of them. If the Bill is passed he may not have to licence it and it will provide him with cheap transport. When it runs out of petrol, he can pedal it.

If the Acts Amendment (Representation) Bill is passed we will have politicians wall to wall in the metropolitan area. Every street will be represented by either a member of Parliament, a local government councillor or a Federal politician. Instead of having three politicians attending the end of year school functions there will be half a dozen in attendance.

Hon Sam Piantadosi: You have politicians in every town in the country area you represent.

Hon J.N. CALDWELL: Yes, we do and we need them.

Hon Sam Piantadosi: They are over-represented?

Hon J.N. CALDWELL: No, they are not. We give a lot of representation to country people who live out of the towns and the Government of the day wants to take that representation from them. I cannot see any reason for taking that action.

I refer to the amount of money derived from export dollars. An article published in *The West Australian* on 15 November was headed, "WA strikes gold in $12.5b mining year". I ask members where that comes from?

Hon Sam Piantadosi: From your property.

Hon J.N. CALDWELL: Not a lot of it comes from the area I represent.

Hon D.J. Wordsworth: I thought it came from your farm.

Hon J.N. CALDWELL: The holes have been filled in and the people concerned have walked away. The mining industry is enormous and it earned $12.5 billion in exports in 1990-91. The article reads -

> The Mines Department annual report said mineral and petroleum output was at a record level, with more than 80 per cent of production exported to provide about 70 per cent of WA's export earnings.

We must congratulate the mining industry for such a large increase in a short time. Unfortunately, 1990-91 was a bad year for people involved in the rural industry; the export earning for that industry was $1.25 billion in that year. That brings us up to $10 billion. According to the mining industry, we exported only $12.5 billion. This does not include the fishing and forestry industries. I am not sure how much they contributed, but if they contributed $500 million, that would leave about $2 billion of exports dollar which came from the metropolitan area.

Hon Bob Thomas: Did you mention tourism?

Hon J.N. CALDWELL: No, because it is pretty difficult to distinguish between the country and the city in respect of the tourism industry.

The point I am making is that the people who produce 90 per cent of the State's wealth are to have their representation reduced. We are talking about one-vote-one-value. However, if we pass this legislation it will not possibly be one-vote-one-value; it will be one-vote-unequal-value. I was interested to hear Hon Garry Kelly talk about representing people only, regardless of who or what they are. That is fair enough, but we must also preserve the wealth of this State. If this Bill becomes law, there will be nearly three times as many politicians in the metropolitan area as in the country. Those politicians will decide how much money will be allocated to research in agriculture, how the transport industry will operate in country areas, what the electricity and telephone charges will be in country areas, how we should support our industries, how we should run the waterfront -

Hon Sam Piantadosi: How to prevent salinity and soil degradation.

Hon J.N. CALDWELL: Yes, and not many people in the metropolitan area know about salinity.

Hon Sam Piantadosi: Not many people in the country know that either.

Hon J.N. CALDWELL: I was about to praise Hon Sam Piantadosi by saying he is one person who does know a bit about salinity.

It is ridiculous to reduce the representation of country people. It is important that country people receive representation that recognises the trials and tribulations they face by virtue of their living in the country. They are having a difficult time at the moment, yet at the same time the Government is trying to rip away from them a good percentage of their representatives and put them in the metropolitan area. I suggest that if the Government wants to reduce the representation of country people to 24, why not also reduce by the same proportion the representation of people in the metropolitan area? There is probably some merit in that suggestion because there would not be as many members who could foul up. We are already over governed, so why not consider that idea? By all means reduce the country representation to 24, but reduce also the metropolitan representation to 30. That would be ample.

Hon E.J. Charlton: Down to 23!

Hon J.N. CALDWELL: That would be even better. I am sure the conservative parties could look after Western Australia pretty well with that level of representation. I am not sure that the Labor Party would be able to do that, but the conservatives definitely could. I repeat my opening statement that I totally oppose this Bill.

HON PETER FOSS (East Metropolitan) [5.45 pm]: We are talking here about an aspect of democracy. Democracy has never been settled by slogans. We have an example in ancient Greece and in current Switzerland of direct democracy, where each individual citizen has a right to decide what happens; by necessity, each individual has the right to vote, and each vote is of equal value.

Hon Mark Nevill interjected.

Hon PETER FOSS: I know the member must be keen to talk about irrelevancies, but if he listens to the entire argument he will see the point that I wish to make.

However, we do not have a direct democracy in Western Australia. We have what is called a representative democracy. That term has been used by a number of people today, but apparently without a great deal of thought on the part of members of the Government about what representation is all about. I will give members an example of a matter about which members all felt strongly, and where they believed that Western Australia was not being appropriately represented. That matter was the Australian Securities Commission legislation. I think everyone in this House felt indignant about the way that the interests of Western Australia were disregarded by New South Wales and Victoria. I will refresh members' memories about what occurred. We in this State were concerned about the quality of service that would be provided because of the fact that the decision making would be made outside Western Australia, and for a short time we were supported in that view by both New South Wales and Victoria.

Hon Derrick Tomlinson: And by Hon Joe Berinson.

Hon PETER FOSS: Yes. Mr Berinson at all times supported that view. I do not think he ever departed from that view, and I give him credit for that. However, I believe he felt the time had come when there was no point in fighting any longer. Why were we suddenly deserted by New South Wales and Victoria? We were deserted because they reached agreement with the Commonwealth that the Chairman and Vice Chairman of the Australian Securities Commission would be situated in Sydney and Melbourne respectively. They suddenly found that any concerns they had about decision making being taken to Canberra were no longer relevant. Their concerns about the quality of service were suddenly removed because of the offer that was made about the facilities that would be provided in Sydney and Melbourne, and suddenly it was no longer a problem for them. However, it remained a problem for Western Australia. I do not believe that the New South Wales and Victorian Governments did this out of any sense of ill will towards Western Australia; it was just that they could not see our problem. They said, "What are you worrying about? We have got the chairman and vice chairman in Sydney and Melbourne, and that solves the problem, does it not?" Yes, it solved their problem, but it did not solve our problem. The whole point of representation is that one wishes to have one's view heard appropriately in those places where decisions are made.

Two things have a very important effect on whether someone's view is being heard by decision makers. The first is how close the person is to the decision maker. If he has the ear of a decision maker - for instance, if he is a political adviser sitting outside the Minister's office - he has a fairly good chance that his views will be heard by the Minister; whereas even if he is a chief executive officer at the other end of town, he has a fairly small chance of his views being heard. That is the first thing, and it is a problem we in Western Australia have always had vis a vis Canberra. The second thing is whether the decision maker has to listen to the person. We have all encountered the process of consultation and ignoring people. If one does not have to be listened to, quite often one will not be listened to. The problem we in Western Australia have always faced under the system of representation we have is that we have 10 per cent of the population of Australia and 10 per cent of the members in the House of Representatives and we are generally ignored - not out of any viciousness or because the Eastern States people bear us any malice or ill will, but because they just cannot see the problem.

An example of that is that at the 1891 National Australasian Convention to discuss the Constitution two matters arose which the delegates from Western Australia and the outlying areas said were not quite right. The first was that the Western Australian delegates were slightly delayed in arriving at the convention. Members might know that they arrived at the convention by taking a ship's journey of several days from Western Australia to Sydney. Some people suggested the convention should not begin until the Western Australian delegates arrived, but a Sydney delegate said, "They knew when it was starting but they are not here. Why should we wait for them?" He had walked across the road to get to the convention, whereas our delegates were taking a ship's journey of several days from Western Australia, but he could not see that there was a slight difference between attending the convention from Sydney and attending it from Western Australia.

The second example came up some days afterwards. The delegates had been discussing the Constitution and the adjournment time of four o'clock arrived. I think in this case it was a South Australian delegate who said, "This conference is going on for longer than we thought

it would. Can we not spend an extra hour or two every day discussing the business of the conference, because being away from our businesses for three months is extremely difficult for us." A Sydney delegate said, "Difficult for you? It is difficult for us. It is no harder for you than it is for us." That Sydney delegate would have walked across the road to get to Parliament House in Sydney and at four o'clock in the afternoon could walk back to his office and despatch his business for the next two hours. The Western Australian delegates would have had the problem of having no telegraph, no radio, no telephone and no rail. The only way they could run their businesses was by sending letters, which would probably have taken about two or three weeks to be answered. That is exactly the same sort of situation. I do not believe that Sydney delegate to the National Australasian Convention in 1891 was being vicious or bearing ill will or malice towards the Western Australian delegates; he simply did not understand.

Members might ask why I am talking about Sydney and Western Australia when we are dealing with a Bill about representation within Western Australia. The reason is very simple: It is that we in this Parliament take exactly the same attitude towards country members. I see some nods around the Chamber from country members. We sometimes ask why we do not have meetings at nine o'clock on Monday mornings or at five o'clock on Friday afternoons. We have nothing else on then, so those are convenient times to hold meetings, are they not? However, country members hope to be in their electorates at those times, dealing with their electorate business. We fail to acknowledge the fact that a great amount of their time is spent in travelling to and from their electorates.

Hon W.N. Stretch: I spend 100 days a year in the car.

Hon PETER FOSS: A great many days are also spent by country members in getting around their electorates, and Hon Bill Stretch has told us how much time he spends in his car. No matter how much we try to adopt the perspective of other people, we cannot do so. It is one of those difficult things in the human mind that until one is actually placed in a position of undergoing the experience one cannot really represent that experience or understand what it is.

Hon E.J. Charlton: I wonder why the current Labor Government does not agree to reducing the number of State senators from Western Australia?

Hon PETER FOSS: I think Government members know perfectly well that we would not gain appropriate representation in Canberra. We are already struggling because of the problem with the House of Representatives. If we did not have the Senate in Canberra representing us on an equal basis per State we would be in a terrible position. We would count for nothing.

Hon E.J. Charlton: Does Mr Berinson agree that we should have only two senators?

Hon J.M. Berinson: Of course not, but that is based on constitutional considerations which do not apply in this State.

Hon PETER FOSS: I advise Hon Eric Charlton that that is not the basis upon which I have made my argument. I base it on the fact that we have a system of representative Government and if it is to be effective it must represent the people.

Hon T.G. Butler: Does that mean it has to be gerrymandered?

Hon PETER FOSS: I will deal with the gerrymander in time, but let us deal now with the system of voting that we have. In this House we have a system of proportional representation. It is interesting to note that at the last election, under that system, when on a two party preferred basis we on this side of the House gained 52 per cent of the votes and members on the opposite side gained 48 per cent, we gained a majority in this House and the Government a minority. However, in the lower House, where 52 per cent of the people voted for the parties represented on this side of the House, they have a minority, and not just a small minority but a significant one. Government members say "one-vote-one-value" but if they wish to be totally consistent they probably should be urging a Hare-Clark system of voting in the lower House, whereby on a full State basis there is proportional allocation between the parties. I do not hear a suggestion from members opposite that in order to achieve real one-vote-one-value we should have a proportional system of voting in the lower House. They do not suggest that because they quite reasonably say that it is important to have a system which represents the various interests of the State. One of the difficulties with

the Hare-Clark system is that it does not allow the particular perspectives and views of various electorates to be represented.

I support a system of separate electorates and I think those electorates must be carefully designed so that they correctly represent the people they seek to represent. It is not merely a matter of taking numbers and saying, "We will all have the same numbers and therefore get a fair result." We know the system does not give a fair result because there will be differences from electorate to electorate. Therefore members opposite have used an entirely simplistic argument with the call for one-vote-one-value. Like all slogans it should be considered with some scepticism, and I am glad Hon Muriel Patterson picked up how slick it is. It is not really one-vote-one-value, even under the current system.

I will tell members something interesting. I think there is a gerrymander in the Electoral Act at the moment, put in by the Labor Party. It is the strange system of how we calculate the number of people we put in any one electorate. Members may recall that the system as it now exists is not that we divide the electorates up according to the number of people in them, which would seem to be the sensible way of dividing them up -

Hon J.M. Berinson: Who does that, in Australia, for example?

Hon PETER FOSS: Hon Joe Berinson should listen to me.

Hon J.M. Berinson: Do you think non-citizens should have the same right as citizens in electoral matters?

Hon PETER FOSS: If Mr Berinson listened to me he would hear a cogent argument.

Hon J.M. Berinson interjected.

Hon PETER FOSS: I ask Mr Berinson to please stop interrupting.

Hon J.M. Berinson: Now that you ask nicely, I will.

Hon PETER FOSS: In this State we do not have electorates divided up according to the number of people in each electorate. That would seem to be a sensible system because then at least we would know the number of electors -

Hon J.M. Berinson: It would not be sensible at all. It would equate citizens with non-citizens for electoral purposes.

Hon PETER FOSS: If Hon Joe Berinson had not interrupted he would have heard the rest of the sentence and probably would have realised he had missed the point.

Sitting suspended from 6.00 to 7.30 pm

Hon PETER FOSS: Under our present system we do not allocate the city electors equally among the number of city electorates. We allocate them equally among what we hope the number of persons in that electorate will be at some time in the future; however, the problem with that is the number may never be right. If the system were changed so that the number of persons within an electorate was based on current figures, at least at one time the figure would be right. Under the present system the figure may never be right. In fact, there are some strong indications that the figures are wrong to a large degree in some places. I received a letter today from the Electoral Commissioner which indicated that the latest enrolment figure for the seat of Ashburton - which returned a Labor member who has since become an Independent -

Hon R.G. Pike: It will be Liberal next time.

Hon PETER FOSS: - is 25 per cent below the necessary quota. This is far beyond any range of divergence that was ever contemplated by the Parliament. Also, the enrolment figure was already outside the range intended by the Parliament even before the last election took place. Therefore, that is an example of a country electorate which returned a Labor member, although the electorate had well over the allowable disparity in its shortage of electors within the area. This example is repeated all over the State, yet we are into the system by only a few years. It is likely that we will have major disparity halfway through the allotted period of time for this system to operate.

Out of curiosity I tried to discover why 52 per cent of the vote did not return a Liberal-National Party Government. Interestingly, if one takes all the city electorates and calculates the number of electors required to return a Labor member, and compares this with the

number of votes required to return a Liberal member, a significant difference will be found in these figures. This difference becomes more marked when one includes the seats of Melville and Kingsley, which the Labor Party thought it would win. If one does a similar calculation in country electorates, it will be found that significantly more votes are required to return a Liberal or National Party member than to return a Labor Party member in those areas.

Hon D.J. Wordsworth: Sounds like a gerrymander, doesn't it?

Hon PETER FOSS: Yes. There may be a perfectly reasonable explanation for this. It may be that when the legislation was drafted it was never thought that it would benefit the Labor Party; it may be that when the legislation was enacted it was just one of those things in that it allowed a Liberal-National Government not to be formed even though those parties received 52 per cent of the vote. It may be that that was just the way the numbers spread across the seats, and it happened that considerable benefit fell to the Labor Party. Is that not interesting? Maybe it was felt that there was no need for the seat of Ashburton to be -

Hon T.G. Butler: What about the members of the National Party? They received six or seven per cent of the vote and won six seats.

Hon PETER FOSS: The member must put the Liberal and National Party vote together to calculate the 52 per cent figure. People who voted for the Liberal Party and gave their second preference to the National Party certainly did not want a Labor Government; I can tell the member that much.

Hon T.G. Butler: Don't dodge around it.

Hon PETER FOSS: I am not.

Hon E.J. Charlton: He wants you to say that the National Party does not contest the whole State. He is using the figures that way because it is convenient. He should go home and do his sums again!

The PRESIDENT: Order!

Hon PETER FOSS: The other matter to be taken into account is that this Government is in charge of the process of providing to the Electoral Commission the prognostication of what will happen in our society. This Government happens to control what happens in our society. The Government provides the data to the Electoral Commission on which it makes its decision. When members consider that this system is working greatly to the advantage of the Labor Party, and that the Government provides the prognostication upon which decisions are made, it can be seen that this is a good system to ensure that the Government will be re-elected. I would not call it a gerrymander; I call it an honest attempt by the Government to introduce a system of representation which would allow Labor voters to be well represented in this Parliament, in a manner that they would not be represented if it were done another way.

Hon J.M. Berinson: Are you suggesting that the Electoral Commission is irrelevant to this process?

Hon PETER FOSS: No, I am not. Unfortunately, the Electoral Commission was saddled with legislation which required it to make that calculation. That legislation was introduced by this Government. It is crazy legislation. We should divide the electorates on the basis of the number of residents within them rather than how many somebody thinks will be within them at some time in the future.

Several members interjected.

Hon J.M. Berinson: This very Bill will do that because it allows for a plus or minus 10 per cent discrepancy.

The PRESIDENT: Order! The Attorney General will come to order. If he interjects again, I will name him; if Hon Eric Charlton does not cease his interjecting, I will name him also.

Hon PETER FOSS: This system illustrates how this Government has been able to use the electoral system for whatever advantage it wanted at any time. Government members are the last persons who should be speaking of unfair representation. The Government has used its power in order to create a system which at the last election contributed to the fact that although 52 per cent of voters wanted a Liberal-National Party Government, a Labor

Government was returned even though it was the choice of only 48 per cent of the people. Even if Government members do not accept that, they must recognise that any system of electoral representation is impure. If one speaks about a proper system of representation, one must recognise that there are people within this State who would not be properly represented if this legislation is passed.

One of the problems in country districts is that it is necessary to include towns in an electorate in order to make up the present number of persons required to give a reasonably manageable electorate. If we were to further tip the balance in favour of the city, an even larger number of towns will be required to be included in country electorates to make up the numbers. Therefore, in any one country electorate the member of Parliament may have received the support of the majority of town dwellers, who are not what I would call countrified persons in terms of their interests. Therefore, one may well find that the true rural person would be inadequately represented even in the country electorates. The drawing of electoral boundaries is a difficult task and I do not envy the task which faced the three Electoral Commissioners in this State. They worked hard and well given the fact that they had an extremely difficult Act with which to work. That Act was slanted away from attaining a fair result and the information the commissioners received was given to them by this Government. The Electoral Commission had a difficult task; it was not merely a matter of summoning up enough people and putting a line around them and saying that that was an electoral boundary. An electorate must allow a member of Parliament to properly represent it, to cover that area properly and to have sufficient voice in this Parliament to be heard.

I have already outlined the difficulty in understanding the task of country members. People who live in the country face problems totally different from those of people in the metropolitan area. It is easy for us to take the preponderant attitude that we do not know what people in the country are worried about. As a city member I often forget the problems that country members must face. If we are talking about representation of the people, one-vote-one-value is a facile statement. True representation requires that people have an equal voice in this Parliament and that their elected representatives be heard equally. If members of the Government think that representation is calculated purely on numbers, they are showing the cynical attitude that the Labor Party has taken on every issue.

HON REG DAVIES (North Metropolitan) [7.41 pm]: From listening to the debate it appears to me that members of the Opposition will not support this Bill. I am disappointed with the lack of enthusiasm for the Bill expressed by some members of the Government in their contributions. I understand that electoral reform is a major component of the Labor Party's platform and is a matter with which they went to the last election. I have the feeling that perhaps I am one of the few people who truly supports the principle of one-vote-one-value. This Bill seeks to grant every citizen an equal right to defend and promote his or her freedoms and interests. When members are considering this Bill they should reflect on Edmund Burke's edict that Parliament should be the mirror of the nation's mind. He also said that substantial minorities should be represented in Parliament. Of course, I would be the first to subscribe to that edict, particularly in my current status as an Independent member who is yet to face the electorate in that role. When debating issues of electoral reform in isolation - which is what we are doing with this Bill - and in times of political stability it is easy to defend the existing electoral system. It is also easy for members to say that the system which elected them must be a good one. However, when any internal disruption occurs within a party it often makes the dissidents examine electoral reforms.

Why is this Bill before us tonight? It is difficult to argue against a system of electing a parliamentary representative that purports to be free and fair. It is also difficult to argue against a system which allows each citizen to cast his or her vote, and which provides that that one vote has equal value to the votes cast by others. It would be equally difficult philosophically to argue the ethics of country electors having 2.8 times the influence of Hon Reg Davies' supporters in the North Metropolitan Region - or Ross Lightfoot's supporters for that matter, if he has any.

Hon N.F. Moore: You will find that he has plenty.

Hon REG DAVIES: We will see. However, even if Ross Lightfoot has supporters it is wrong that country voters have 2.8 times more influence than his supporters. History shows that electoral malpractice has been used to influence some citizens against others. Members

have spoken about the gerrymander system and even the notorious d'Hondt system of voting used in the Australian Capital Territory. That system was devised to exclude minor parties from being elected.

Hon P.G. Pendal: That was when the tomato sauce party was elected.

Hon REG DAVIES: That backfired on the major parties in the Australian Capital Territory and we witnessed the creation of some weird and wonderful political organisations.

Hon Bob Thomas: It could only happen in Canberra.

Hon REG DAVIES: One would hope so. I seldom hear anything from local people in my electorate on the issue of one-vote-one-value; I assume that people who support particular issues believe that I am already convinced of its merits. In fact, virtually all of the discussions I have held on this matter have been with people who live outside my electorate. The telephone calls I have received have been prefaced by a series of pips and the correspondence I have received has carried rural postmarks.

Hon E.J. Charlton: It is because you gave them the pip.

Hon REG DAVIES: One gentleman calls me constantly at 5.00 am.

Hon Bob Thomas: Even with daylight saving?

Hon REG DAVIES: Yes. Country people want to perpetuate their longstanding and unequal control of Western Australia. That attitude is understandable because they have had a tradition of supporting the community, particularly at the times when we all rode on the sheep's back. Naturally, country people support the maintenance of the status quo. However, the question now is whether we should allow a group which currently generates approximately 10 per cent of this State's wealth such a disproportionate voting power. How can we continue to substantiate this method of suffrage?

Hon E.J. Charlton: Has it anything to do with the fact that the State is going backwards?

Hon REG DAVIES: Should we support a system for old times' sake and in memory of a bygone era? Are not the views, needs and wants of the wider community also valid? Country people will often cite the disadvantages of country living as a reason for requiring some special consideration. Yet, ironically, I have never met a country person who prefers city life to country life. I guess that on balance lifestyles of both sorts have their pros and cons.

Hon E.J. Charlton: You will get more phone calls next week.

Hon REG DAVIES: It could be argued that most constituent contact is by telephone in the first instance. Regardless of modern technology, when deciding electoral redistribution we must consider that Western Australia is a unique State. About 80 per cent of the population resides in the metropolitan area and 20 per cent in rural areas. Rural dwellers often live in small communities in remote and isolated areas. The other side of the coin must be acknowledged. Some remote communities are disadvantaged because of rural sprawl, the large land area of Western Australia, its isolation and its dispersed population. Given their remoteness from Perth, it stands to reason that these people should be afforded adequate political representation. That leads to the question, "What is adequate political representation?" Could the current make-up of this Legislative Council be construed as being adequate and fair representation when 17, which is 50 per cent, of its members represent 20 per cent of the population? One could cite the case of the member for Marmion, who represents approximately 23 500 electors, and the member for Ashburton, who represents approximately 8 400 electors. Both members enjoy equal rights in this Parliament, yet one represents approximately one-third the number of constituents represented by the other.

I find the present Bill fair. It would give me a greater chance of election because my region would have nine members as opposed to the present seven, meaning that a 10 per cent quota would be all I would require to be elected. That is a lesser number than would be required to elect me at the moment. When deciding the merits of this legislation should one consider oneself or the interests of one's electors? The question is then what is fair and what is just. I believe that rather than discussing electoral reform in isolation as we are now this Bill should be part of an electoral reform package. The Government should be introducing an

enlightened package which reflects 100 years of responsible Government in this State and which embraces real democracy and freedom such as non-compulsory voting. Such a package should include one-vote-one-value, non-compulsory voting and optional preferential voting. Another important electoral reform that should appear in such a package is citizen's initiated referendums. Perhaps the Government could take its lead from the Federal Leader of the Opposition with his "Fightback" manifesto released last week. That is a total package of significant reforms. In Dr Hewson's case, it is taxation reforms.

Hon Derrick Tomlinson: It is a total reform.

Hon REG DAVIES: I suggest that the Government should come up with a similar package of electoral reforms rather than making ad hoc changes. The Minister in charge of the Bill should convince the Minister for Parliamentary and Electoral Reform that he should develop a total electoral package encompassing the points I have just mentioned. It would then be worthy of our support. The Government may then get the constitutional majority it requires for these reforms to pass and the constitutional majority I believe an electoral reform package deserves.

HON W.N. STRETCH (South West) [7.55 pm]: I oppose the Bill. I believe this is the third time I have stood in this House to debate an effort to introduce one-vote-one-value legislation. I ask now, as I have asked on each previous occasion, what on earth is the Government up to? What is the great new socialist plot this time? Why with only six sitting days of this session to go are we debating a social issue of no real importance to the people out there? My telephone has not been ringing madly and jumping off the hook at four in the morning from people ringing me about this matter.

Hon J.M. Berinson: That is why you have got away with it for so long, because it does not attract popular excitement. That does not make it any less important.

Hon W.N. STRETCH: Every person in every region is entitled to a vote. They all have a fair opportunity to vote for a particular candidate. The Government is putting up a great smokescreen across this whole issue. What is more important to the people of Western Australia; for members to sit here and argue about an issue in which the electorate is not interested or to pass money Bills to help this State run properly? Here we are with six sitting days left in this session, a number of money Bills to be debated, and we are messing around with this Bill. What is it? Is it another smokescreen? Is it another hand grenade thrown into this place at random to detract the attention of members from the Government's mishandling and mismanagement of the State? It is that, nothing more and nothing less. Nobody has asked for this legislation except the little group of Government supporters who want it. Do they really care? Is it the hand grenade thrown in here to distract the attention of members from other issues? What will we see next - the "Duck Bill", I suppose? Do the people of Western Australia want this change to the voting system or would they prefer a properly operating Official Corruption Commission? Why does the Government not get on with that? Why does the Government not consider the content of Mr Wickham's letter related to that matter rather than raving on about this socialist dream? The Government is not dinkum about this. If it were, it would not be introducing this legislation at this time of the session.

Hon N.F. Moore: It has had few people supporting it.

Hon W.N. STRETCH: Yes. Where are the Government's country members? Why are they not jumping to their feet and saying that all their people are being gerrymandered or are getting a vote they do not deserve?

Hon Doug Wenn: The only gerrymander came from that side of the Chamber.

Hon W.N. STRETCH: The Government controls the Legislative Assembly with 48 per cent of the vote, so the member who just interjected does not know what he is talking about. He should look at the figures for his party. I do not believe that members opposite have been dinkum about this matter previously, or that they are dinkum about it now.

Several members interjected.

The PRESIDENT: Order!

Hon W.N. STRETCH: Was the Government genuine in 1987? Did it want one-vote-one-value then? Of course it did not.

Hon Graham Edwards: We did.

Hon W.N. STRETCH: Does the Minister recall the words of his former colleague, Hon Arthur Tonkin, in 1986 or 1987 when he said at a Cabinet meeting in Geraldton he would resign because his leader had said that the Labor Party must ensure that one-vote-one-value legislation was defeated? Is that right?

Hon P.G. Pendal: That is spot on.

Hon W.N. STRETCH: That letter from Arthur Tonkin, a Minister in the Burke Labor Government, was to say that he was resigning from the Labor Party because he could no longer go along with the hypocrisy.

Hon T.G. Butler: He is still a member of the Labor Party.

Hon W.N. STRETCH: From the Parliamentary Labor Party. He could no longer go along with the hypocrisy of his colleagues, including the Premier, who said that this one-vote-one-value legislation must at all costs be defeated.

Hon B.L. Jones: A bit like Hon Reg Davies really.

Hon W.N. STRETCH: I do not see the relevance.

Hon B.L. Jones: He was a member of your party and he could not go along with you.

Hon W.N. STRETCH: Did he resign over one-vote-one-value?

Hon Doug Wenn: No; he resigned over your hypocrisy.

Hon W.N. STRETCH: Whose?

Hon Doug Wenn: May I ask who was responsible for the hypocrisy?

Hon John Halden: Mr Pendal will tell you.

Several members interjected.

The PRESIDENT: Order! I have already indicated that I will not tolerate any of these interjections. I suggest Hon W.N. Stretch stop asking members to comment.

Hon Fred McKenzie: Stop asking questions!

Hon W.N. STRETCH: I shall heed your advice, Mr President. It is very timely, because we have seen so much selective amnesia, as former Judge Wickham called it, on the part of certain people around the public arena these days. I should remind members of Arthur Tonkin's letter of 8 May, 1986. It was to the Premier himself, marked "Personal and Confidential", but at that time it received very wide circulation, so if members wish me to table it again I shall do so. I believe it was widely quoted in *Hansard* at that time. It starts off -

> I hereby tender my resignation from the Ministry.

I correct myself; the resignation was from the Ministry, not from the Labor Party. It continues -

> Such resignation is to be effective immediately. I have informed the news media of my decision (see attached).

Nothing has changed there. To continue -

> To hear my colleagues say, as they did in Geraldton on Sunday night, that we must make absolutely sure that the bill, which will contain the promises we had made to the people at the election, is defeated was to hear betrayed all that I have tried to stand for as a member of the Australian Labor Party. The fact that I made the promise on the part of the Government makes my own position untenable.

I pose the question to members opposite again: "Are you sincere this time, because you certainly were not dinkum last time?"

Hon J.M. Berinson: Put us to the test!

Hon W.N. STRETCH: I do not blame members who were not here then, but members like the Attorney General, who sees fit to interject -

Hon Graham Edwards: Put us to the test.

Hon W.N. STRETCH: The Minister for Police is another.

Hon Graham Edwards: Put it to the vote.

Hon W.N. STRETCH: He was there. His Premier, the man who walks on water and whom he would follow to the end of the line -

Hon B.L. Jones: You are being very provocative.

Hon W.N. STRETCH: Who is?

Hon B.L. Jones: We are not allowed to interject.

Hon P.G. Pendal: What are you doing?

Several members interjected.

Hon W.N. STRETCH: Is the Government being dinkum this time? Does it admit to putting up another smokescreen? Who will resign this time over this Bill, or was Arthur Tonkin the last person with any real principle in the ALP? Where are the others? I guess they will all be marching out.

Several members interjected.

Hon W.N. STRETCH: Would honourable members like me to continue?

Several members interjected.

Hon J.M. Berinson: We are impartial on that.

Hon W.N. STRETCH: The letter continues -

> Further, I believe that such an insincere attitude to the question of electoral reform will be communicated to the people.

He made sure of that; he leaked a Press release. To continue -

> This will have a disastrous effect upon the Government and upon the cause of electoral reform.

Here we are five years later and members opposite are up to the same old tricks. To continue -

> If our main purpose is to stay in Government and if we are prepared to be corrupted in the pursuit of that imperative, then we must part company.

I ask again, how many more will part company, or have members opposite all lost their principles? To continue -

> Such a decision gives me great pain for I have a very real affection for many of my cabinet and caucus colleagues. Even more importantly, the Australian Labor Party, which I was proud to join at the age of nineteen, has been for me an expression of my basic belief as to the way in which society should be organised and governed. It will still have that role for me, even if I should so strongly disagree with those to whom its destiny may at present be entrusted.

I ask members opposite to bear that in mind. Look at them now; totally discredited; totally in disarray.

Hon B.L. Jones: Really?

Hon W.N. STRETCH: Absolutely; they are wondering who will be called to answer to what authority next.

Several members interjected.

Hon W.N. STRETCH: I shall carry on -

> Nor should these words be taken to mean that I do not recognise the great capacity for good that belongs to many of my former cabinet colleagues.
>
> It seems that this Government is treading the same cynical path trodden by the Tonkin Government when its Legislative of Western Australia bill, with its attendant five minutes speech by the Minister, facilitated the union of conservatives on both sides of the Parliament in their ridicule of those who would introduce into Western Australia a decent and honourable electoral system.

> The question arises: why is it that in Western Australia our Labor politicians are so loathe to tackle genuine electoral reform when it has been achieved so remarkably by Labor Governments in South Australia, New South Wales, and Victoria?

Why indeed? To continue -

> There is no doubt in my mind that to compare our pre-election commitment on electoral reform to the confidence trick perpetrated upon the Australian Labor Party in the 1960's is arrant nonsense which could only be stated by those who are ignorant of the facts. The 1960's arrangement was a blatant malapportionment aimed directly against the Australian Labor Party. The Party's proposal enunciated before the election was to ensure that the Party which achieved the majority of votes also obtained the majority of seats.

I ask members to heed Hon Peter Foss' words earlier: The majority of votes in the Legislative Assembly does not, under this Government's system, give a majority of seats. Look at the hypocrisy of members opposite! I continue with Mr Tonkin's remarks -

> Under that scheme, a Party which obtained a minority of votes would not obtain a majority of seats. Nor should it.

This Government's Bill, with which it is fiddling now, gives that malapportionment, and members opposite know that it does. They should be ashamed to have brought it into the Parliament. The Government has not learnt from its mistakes in 1986. Arthur Tonkin concluded -

> I wish you well. Pragmatism in politics is necessary. But there is a line beyond which we should not go. When that line has been reached is a matter for judgement by each individual person. I believe that there has been a betrayal of basic principles. Such a course of action makes politics an ephemeral plaything.

He signed it, "Yours sincerely", and I believe he meant that. I leave it to members to judge whether this Government is dinkum this time. Does it want this Bill passed?

Several members interjected.

Hon W.N. STRETCH: Are members opposite dinkum in wanting to have the legislation passed.

Several members interjected.

Hon W.N. STRETCH: I shall repeat Arthur Tonkin's letter if members were distracted.

Hon J.M. Berinson: We can read it in *Hansard*.

Several members interjected.

The PRESIDENT: Order! I have already indicated that the interjections must cease. Hon W.N. Stretch is not to encourage any conversation with other members. There is a Standing Order which says that tedious repetition is out of order. I will begin to think more of that if he starts to read that letter again.

Hon W.N. STRETCH: I think you could be excused for doing that, Mr President. I will not read it again. I will conclude by commenting that a member of the Labor Party, a long serving Minister, a diligent and hard working Minister, with whom I mostly disagreed, chose to leave that Ministry because he could not go along with the hypocrisy of the Labor Party; he did not believe it was dinkum. Arthur Tonkin did not believe that the Government was genuine then; I do not believe it is genuine now. I oppose the legislation; it is an imposition on rural people. Government members do not understand the situation, or if they do they choose to ignore it.

By way of interjection on Hon Peter Foss, I said that I spend the equivalent of 100 working days sitting in a car trying to service my electorate. Members may say that a fax or a telephone can service the needs of country electorates. They cannot.

Hon Tom Helm: Do you say your sheep should get a vote?

Hon W.N. STRETCH: The member should look after his riggers, and I will look after my sheep men. We agreed on that last time; we will not go down that path again.

Hon Tom Helm interjected.

Hon W.N. STRETCH: Sometimes I think it would be better if they did because I believe that, despite the current prices, they make a considerably larger contribution to the Australian economy than do some members opposite. They do not bleat any more than members opposite either.

Hon T.G. Butler: One hundred days in the car; what about the other three days in the week?

Hon W.N. STRETCH: The member's mathematics are about as good as his oratory. I am aware that Hon Doug Wenn covers similar mileage, but the point is that people require face to face representation on many occasions. People will not speak about many things on the telephone, and they will not send a fax about many other things. People like to see members, and it is difficult to cover that sort of area. The system is inadequate; it is not working. The system we had when I was elected in 1983 until 1986 worked. We had some association with the smaller provincial areas. We knew virtually all the shire councillors, most of the headmasters, and all the shire clerks, and we could keep in personal touch with the electorate. Now, we cannot do that; it is virtually impossible as a member of Parliament to give that same level of service. Members may argue that perhaps I should not try to get around to everyone, and that we should split up the area among members, but that is not the reason that people elect members of Parliament.

Hon Mark Nevill: That is, three member districts.

Hon W.N. STRETCH: That is nonsense; it will not work. The legislation is unworkable. Let us throw it out. We have spent too much time debating it, and I am sorry in some ways that I have added to the debate.

Hon J.M. Berinson: Me too!

Hon W.N. STRETCH: With this total agreement of the House that we have spent too much time on the measure, I oppose the Bill.

HON J.M. BERINSON (North Metropolitan - Attorney General) [8.13 pm]: I never thought that I would see the day when Hon Bob Pike was outdone in the absurdity of his socialist conspiracy theories and other irrelevant misrepresentations. Tonight I have seen it; Hon Bill Stretch has done it. Mr Stretch now has the wooden spoon. Mr Stretch not only believes that electoral reform amounts to a socialist conspiracy, he also regards it as an unimportant distraction. Mr Stretch is talking about an issue for which people have given their lives - Australians among them - but Mr Stretch is not prepared to acknowledge the importance of the issue; he just wants to see a conspiracy theory -

Hon P.G. Pendal interjected.

Hon J.M. BERINSON: I thank the member for reminding me; I might have forgotten it among the innumerable irrelevancies that Mr Stretch presented. In his comments was a lengthy quotation from Mr Tonkin's resignation letter. I agree that that was an accurate quotation. What Mr Stretch conveniently ignores is the fact that we brought in our last electoral reform Bill after Mr Tonkin's resignation. Mr Tonkin welcomed it, and when we passed it - albeit in a modified form because of forces outside our control - Mr Tonkin also welcomed that. He said it was a great advance. I will tell Mr Stretch something else: If he joined us with one other of his colleagues he would find not only that all his theories about our being disappointed would prove mistaken but he would also find that Mr Tonkin would be even more pleased than he was last time. I can imagine the embarrassment on the other side of having to mount an argument against this Bill. It is a Bill that has been accepted all over the country. The principle behind it has been accepted all over the world.

Several members interjected.

Hon J.M. BERINSON: This is just about the last refuge outside Libya where people would attempt to keep a serious face -

Several members interjected.

The PRESIDENT: Order! I will not ask members again to come to order. The decorum in this place is starting to resemble that of an undisciplined mob. I will not tolerate it. Any member who wants to not be here when the vote is taken should just carry on the way members were a moment ago. I am running out of patience. I have asked members on the Government side not to interrupt Opposition members when they are speaking, and the same

goes in the reverse. As I have said so many times, members do not have to like what people say in this place; members do not have to agree, but they must listen. It is easier to listen when only one person speaks at one time.

Hon J.M. BERINSON: This is shaping up as another sorry chapter in the opposition by the Liberal and National Parties to the introduction of basic, democratic principles into this State's electoral system. In one way that was only to be expected; after all, the Liberal and National Parties and their historic counterparts have fought an unrelenting rearguard action against electoral reform for over 100 years. Why, it might be asked, should we have expected at least the possibility of something different now? There are at least two reasons for that: The first is that it must by now be clear to anyone with any interest at all in the issue that the whole world is leaving us behind. I return here to a theme I introduced a moment ago: Even the Soviet republics, for goodness sake, are now at a stage where they have a more democratic electoral framework than we have in this State. How far behind can we get? It is not even as though one must move to the esoteric areas of the Eastern Bloc. The fact is that every State in Australia recognises and accepts what the Opposition here is still desperately rejecting. Every single lower House in Australia, Commonwealth or State, now has one-vote-one-value. True enough, that has led in some isolated cases to Governments being elected with a fraction less than 50 per cent of the vote. Two things might be said about that: The first is that the distortion of results in those circumstances are much less, and less serious, than the distortions which have occurred under previous systems. Second, it is interesting to note that not one of the counterparts to the coalition parties in this House who have had the experience of actually losing an election with a fraction over 50 per cent of the vote is complaining about it.

Not one member from the coalition parties in other Parliaments is suggesting that the other States or the Commonwealth should move away from one-vote-one-value. That is an interesting phenomenon if all these terrible results of one-vote-one-value projected by the other side have any validity to them. Why is the Opposition in other jurisdictions not attempting to move away from it? The reason is that it recognises, as everyone in this country recognises, that the principle which gives a foundation to one-vote-one-value is simply unanswerable in principle. That is why no doubt there has been no attempt to argue the principle here. Instead we have had a whole host of irrelevancies; references to ancient history, to economics which bear no relationship to current circumstances; references to everything other than the political significance of a fair electoral system in a democratic country such as ours. For 100 years the conservatives have fought it; they are still fighting it. I have news for them: It simply cannot last. It is about time the Opposition acknowledged that and acknowledged what its counterparts in every other State and in the Commonwealth of Australia have acknowledged ahead of them - and I am not talking about Labor Party members. Why should Western Australia be last in this? There is no reason except for the Opposition's own determination to cling onto whatever sectional advantage it temporarily has.

It is not just the interstate or international contrasts which could have led us to think that at least some movement on the other side might at last emerge. The fact is that Opposition members themselves have said at various times that one-vote-one-value is indeed acceptable in practice. Some, like Hon Phillip Pendal, for example, have positively dared the Government on other occasions to move to one-vote-one-value; that is, to move in line precisely with the way that we are moving with this Bill. There is a variation on a straight out rejectionist approach; members like Hon Phillip Pendal have opposed past reform Bills on the basis that they did not go far enough. They supported that with an argument that it did not go far enough because on previous occasions we did not go the whole way to one-vote-one-value. Now we are going the whole way to one-vote-one-value and Hon Phillip Pendal says that it goes too far. Hon Peter Foss, who is ever inventive, kicked over Mr Pendal's traces and came out with what effectively was the same result. Mr Foss said that it was no good being wishy-washy about one-vote-one-value and just having plus or minus 10 per cent and having regions that were roughly equal. He said that there was only one decent way to approach one-vote-one-value and that was by way of proportional representation. He then added in parenthesis that he would not support that either. All of this from the Opposition is not just a shame; it is shameful. As well as that I am bound to say that it is not very sensible. Ever since the last election the Opposition has claimed, has moaned and groaned, that it was

robbed on that occasion because it gained more votes than the Government but ended up with fewer seats. The chances of that happening with one-vote-one-value in this State with our population and the number of seats which we have are practically non-existent.

The particular arguments produced by Opposition members need not be responded to in detail because they already are so thoroughly and universally discredited. I intend to make only one exception to that and that is because of the highly objectionable inference that might be encouraged by some comments by Hon Peter Foss. Mr Foss in the course of discussing the current enrolment in the seat of Ashburton got into some discussion about the whole method by which the current distribution of boundaries was arrived at. He constantly intimated that the boundaries were drawn as a result of Government influence or at very least of Government input. The fact of the matter is that we have never had as independent and as respectable a process of electoral redistribution as we have now. How members on the other side of this Chamber can talk about respectable redistribution systems is beyond me, remembering their record of actually drawing the lines themselves; bringing maps into this House and drawing the lines and pushing them through on the strength of their numbers. How people like that could even talk about respectability in relation to the drawing of boundaries really eludes me. Nonetheless, Hon Peter Foss is not one to be sidetracked by respectability, and so he raised these most unfortunate arguments. It is worth emphasising to the House - and I will go off on this tangent for only a moment because it is so objectionable - that the system of projecting the likely numbers of voters in any seat was arrived at on the basis of material provided by the Commonwealth Statistician, who himself is one of the three electoral commissioners, by the State Planning Commission, by Homeswest, and by local authorities.

I remind the House again that our three electoral commissioners are the Commonwealth Statistician, the Chief Justice and our own Electoral Commissioner. In case anyone in the House took Hon Peter Foss' criticism too seriously let me add that the provisions of the current Act allow a tolerance of plus or minus 15 per cent. Hon Peter Foss drew attention to the seat of Ashburton, which has fallen 25 per cent before the quotient and is therefore completely out of line. What he neglected to add is that this is the one and only exception out of 57 seats in the Legislative Assembly. That is in circumstances where electoral commissioners are obliged to attempt to look eight years ahead in anticipating the changing demography of the State. I would say, contrary to Mr Foss' intimation, that the position which we now have where only one out of 57 seats is out of kilter is a credit to the commissioners, and it is a credit to everybody who prepared the projections for them.

Several Government members: Hear, hear!

Hon J.M. BERINSON: For anyone in this House to cast any aspersions on their reliability, impartiality, or independence is something of which he should be ashamed.

Hon N.F. Moore: That is not what Mr Foss said, and the Attorney General knows it!

Hon J.M. BERINSON: We can all count, as the saying goes, and on current indications the Opposition is determined to oppose this reform Bill, and as a result of that it will be defeated. It should be clear that there will be nothing in that result which is based on principle. There will be nothing in that result which is based on actual rural interests. There will be nothing in that result that should be taken as reflecting any inconsistency with the Senate or with ancient Greece or with any other of the irrelevancies that have been brought forward in this debate so far from the other side.

This Bill, if it is defeated, will be defeated for one reason only, and that is because of one extra vote over there than we have over here. That is the only reason. That is the reason why every single effort to bring our own electoral system into line with absolutely basic democratic standards accepted without question everywhere else has been defeated one after the other for over 100 years. That has happened in this House because of the numbers we see opposite. For all their protestations, I do not believe that Opposition members are proud of themselves in this exercise, and they should not be.

The PRESIDENT: Order! In order to be passed this Bill will need the support of an absolute majority. If I hear one dissenting voice I will ring the bells.

Division

Question put and a division taken with the following result -

Ayes (16)

Hon J.M. Berinson	Hon Kay Hallahan	Hon Tom Stephens
Hon J.M. Brown	Hon Tom Helm	Hon Bob Thomas
Hon T.G. Butler	Hon B.L. Jones	Hon Doug Wenn
Hon Cheryl Davenport	Hon Garry Kelly	Hon Fred McKenzie
Hon Graham Edwards	Hon Mark Nevill	*(Teller)*
Hon John Halden	Hon Sam Piantadosi	

Noes (17)

Hon J.N. Caldwell	Hon Barry House	Hon R.G. Pike
Hon George Cash	Hon P.H. Lockyer	Hon W.N. Stretch
Hon E.J. Charlton	Hon Murray Montgomery	Hon Derrick Tomlinson
Hon Reg Davies	Hon N.F. Moore	Hon D.J. Wordsworth
Hon Max Evans	Hon Muriel Patterson	Hon Margaret McAleer
Hon Peter Foss	Hon P.G. Pendal	*(Teller)*

Question thus negatived.

Bill defeated.

BUILDING SOCIETIES AMENDMENT BILL

Second Reading - Defeated

Debate resumed from 5 November.

HON MAX EVANS (North Metropolitan) [8.36 pm]: The key part of this Bill is clause 6, which seeks to amend section 71 of the principle Act. When this Bill was brought before the House almost two weeks ago I had an open mind about its retrospectivity and believed it was not the only reason we were considering the Bill. I believed we had to look at the facts and the cases presented by various parties for the changes in the legislation. Many of my fellow members had their minds fixed on retrospectivity, but I have examined the situation carefully. The Attorney General in his second reading speech stated -

> This Bill provides that if a building society is wound up withdrawable shareholders and depositors should be treated in the same way.

To date a couple of former directors with a good insight into companies have not supported the legislation. The Western Australian Municipal Association is strongly against any changes. The Real Estate Institute of Western Australia would like to see the Bill passed. In its Press release on the matter it did not present a strong case; it lacked many of the facts available to us at that time. It does not have many ideas about who are the withdrawable shareholders. The Subiaco City Council representing western zone rubbish dump No 1 was to see the Attorney General regarding amendments to the legislation to classify non-withdrawable shareholders the same as withdrawable shareholders. The Attorney General may tell us later whether its request went to Cabinet yesterday and the result of that submission.

The Attorney General's second reading speech also states -

> . . . where voting rights exist they are attached to the shares - the more of these shares a person holds, the more votes that person has;

That is false; I am advised that non-withdrawable shareholders are in the main non-voting shareholders. Of the $11.6 million worth of non-withdrawable shares only 48 330 are voting shares. In other words, 99.6 per cent of non-withdrawable shares do not carry a vote. They are like depositors, who also do not have a right to vote.

Hon J.M. Berinson: All of those non-withdrawable shareholders have a right to dividends and the shares are bought on the basis of a prospectus.

Hon MAX EVANS: That is right. The Attorney-General's speech continues -

> Withdrawable shares, on the other hand, are redeemable either at call or at a fixed term, are entitled to interest at a pre-determined rate, have no right to dividends, and have only a nominal voting right as each non-withdrawable shareholder has no more than one vote regardless of the number of shares owned.

The speech fails to mention they have more of a voting right than non-withdrawable shareholders and depositors. It also fails to mention that, like non-withdrawable

shareholders, withdrawable shareholders are entitled to distribution of capital on winding up. That refers to the point just made by the Attorney General; that is, both non-withdrawable shareholders and withdrawable shareholders rank equally regarding a premium on shares on the winding up of the society.

Hon J.M. Berinson: That is right.

Hon MAX EVANS: The speech further states -

> Withdrawable shareholders consist, in the main, of people who have been depositors of the society for many years.

That is also not correct.

Withdrawable shareholders in the main are, for example, persons who were shareholders in the Statewide Building Society and the Permanent Investment Building Society before those societies were merged to become the Permanent Building Society.

Hon J.M. Berinson: But for how long?

Hon MAX EVANS: Some were shareholders for a long time and some for a short time. I refer again to withdrawable shareholders and the issue of capital interest. The large shareholders have been investors for a long time because they expected capital benefit. There were a number of small investors and I will discuss numbers and ratios later. I am certain the Attorney General would agree that those large shareholders were investors in order to make a large capital profit based on the increase of the value of the building society. The situation is similar to that which happened to the Town and Country Building Society. I understand that, after legislative changes, the society changed the status of its shares in 1987 which enabled it to change the right of shareholders which then enabled those few to receive the benefits when the shares were sold.

The second reading speech continues -

> It was the practice of building societies in earlier times to require in their rules that for any person to deposit money with the society it was necessary for that person to become a member of the society and to be issued with withdrawable shares for the deposit.

That is misleading if it suggests some relevance to the society. No such membership is required for deposits. On the contrary, if a person borrows money from a society, he is required to hold in accordance with the rules a minimum number of withdrawable shares. Further, under earlier building society legislation to achieve authorised trustee status for investments with a society, investors took up withdrawable shares. That was changed some years ago when all deposits with a building society were treated as a trustee investment. The speech continues -

> On a winding up, and in the known financial circumstances of the society, non-withdrawable shareholders would receive no return at all under current provisions.

That again is slightly misleading. If withdrawable shareholders ranked with non-withdrawable shareholders, all shareholders would have some expectations of a return on their shares if the society were sold as a going concern and the society's assets realised more than the disputed valuation contained in the administrator's report. If, on the other hand, withdrawable shareholders ranked with depositors, non-withdrawable shareholders could have no expectations. As has been said in the last few weeks, subject to a satisfactory sale of the whole business, there would be no liquidation and the withdrawable shareholders and the non-withdrawable shareholders would get a return on their capital equal to or, if it was a very satisfactory return, better than that which they put in, although, with the valuations put in by the administrator, that was most unlikely to happen. The second reading speech then states -

> In contrast with the position of the withdrawable shares, non-withdrawable shares represent the capital base of the society for calculating net worth under the Building Societies Act. The holders of these shares are mostly corporate bodies. There are 400 such shareholders with $11.6 million invested.

I checked on that and found that, of the $11.6 million, corporate bodies totalled only

$4.3 million and, of that $4.3 million, $1 million was Capital Hall, $2 million was an insurance company - I will not mention which one - and $500 000 a corporate body. Therefore, $3.5 million of the $4.3 million was held by three groups with the rest being split up among the corporate bodies, but not very large ones. I am trying to say that the holders were not mostly corporate bodies; only a few were. It is not right to say that the non-withdrawable shares represent the capital base of the society. In a prospectus put out by Statewide in 1988 for raising capital through non-withdrawable shares, the capital at that stage was $26.43 million of which withdrawable shareholders totalled $24.85 million and the net worth was $1.58 million. That $1.58 million included reserves and some revaluation of assets and only $323 046 were non-withholding shares. The total assets at that time were $49 million, which would, under the Act, require $1 million of capital to comply with the net worth ratios. It just complies with that if we take the non-withholding shareholders and the reserves of $1.58 million, but only just. The shareholders total only $323 046.

The balance sheets in the Woodings report take the liberty of indicating the withdrawable shares as a current liability. They do that on the basis that there will be amendments to the legislation and $8.6 million should be used as a current liability, which is contrary to all of the accounting standards and the way the balance sheets have been shown in the past. In 1989, Permanent Building Society share reserves were shown as follows: Withdrawable share capital in definite terms, savings shares, $11.6 million; fixed term investment shares, $393 524; fully paid application shares, $35 556, for a total of $12 082 917; reserves, $3 136 479, giving a total for shares and reserves of $15 219 396. That indicates clearly that, according to accounting standards, the withdrawable shares were capital of the building society. That was required by accounting standards and that is how they were seen. Section 42(6) of the Building Societies Act states -

> For the purposes of this section, "net worth" means -
>
> (a) share capital which is subscribed on terms which do not permit repayment of the capital or terms which do not at the time of calculation of the net worth permit repayment of the capital within 3 years.

From what I have been able to find out, many of the withdrawable shares have been in there for far longer than three years; in other words, they became "net worth" for the purposes of the solvency ratios. Section 29(1) of the Act states -

> (1) Subject to this section a society may by special resolution transfer its engagements to another society which undertakes to fulfil those engagements, and a society may -
>
> (a) by special resolution; or
>
> (b) with the consent of the Registrar, by resolution of a general meeting or of the board of directors,
>
> undertake to fulfil the engagements of another society.

This relates to the merging of the two societies where Statewide took over the Permanent Investment Building Society and it assumed all of the assets and liabilities. That is where there is a mixture of withdrawable shares in the Permanent Building Society, as it is now known, from the two companies. Approximately 20 different classifications are involved which all involve different rates of interest and different terms. The report from Mr Woodings to Mr Metaxas dated 25 September 1991 refers to the withdrawable share capital. Paragraph 15 states -

> Withdrawable share capital is share capital for the purposes of disclosure in the Society's financial statements. However because of its nature, withdrawable share capital which is withdrawable on demand, is in fact a current liability. For the purposes of determining the Society's current financial position withdrawable share capital must be treated as a current liability. Under the Act the present position is that in the event of a winding up, withdrawable share capital must be treated as share capital and not as a liability. However, I am informed by the Registrar that the Government will be introducing amendments to the Act in the current session to the effect that withdrawable share capital will be treated in a winding up in the same manner as other depositors' funds.

I wonder what the balance sheet initially looked like when Mr Woodings and his firm first drew up the balance sheet for the report. I would like him to tell us under oath where he put withdrawable shareholders in the first place. Have they always been shown as share capital reserves or did he change it in anticipation of changes to the legislation? Hon Peter Foss will speak later and probably comment that if this legislation were really worthwhile and the Government were serious about it, it should go to the Standing Committee on Legislation. Time will not permit this, with just one week to go, should we wish to address all facets of the legislation.

On 25 September 1991, Mr Woodings knew that the Government intended to change the legislation. The Building Societies Amendment Bill was introduced into this House on 5 November. It should have been introduced at an earlier time, such as 26 September. It is, after all, only a flimsy bit of paper, which Hon Peter Foss could have drawn up in five minutes, and we could have had a proper debate about how worthy of consideration this legislation is. An administrator was appointed on 30 August. The Government has made the point that it was only after the administrator was appointed that it realised there was a problem with the withdrawable shares. The Government stated that it had made major amendments to the legislation in 1987. Withdrawable shares have been in fashion for a long time, for many different reasons. No-one saw any problems in 1987, and I suppose no-one expected that a building society would be wound up and that there would be problems about deciding where the withdrawable shareholders would rank in that winding up. Section 50 of the Building Societies Act 1976 states that -

> (1) The members of a society shall be the persons who signed an application for membership on the formation of the society, and any other persons who are admitted to membership in accordance with the rules of the society.
>
> (2) Where a society is formed by the amalgamation of 2 or more societies, the members of the society formed by the amalgamation shall be the members of the amalgamating societies and any other persons who are admitted to membership in accordance with the rules of the society formed by the amalgamation.

Therefore, the various classifications of shareholders were merged into one classification. I am sure that all the shareholders would have known from their share script that they were withdrawable shareholders.

Hon J.M. Berinson: Are you sure?

Hon MAX EVANS: I have not heard anyone say anything else. If any person believed that he was a depositor and not a withdrawable shareholder, and could prove that, he could take legal action against the liquidator or the administrator on the basis that there was misrepresentation. That should not be a reason to change the Act.

Section 53 of the Building Societies Act states that -

> (1) A society may from time to time raise funds by the issue of shares.
>
> (2) The shares may be of one or more classes or denominations and shall be issued either as shares fully paid up, or as shares to be paid for by periodical or other subscription.
>
> (3) The rules of a society may provide -
>
> (a) for the withdrawal by a member of his share capital;
>
> (b) for the payment of differential rates of dividend or interest in respect of varying classes of shares; and
>
> (c) for rights entitling the holder of any class of shares to receive, instead of a dividend, interest on the shares of a class which are fully paid up at such a rate as is determined by the board.
>
> (4) The rules of a society shall not provide for share capital to be repaid in priority to funds of the society consisting of deposits made with the society.
>
> (5) The rules of a society may provide for the cancellation of shares, or the withdrawal of share capital, but no such rules shall be registered unless the Registrar approves of the provisions governing the cancellation of shares, or the withdrawal of share capital.

It is clear to me what the legislation means. I am not certain what the previous Building Societies Act was, but it would have gone back a long time because the old Perth Building Society was over 100 years old. I presume that similar Acts have been made in respect of different types of shares, but I cannot imagine any time in the history of building societies when there would have been a difference between non-withdrawable shares and withdrawable shares, with withdrawable shares not being share capital.

Section 55 of the Act states that -

> A society shall, in respect of any debt due from the member or past member of the society, have a charge upon the shares of any member of the society, and on the credit balance of any member, or any past member, and upon any dividend, interest, bonus or rebate payable to a member or past member of the society and may set off any such sum payable to a member or past member against the debt.

The Attorney General may remember my quoting the other day the case of a gentleman who has a mortgage of $10 000 and non-withdrawable shares of $300. He wanted to know why he could not offset that $300 against his mortgage of $10 000, because he was told by the administrator that he could not do that. I do not believe that is right. If this gentleman had not paid his $10 000 mortgage in full, the administrator would have the right to offset the $300 against the shortfall. The building society will have the right to offset, but not this gentleman who is paying off his mortgage. I do not believe that is equitable.

Hon J.M. Berinson: That argument may have some force if that gentleman was an ordinary depositor. Was he a borrower?

Hon MAX EVANS: He was a borrower and the holder of non-withdrawable shares worth $300. I am saying that the type of shares that they are is not relevant.

Hon J.M. Berinson: If they are shares at all, on your earlier argument I would have thought the set off could not be argued.

Hon MAX EVANS: The Act provides that if this gentleman has a shortfall in repaying his debt, his shares can be offset against that debt. However, why should he have to pay off his debt in full when that debt could be offset by the $300 in shares? It is a technical point, and he can take it up with the administrator. The administrator has stated that only the liquidator or scheme manager has the right to offset.

A lot has been said about legal opinions, and I presume that the Minister has obtained his own legal opinions. In fact, he must have obtained those opinions, otherwise he would not have introduced this amendment to the legislation. The brief given to Mr Malcolm McCusker, QC states in paragraph six -

> On 26 September 1981 the Administrator provided the Registrar with an interim report in relation to PBS. A copy of the report is included with this brief. In that report on page 10 the Administrator stated:
>
> > "Withdrawable share capital is share capital for the purposes of disclosure of the Society's financial statements. However because of its nature, withdrawable share capital which is withdrawable on demand, is in fact a current liability. For the purposes of determining the Society's current financial position withdrawable share capital must be treated as a current liability. Under the Act the present position is that in the event of a winding up, withdrawable share capital must be treated as share capital and not as a liability. However, I am informed by the Registrar that the Government will be introducing amendments to the Act in the current session to the effect that withdrawable share capital will be treated in a winding up in the same manner as other depositors funds".

Another point put to Mr Malcolm McCusker was that -

> On 29 September 1991 the Minister responsible for Building Societies under the Act, namely the Attorney General, Mr Joe Berinson has stated that:
>
> > "Cabinet has agreed that if the Society is wound up, that withdrawable shareholders and depositors should be treated in the same way. Amending legislation will be introduced to Parliament to recognise that traditional relationship."

We are now up to 29 September. The legislation came to this House on 5 November, and if the Government really wanted to know what were the problems of withdrawable shareholders, this matter could have gone to the Legislation Committee. The brief to Mr McCusker also said, and I quote -

> 15. By Section 53(4) of the Act, the rules of PBS may not provide for share capital to be repaid in priority to funds of PBS consisting of deposits made with PBS.

Mr McCusker, in his opinion, says -

> 4. By Rule 20 PBS has the power to accept deposits. Rule 20(2)(c) provides as follows:
>
> > "A depositor or Member may withdraw his deposit or withdrawable Shares or any portion thereof at any time after the expiration of the term of notice applicable thereto but if the money in hand is insufficient to pay in full all the depositors and Members who have given notice of withdrawal the depositors in all cases shall have precedence."

Mr McCusker's opinion further reads -

> 5. By s.53(4) of the Building Societies Act the Rules of a Society "shall not provide the share capital to be repaid in priority to funds of the Society consisting of deposits made with the Society".

Further on, Mr McCusker says -

> 8. The depositors have raised a number of specific questions with me, set out as follows:
>
> (1) Q: Is it correct to categorise withdrawable shareholders as current liabilities in the accounts of PBS?
>
> A: Yes, in my opinion it would be in accordance with accounting principle to do so, although I do not think that this goes to the issue of priority as between shareholders and depositors.

My own comments are there: Yes, one could probably rank it as a current liability then, not on an ongoing concern basis but on the fact that it is going to be closed down. On an ongoing concern basis those shares would have been capital. When the door is closed, one might consider where they stand. Mr McCusker is saying they are a current liability if one is going to pay them out in full, but they have no priority over the depositors. I quote again from Mr McCusker's opinion -

> (2) Q: Prior to a liquidation and during an administration are withdrawable shareholders entitled to repayment of their investment,
>
> (a) equally with depositors; or
>
> (b) after depositors?
>
> A: By reason of the certificate given under s.45 of the Act, referred to above, no repayments may be made whatever during an administration, without the consent of the Registrar. If the Registrar were to give his consent to a repayment, an interesting question would arise. If the payment were proposed to be made to a holder of withdrawable shares, and the depositors had given notice requiring repayment of their deposits, with the result that the "monies in hand" of the Society were insufficient to pay in full all depositors and members who had given notice of withdrawal, in my opinion the provisions of Rule 20(2)(c) would prohibit any repayment being made to a withdrawable shareholder until at least those depositors who had given notice requiring repayment had been paid. The clear intention behind Rule 20(2)(c) is to give priority to depositors, or at least those who have given notice requiring repayment, as against withdrawable shareholders.

A problem which might arise here is that I understand that, under the hardship clause, moneys have been distributed to both withdrawable shareholders and depositors. I do not

think it will be a material amount and I should think something could be worked out later with the liquidator about that. I am glad the hardship clause is there. Today I received a call in my office from some young students receiving Austudy payments who had a rental deposit with the Permanent Building Society. They had to vacate one tenancy and wanted to go to another one but if they could not get back the $700 deposit they could not afford a deposit on another tenancy. I hope they obtain some relief under the hardship clause.

I quote again from Mr McCusker's opinion -

(4) Q: If the answer to 2(b) above is in the affirmative, are the preferential rights of depositors over shareholders varied on a liquidation, and if so how?

A: There is no provision in the Rules or the Act which varies the preferential rights of depositors over shareholders upon a liquidation. The preferential rights of depositors as against shareholders would therefore remain.

Later on, Mr McCusker's opinion says -

(6) Q:(a) Is there any precedent for the Government to legislate to amend the law so that withdrawable shareholders rank equally with depositors?

(b) Would such legislative amendment need to be retrospective in its operation to apply in this instance?

(c) If the answer to 6(b) above is in the affirmative, what precedent is there for such retrospective legislation. Your comments on the appropriateness of such retrospective legislative amendment is also requested.

A: I am unaware of any precedent for the Government to legislate in a way that has apparently been foreshadowed by a press release, giving withdrawable shareholders equal rights with depositors to return of their investment. Although such legislation may not, in its terms, be expressed as "retrospective" that would of course be the effect of it. The legislation, if passed, would divest the depositors of their contractual right, given to them by the terms upon which they made the deposit, and conferred on them by the Rules of the Society, to be repaid in priority to all shareholders. That right is expressed in the clearest of terms in Rule 20(2)(c), and is the basis upon which they lent money to the Society.

To treat them as ranking equally with withdrawable shareholders would clearly cause them substantial financial disadvantage. I am instructed that if their existing priority rights are not interfered with by legislation, it is estimated that depositors would receive 100c in the dollar, whereas if those rights are interfered with, so as to give withdrawable shareholders a right to rank equally with the depositors for return of funds, depositors would receive only 91c in the dollar.

That is not quite right. If the depositors were paid the money they might get 91¢ in the dollar, but if the withdrawable shareholders were paid out it would drop to 81¢, but it could drop further as time goes by. The Attorney General might be able to tell us what transpired on Friday and whether any sale or part sale of the business was negotiated or completed on that day. From the calls I have had I understand that a number of the borrowers have been paying out their mortgages and are going elsewhere at a much lower interest rate. Some were paying 15 per cent or more and are now paying 11 per cent. That is a four per cent gain, although they have had to pay extra stamp duty. That is a common problem. People say that they should not have to pay stamp duty twice on the same security for a mortgage. The additional stamp duty often stops people transferring funds from one bank to another. We must examine the stamp duty legislation in that respect one day, because I think it is wrong. That cost also locks borrowers into one lending authority and does not give them the ability to move very easily. These people will understand that, because they received a letter saying that interest rates would not be dropped but that they should watch out because it would cost them between $1 500 and $4 000 in legal costs and stamp duty if they transferred their mortgage. Most people are not commercially literate, and many people thought the Permanent Building Society was in real trouble and wondered where they might stand if the society went into liquidation. They wondered if the society might try to force them to pay

out their mortgages early. They felt insecure and decided they would rather pay to transfer their mortgage to a bank or another building society where the interest rate might be four per cent less, even though costs would be involved.

I quote again from Mr McCusker's opinion -

> It is difficult to understand why it should be proposed that withdrawable shareholders be given a benefit for which they did not contract, to the disadvantage of depositors. After all, in contrast with depositors, both withdrawable shareholders and non-withdrawable shareholders have the following rights:
>
> (a) a right to vote at all meetings; and
>
> (b) a right to participate in the distribution of any surplus of capital upon a winding up - a right which in the present circumstances is, of course, of no value, but which nevertheless may be said to have been conferred on the withdrawable shareholders as a quid pro quo, in return for their accepting that the depositors, who had no such right, had priority as against the shareholders for return of their funds.
>
> I am unaware of any precedent for legislation of this nature, in Western Australia, although in my opinion there is nothing in the Constitution of the State of Western Australia which would prevent such legislation from being enacted, if supported by both Houses.

It disappointed me that the Attorney General's second reading speech did not mention that withdrawable shareholders could rank equally with non-withdrawable shareholders on winding up the company at a premium on their shares. When I first read the second reading speech I had a little sympathy for them. It was only when I read Mr McCusker's opinion that I raised the question at the other meeting, when Mr Metaxas, the Registrar of Co-operative and Financial Institutions, kindly confirmed that was exactly what Mr McCusker had said. I will take it as an innocent oversight, but it should have been in the second reading speech so as to give us all the facts on the rights of withdrawable shareholders. Again, I quote -

> . . . a right to participate in the distribution of any surplus of capital upon a winding up.

It is one of the very important factors that the shareholders involved should be notified. In the early days of 1988, the Statewide Building Society had withdrawable share capital valued at $24.85 million, and a net worth of $1.85 million. In other words, in those days most of the money was withdrawable share capital and all people could benefit from a wind-up of the society. I will not comment at this stage on the amendments made to the Town and Country Building Society legislation to provide the benefits, on the sale of the business, to a few persons and not to its entire clientele.

I have a document referring to the normal withdrawable shares concerning the western refuse disposal zone. I quote from the letter requesting legislative change -

> The finance year ended 30th April 1988, Statewide Building Society declared a further 8% return on capital to the interest of 12.25% over the prospectus, making a total investment return of 20.25% for that year. The cash component of the 20.25% investment return represented 15% and a bonus share issue, representing 5.25 per cent of the shareholding.

In other words, these people were receiving a special benefit over and above ordinary shareholders. The letter continues -

> On 6th February 1990, Joseph Charles Learmonth Duffy advised that they were still seeking a buyer for the Western Refuse Disposal Zone's Statewide shares and outlined their approach to the sale of these shares to the various major financial institutions in Western Australia and in the Eastern States. The main stumbling block for the sale of the shares had been the fact that interest rates were continuing to rise and were higher than the interest offered in the original issue of the shares in September 1988 and the nominated interest guaranteed for the following year.
>
> The capital appreciation of the shares did not seem to interest other institutions as much as it did in September 1988 due to the market sentiments created by the collapse of financial institutions such as the Rothwells Bank . . .

That is where that body was caught. It went in with non-withdrawable shares looking for a capital appreciation on its money. It considered that over two or three years the share value would increase because of high interest rates; however, interest rates went higher again. If the scheme had lived long enough, with interest rates currently reducing, it would now be very attractive. Nevertheless, the building society was not making enough money to pay the high interest rates, and that was the reason the Attorney General gave approval for the registrar to appoint an administrator.

Some notes have been supplied by Mr Metaxas, the Registrar of Co-operatives and Financial Institutions, and I quote from the reference which puts this matter into perspective. Regarding the wind-up it states -

> WS holders and NWSH would equally share in any surplus of a society in the event of a winding up. The Building Society Act in its current form does not provide any distinction in the sharing of a surplus.

It has been stated that the Permanent Building Society's withdrawable shares involved 12 648 account holders with an investment of $8.99 million. In examining the figures it is clear that many shareholders - to which the Minister referred in his second reading speech - are very small depositors. Of the total of 12 648 accounts, 10 300 had deposits of up to $500, and accounted for 82 per cent of the total funds; another 1 496 account holders had deposits of $500 to $2 000 and accounted for 12 per cent of the total funds; the range of deposits from $2 000 to $10 000 involved 670 account holders, who accounted for five per cent of total deposits; and 127 deposits of $10 000 and over accounted for one per cent of total deposits. Of the large depositors, some are very large, eight shareholders deposited amounts of $50 000 to $75 000; four shareholders deposited amounts from $75 000 to $150 000; two depositors deposited amounts from $150 000 to $300 000; and one depositor had an account of more than $300 000.

As I said before, most of the small depositors invested their money in withdrawable shares as part of the terms and arrangements of borrowing money from the society. Until recently, I would have imagined that they would have been quite happy with their borrowings; however, it seems that many depositors withdrew their funds and borrowed from other societies because they did not wish to be further associated with this building society, which was in financial trouble. Such people were unsure about the future of potential borrowings. Twelve depositors, including secured depositors, had an investment of over $500 000, representing an investment of $23.165 million, or 34 per cent of total deposits; also, 68 deposits of amounts between $100 000 to $500 000 amounted to $12.029 million, or 17 per cent of the total deposits. A wide range of depositors were involved.

As the Attorney General would be aware, real estate firms, local government and other investors were tied up with deposits and withdrawable and non-withdrawable shareholders. The society involved a mixture of clients. Maybe it would be necessary to let the Standing Committee on Legislation consider this matter by interviewing a number of people; however, time was never made available for that to happen. It is obvious that many depositors had been involved with the society for many years. In 1988 the withdrawable shareholding was $25 million, and it has now reduced to $8 million; therefore, people have withdrawn money for various reasons known only to them. Maybe these people decided that a capital profit would not be forthcoming, but we do not know.

Considering all the points involved in deciding whether the Liberal Party should support the legislation to change the rights of the depositors was a difficult job. The Bill states -

> Section 71 of the principal Act is amended by inserting after subsection (2) the following subsection -
>
> > (2)(a) For all purposes relating to the winding up of a society the repayment of withdrawable share capital shall have an equal priority to the repayment of funds of the society consisting of deposits made with the society.

After a great deal of serious thought in the party room, the Liberal Party has decided it cannot support this retrospective legislation which would affect the rights of depositors. These rights were provided by an Act of Parliament and by the rules of the society; to come in with hindsight, after an administrator has been appointed, and to give withdrawable shareholders something to which they were not previously entitled, leads the Liberal Party to not support the legislation.

HON E.J. CHARLTON (Agricultural) [9.19 pm]: As indicated by Hon Max Evans, the Building Societies Amendment Bill represents a no-win situation for everybody. We are told in the second reading speech that the withdrawable shareholders' investments were nothing more than deposits.

The problem is similar to that which we have experienced with other pieces of legislation: We do not know the facts. Who are the withdrawable shareholders and why did they invest their money the way they did in the first place? Why are there almost as many withdrawable shareholders as depositors? Now the Government is saying that, regardless of what has occurred in the past with the closing of the Permanent Building Society, the withdrawable shareholders and the depositors should be in the same category. The situation is not black and white. I would like to know why the Attorney General and the Government believe that we should treat the situation that way and why we should support the Bill. From the information we have put together and the facts outlined by Hon Max Evans, the members of the National Party do not feel they can support this legislation.

This is an example where once again we are coming to the end of a session and critically important legislation is being pushed through the House. There is probably nothing more important in life to the withdrawable shareholders than this matter. In the past we have made decisions, whether they were about Gold Bank or other lending institutions, because we were told it was the logical thing to do. A few years down the track we then found we had created another anomaly and we were accused of not researching the subject properly in the first place. I wonder what is the Government's position concerning the time frame of the Bill. We know a decision must be made as soon as possible to wind up the affairs of the Permanent Building Society; no-one would argue about that. Certainly depositors have every right to have access to their funds as soon as possible.

On the other hand we must decide whether we will grant the withdrawable shareholders an opportunity to also have access to those funds. Hon Max Evans pointed out the responses to the legislation from various groups of people. No doubt we would have heard a very different response from people if their investments were not in the form of deposits but in the form of withdrawable shares. Be that as it may, we are left with the question of retrospectivity. I would be the first to acknowledge that several, if not most, people invested their money in the first place not knowing the difference between deposits and withdrawable shares. Nonetheless, they took that action. Are we to change the law at the end of the game because, in this case, winding up procedures are in place? Do we say to people that we know they probably did not know the difference between withdrawable shares and deposits, and because it has all gone bad we will classify their situation differently?

The withdrawable shareholders have the right to vote, which is probably the only significant difference between depositors and withdrawable shareholders. As the situation has turned out their votes were not worth a cent, and a particular individual held the great majority of votes. That is the main reason the winding up procedures are taking place. Whatever we say and whatever line the debate takes it will not make any difference in the end because we will be confronted with having to decide whether we will change the status of those withdrawable shares. As I said at the beginning, members of the National Party cannot see their way clear to doing that, much as they would like to.

This is an example of another tragedy among other tragedies which have happened over the past few years where innocent, hardworking, dedicated, honest people have invested in what appeared to be a secure and honest operation. Unfortunately, at the end of the day they have been very severely burnt. Again, we see the Government is not bailing them out with taxpayers' money in this case, but offering to change the rules after the game is over. It is a terrible situation, but where does one draw the line between what can be regarded as a responsible decision and a heartfelt or sympathetic view?

If the Bill were passed the payout to the depositors would be reduced and the withdrawable shareholders would be compensated. If we did not agree we would simply be denying withdrawable shareholders any funds and allowing depositors to receive the remaining funds. If that were to happen nothing would be left for anybody else. That is the difficult and serious matter with which we are faced. We have not been able to find out who are the withdrawable shareholders and how and why they invested their money in that way. If we had more time perhaps these inquiries could have been made by the Standing Committee on

Legislation. I wonder whether the Permanent Building Society will wind up in the immediate term or whether that will happen next year. If it were to be next year, surely it would be in the interests of all concerned to not proceed with this Bill now so that more research could be done.

Hon Max Evans: The depositors cannot get any money at all. Some of them are desperate to get their money.

Hon E.J. CHARLTON: Exactly. However, the question we need to have answered is whether it will be wound up immediately or whether we will have to wait until February next year or until we sit again in March. The Minister needs to answer that question. When will it be wound up and when is Parliament likely to sit again?

There is nothing I would like more than to agree with this legislation, because I think that the great majority of the withdrawable shareholders are the victims of another tragedy. However, we have to say more times than not these days that, in the final analysis, people have to be responsible for their own actions and not rely on Parliament or anybody else to change the rules at the last minute to help them out. My heart goes out to the people who have been taken for a ride again because they have tied up their finances in this way. I know that many genuine people, both small and large investors, rely on the advice they receive from the people they talk to about where to put their money. These people go off with their passbooks happy that they have placed their money in what they understand is a safe place and from which they can withdraw it. The only problem is that, now this society has gone bust, they cannot. I am sure they were not aware of that when they put their money in.

I do not believe it would be right or responsible for the National Party to agree to this legislation and unless the Minister can come up with better alternatives, it opposes the Bill.

HON PETER FOSS (East Metropolitan) [9.33 pm]: Hon Eric Charlton has outlined very clearly the problem faced by the Parliament. It is deplorable that we have been faced with this problem, because I do not think that I can support the Building Societies Amendment Bill even with the qualification that it would have effect only in respect of the future and not in respect of existing problems, because we are making substantial alterations to the real scheme of the Building Societies Act and the idea of what a shareholder is all about. That is a very important change and not one to be made just for a particular occasion or without proper investigation. It is just the sort of thing that should be referred to the Standing Committee on Legislation.

The matter is made even more aggravating by the fact that we know right now that we would be affecting some people's rights. If passed, this Bill would have retrospective effect. It would take money from depositors in the Permanent Building Society and give it to people with withdrawable shares. It is the law at the moment that those people will not have that money, and we would be changing the law to affect their rights retrospectively. It might be an act of great generosity by us to take the money from the depositors and give it to the withdrawable shareholders. However, it is not our money and the only basis upon which I could possibly support such retrospective legislation is if it were clear in the first place that Parliament in the past erred in the way it set up the legislation and, secondly, relying on the error of the Parliament, people had acted to their detriment. I have a strong feeling that Parliament has erred. The Act which introduced the concept of withdrawable and non-withdrawable shares into the definitions was Act No 120 of 1987, which was assented to on 24 December 1987. That indicates that it may well have passed through the Parliament in its dying stages.

Hon J.M. Berinson: Parliament went until the end of 1988. In any event, that amended the position; but it did not create withdrawable shares.

Hon Max Evans: And it was not rushed through.

Hon PETER FOSS: I am pleased to hear that. Having followed through the changes that have occurred over the years, it has occurred to me that there have been very significant changes to how people invest in building societies. Initially, it was impossible to invest in a building society without becoming a shareholder. The only method by which someone could invest in a building society was with investment shares.

Hon Sam Piantadosi: And credit unions.

Hon PETER FOSS: Yes, one borrowed money again by taking out shares. The whole concept of investing in and borrowing from building societies was centred on one's having shares. The idea was to put in and take out money from a society to which one belonged. Over the years, changes have been made by the Parliament to the whole concept of how people invested in and borrowed from a building society. These changes to the character of investing institutions were made without the public of Western Australia really understanding what occurred. Many people may have ended up with withdrawable shares as an historical accident and many people may have gone into withdrawable shares without understanding that they were doing anything different from investing.

I am concerned that many people who had withdrawable shares in the Permanent Building Society had no idea that they were shareholders; they thought they were depositors. Over time, I do not believe that withdrawable shareholders have actually received any true benefits from being shareholders in the society. Certainly, some people have received substantial benefits from being shareholders in societies, but I do not believe that includes withdrawable shareholders. Therefore, they have had the risks of being shareholders with none of the rewards. That is the law. If they had bothered reading the Building Societies Act they would understand that that is where they stood, but no-one told them about it or drew it to their attention. We keep passing legislation in which we require consumers to be given notice of their rights. I can think of all sorts of legislation that has gone through the Parliament in which we have gone into great detail to ensure that people were told of their rights. However, we did not do that with legislation covering building societies and, therefore, people in Western Australia have found themselves in this unenviable position of being shareholders without the benefits and thinking themselves depositors. There appears to be some argument towards relieving them of their stress because, in the same way as they were not aware that they were underprivileged as depositors, I suspect the depositors were not aware that they were privileged when compared with the withdrawable shareholders. They would have considered themselves depositors. It is only now that we find people suddenly taking a solid position one way or another, depending on whether they will make or lose money by having the withdrawable shareholders changed in their character.

As a Parliament we cannot change those rights without hearing the arguments and without proper investigation. I cannot see how, in the time scale we have, we can possibly support retrospective legislation - that is what this is - which takes money which is legally that of the depositors and gives it to the withdrawable shareholders, who have no legal entitlement to it. The Government is planning to do that as a sort of quick fix measure and it wants this Bill passed without any inquiry. If the Government insists that we pass this legislation now the Opposition will have no alternative but to reject it. I would have preferred the legislation to be considered by the Standing Committee on Legislation to determine its effect on both the future and the current situation of the Permanent Building Society's withdrawable shareholders. I cannot see how we can take this money away without a proper inquiry being undertaken. It does not appear to me that there is any way we can do that satisfactorily other than by referring it to the Legislation Committee. In due course, the legislation would be reported on and dealt with by the Parliament in the next session. I see the arguments in favour of the legislation, but reluctantly I cannot support it.

HON J.M. BERINSON (North Metropolitan - Attorney General) [9.42 pm]: A number of speakers have said that the issue which has led to the Building Societies Amendment Bill is a sad issue, and that is right. It has also been said that a decision to reject this Bill would come down hard on very many people, and that is right also. I do not want to suggest any more than any other speaker has done that the issues involved in this legislation are cut and dried. A very difficult balance of interests must be considered and I have consistently said from the time that the problem was first brought to attention that it does raise a dilemma. Whichever way we go will leave a number of people detrimentally affected. Although that is true, we should put into the balance the fact that the extent to which the different groups might be detrimentally affected with this Bill or without it is quite different. The effect on those who would suffer a reduced rate of recovery if the Bill were to be passed would be quite modest. As opposed to that, the effect on those who would be detrimentally affected if the Bill were rejected would be quite devastating in many cases. All that must be put into the balance.

I want to put seriously to members of the Opposition, even as I say in the same breath that I respect the arguments that have been put, that their arguments are wrong. I also hope that in

the course of future discussion on the course of events, assuming the Bill does not pass, that members opposite will not try to find a refuge in the fact that it is really the Government's fault because the legislation was brought forward too late. I am referring to a number of speakers who stressed that the legislation has come at the end of the session and that preferably it should have been sent to the Standing Committee on Legislation for investigation. If it were possible to do that now, with recommendations from the committee being presented in March, it would be a possible way out.

A further fact we have to face is that this legislation has come up relatively late because the problem has arisen relatively late.

Hon Peter Foss: You knew about the problem in September.

Hon Max Evans: It was 25 September.

Hon J.M. BERINSON: This Bill has been before the House since its second reading on 5 November, which is exactly three weeks ago. It was anticipated two weeks prior to that by a notice of motion to introduce the Bill on 23 October.

Hon Max Evans: You may recall that Mr Metaxas was away and we had to wait for a briefing on the Wednesday of the week following the week it was introduced.

Hon J.M. BERINSON: Let us not get into this detail: He was not away two weeks before that and he was not away the week after the notice was given. I am not placing a great deal of weight on this: I am saying that it has been before the Parliament for five weeks. A public statement about the Government's intention was made sometime before that. I hope that members opposite will be fair enough to acknowledge that for the Government to arrive at a decision to initiate the legislation it required more background than it had at the time the administrator was appointed. It had to wait until the administrator's report was received to find out what the position was, how various parties would be affected and what might be done about it.

I ask members at least to acknowledge this much: Firstly, if we are dealing with this legislation this late in the session it is because the problem has come upon the Government late in the session. Secondly, I ask members to acknowledge that the problem which has been raised must be dealt with promptly and it cannot be left, as I think Hon Eric Charlton half hoped it might, to the Legislation Committee to consider during the recess. Hon Max Evans gave one reason for that by way of interjection when he said a number of depositors are in urgent need of at least partial repayment of their funds. That is only one reason for urgent action. Thirdly, I ask members opposite to acknowledge that this issue has been a very weighty one from the Government's point of view and the administrator's advice is that if this Bill is delayed it can only work to the disadvantage of depositors and any other persons with an interest in the society's funds because of the risk to the value of assets.

Hon Max Evans: It will not delay the sale of the assets of the business. The whole business can be sold irrespective of the legislation.

Hon J.M. BERINSON: I assure Hon Max Evans that he is too confident about that. I take the honourable member's advice on many occasions when it is of a technical nature, but he is being too confident if he is saying that some delay will not affect the recovery of value for the assets of the society.

Hon Max Evans: Will you explain why that is not the case? You could sell all the assets and you would still not go through. The ranking of the withdrawable shareholders with the depositors is not holding up the distribution of the assets. If it is, somebody needs his butt kicked.

Hon J.M. BERINSON: I did misunderstand the honourable member in that case. He is saying that failing a sale of the society as a going concern, the assets could still be sold promptly, but no distribution could be made, and it was for that reason that he was putting the depositors -

Hon Max Evans: If you want to sell the shares of the business, those shareholders should be only too pleased. If a profit were made, those shareholders could sell them. You are not holding up the sale of the shares or the assets of the business.

Hon J.M. BERINSON: I am prepared to accept that, but that does not overcome the problem the member indicated to Hon E.J. Charlton.

Hon Max Evans: I know that. What I am saying is that the sooner you appoint a liquidator the better. He can make interim distributions. He would be held up if you were to put this legislation through at some later date. Provided the legislation does not go through, you could appoint a liquidator tomorrow and he could make a distribution of 10¢ or 20¢ in the dollar. He knows roughly what his assets are. That can be done very quickly.

Hon J.M. BERINSON: Let me try to summarise what is being said. Again, subject to my understanding it correctly, it is being suggested by the Opposition that the sale should go ahead, that the legislation should be held over or reintroduced -

Hon George Cash: No, you misrepresent the position.

Hon J.M. BERINSON: I am genuinely trying to understand what is being suggested. If it is suggested that on principle the Opposition has come to the view that withdrawable shareholders should not have their position changed by legislation, we do not need any of this discussion. I took it from some of the comments made that perhaps the position was a little more open than that. In that event I shall go on to discuss the balance of competing interests which were involved. I have already said there is a dilemma, and it follows self-evidently from that that there is no clear cut situation available for us to latch onto with confidence that that is the only right way to go. The problem is that a withdrawable shareholding is an unusual concept.

Hon Max Evans: Not in building societies.

Hon J.M. BERINSON: I know, not in building societies, but in the experience of the 12 600 withdrawable shareholders, withdrawable shareholding is an unusual concept. Most people would know what a share is and what attaches to that, but very few would have had occasion to put their minds to what attaches to a withdrawable share. A withdrawable share is a very funny creature; it has a number of features in common with ordinary shares and a number of features in common with ordinary deposits. From the Government's point of view the balance has come down in favour of this legislation because the features which withdrawable shares have in common with deposits are much greater than the features which they have in common with non-withdrawable shares.

Hon Max Evans: That is okay for prospective legislation; what about retrospective legislation?

Hon J.M. BERINSON: Prospective legislation will have no effect or be of any assistance to persons whose positions have been brought to attention by the case of the Permanent Building Society. I went through a number of features which withdrawable shares and deposits had in common in the course of my second reading speech. Mr Evans is quite right; I did not refer to the fact that withdrawable shareholders could share in a distribution of surplus assets on the winding up of a building society. Similarly I omitted to point out, because it had not then been drawn to my attention, that especially in recent times many withdrawable shareholders of the Permanent Building Society would not have known that they were withdrawable shareholders. The reason for that was, as I am advised, that it became a practice in the Permanent Building Society for persons depositing funds to be issued with a pass book, which, on the face of it, looked the same as anyone else's pass book, but which was in fact a withdrawable shareholder's pass book. That is an added consideration for us to take into account.

I also question whether all the criticisms made by Mr Evans of the factors which I said withdrawable shares had in common with deposits were really significant, or whether a number of them did not involve fairly fine distinctions. In one respect I think Mr Evans may have been incorrect, and I refer here to what I understood to be his reference to the concept of the prime net worth of the society, including withdrawable shares, by the effect of section 42 of the Building Societies Act.

Hon Max Evans: It refers to withdrawable shares in three years. That could be part of the net worth, because it mentions three years and withdrawable shares in the same section. I do not have my copy of the Act with me.

Hon J.M. BERINSON: What appears to have happened is that that part of Mr Evans' comments may have related to the 1976 Act rather than the 1987 amendments to which Mr Foss has referred. Under the later amendments, prime net worth is defined so as to exclude withdrawable shares rather than include them, as was previously the case.

Hon Max Evans: What section is that?

Hon J.M. BERINSON: Section 42 of the 1976 Act. I think it was clause 5 of the amending Bill.

Among many other statements on which I believe there will be little dispute is the comment by Mr Charlton that this is a no win situation for anybody. I think that is true, and I have already acknowledged that with my reference to the fact that whichever way the decision goes, one group or another will have a reduced recovery. On the other hand I do not think that we would be helped by pursuing the line of inquiry which was implied by Mr Charlton's problem in not knowing who the affected people were and why they invested by way of withdrawable shares in the first place.

Hon E.J. Charlton: It might be nice to know whether people were aware of the difference when they put in their money.

Hon J.M. BERINSON: I am not a betting man but I am prepared to bet that of the 12 600 people who are about to lose all their funds the merest fraction would have the slightest idea of the difference. In fact, I would say conversely that the greater proportion by far of them would not even be aware they were holding withdrawable shares rather than deposits.

The limitations of any further inquiry though come from the very large number of people who are affected, and in that group we will get any number of reasons as to how and why people have come to be in that position. At the end of the day, with all the other considerations we must put into this difficult balance of competing interests is the actual effect in dollars and cents. We are looking at a position where on the assumption that the Bill would be supported, depositors would have to look to a reduction from their original 100¢ of 10¢ below what they would receive otherwise. At the moment I do not want to attempt another calculation as to what might be achieved, but whatever the figure - whether 100¢, 90¢ or 80¢ - that would be achieved without the Bill, there would be a reduction of 10¢ if the Bill were enacted. That would be in respect of the current depositors. On the other hand, the position with withdrawable shareholders if the Bill is rejected is that they will come down from 100¢ to nil. That does not seem to me to be an irrelevant consideration, no matter what the terms of the Act or the terms of the rules of the society are. I do not think anyone has disputed, and I do not think anyone would seriously dispute, that the great majority of these people caught as withdrawable shareholders would not know anything about the Act and would not know anything about the rules. I will go further to make the point that I do not believe that more than the merest fraction of the 12 600 know that the whole of their funds are at stake in our exercise tonight. That will be a very unpleasant surprise to come to their attention tomorrow or in the next few days when some media attention to the rejection of this Bill will actually make people go and see what is written on their passbooks. That is the reality of the position we face. The Government is trying to approach that in a way which is not technical, which is not resting on arguments that the legislation really means something different and was always meant to mean something different and we ought to correct it now because it was not corrected before. We are not saying that; we are making a very clear choice of options available to the House. We are asking whether we are prepared to bite the bullet and reduce the return to depositors by 10¢ in the dollar from whatever else they would otherwise receive or, on the other hand, whether we want to bite the other bullet and cut withdrawable shareholders out of any recovery whatsoever.

Hon Max Evans: If the Attorney really believes that, with his powerful media machine he could have advised the withdrawable shareholders that at present they will not receive anything; he could have received some support in that way. Press releases have been made but they have not caused any reaction from those people. Maybe they do not know that they are withdrawable shareholders.

Hon J.M. BERINSON: That is really an extraordinary proposition. Hon Max Evans is saying that the Government as well as arriving at a difficult decision, and putting it seriously to the Parliament, should actually be going out to stimulate support for it rather than attempting to argue it on its merits. We are arguing it on its merits. It is not an ideological dispute we have here. It is not electoral reform. Mr Evans can relax; it is not that sort of issue. It is a very serious issue nonetheless.

I say again to the House that the Government has not arrived at its decision to sponsor this

Bill lightly, and it does not ignore the clash of interests which is involved in attempting to see this Bill through. On balance though, it is the Government's view that this is the best and fairest way to handle the practical position in which people are placed, and the practical position in which people understood themselves to be placed, rather than relying on the words of the Act or the words of the rules of the society. Even given the unfavourable indications from members opposite, I urge them to reconsider their position because if they do not a very large number of people in this State will be seriously and detrimentally affected.

Division

Question put and a division taken with the following result -

	Ayes (15)	
Hon J.M. Berinson	Hon Kay Hallahan	Hon Bob Thomas
Hon J.M. Brown	Hon Tom Helm	Hon Doug Wenn
Hon T.G. Butler	Hon B.L. Jones	Hon Fred McKenzie
Hon Cheryl Davenport	Hon Mark Nevill	*(Teller)*
Hon Graham Edwards	Hon Sam Piantadosi	
Hon John Halden	Hon Tom Stephens	
	Noes (16)	
Hon J.N. Caldwell	Hon Barry House	Hon W.N. Stretch
Hon George Cash	Hon P.H. Lockyer	Hon Derrick Tomlinson
Hon E.J. Charlton	Hon Murray Montgomery	Hon D.J. Wordsworth
Hon Reg Davies	Hon N.F. Moore	Hon Margaret McAleer
Hon Max Evans	Hon Muriel Patterson	*(Teller)*
Hon Peter Foss	Hon R.G. Pike	
	Pairs	
Hon Garry Kelly		Hon P.G. Pendal

Question thus negatived.

Bill defeated.

The PRESIDENT: Order! The audible conversations and members' wandering around the Chamber are disconcerting. Members are behaving in a very undignified manner. I suggest that members keep to their seats when we are trying to deal with the business of the House.

RETIREMENT VILLAGES BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon John Halden (Parliamentary Secretary), read a first time.

Second Reading

HON JOHN HALDEN (South Metropolitan - Parliamentary Secretary) [10.11 pm]: I move -

That the Bill be now read a second time.

The Retirement Villages Bill represents a second milestone in the development of industry regulation in this field. In 1989 Cabinet approved the draft code of practice for resident funded retirement villages and the drafting of a Retirement Villages Bill. The draft code of practice was jointly released in November 1989 by my colleague, Hon Kay Hallahan, then Minister for the Aged, and the Minister for Consumer Affairs. The release of the code followed a long and thorough consultative process which was started by my predecessor, Hon Graham Edwards, in 1987.

The Retirement Villages Bill and its associated code of practice will bring better consumer protection and improved industry stability which in turn should augment other Government initiatives aimed at supporting community and home based care for seniors. The prescribed interest provisions of the Companies (Western Australia) Code and the Securities Industry Code formed almost the only regulation of the retirement village industry. These did not

have wide enough scope to cover the various legal and financial arrangements prevalent in the industry. In response to the release of the draft code of practice and in anticipation of this legislation these provisions were repealed in April 1990. The code of practice, which will have effect through the Fair Trading Act, has been adopted by large sectors of the retirement village industry. However, Cabinet recognised that to offer adequate protection to older people entering retirement villages the code alone would not be able to deal with the complexity of retirement village matters. It would need to be complemented by legislation which would both protect residents' occupancy rights and also extend the dispute mechanisms specified under the code . Effective regulation of the retirement village industry will encourage the management of those villages who could bring the whole industry into disrepute to be fair in their dealings with older people. If they are not fair, the legislation will enable them to be disciplined appropriately.

Taking these important steps will contribute significantly towards the fulfilment of the Government's commitment to addressing the housing needs of seniors. With the recent and anticipated growth in the retirement housing industry the Government has had the important role of ensuring that older people are treated fairly in any transactions. The development of this legislation has involved considerable opportunity for input from older people themselves as well as representatives from the private and voluntary sectors of the retirement village industry, and the Offices of Seniors Interests and Land Titles.

The past 40 years have seen significant changes in the age structure of the Western Australian population. In 1954, people over 60 years of age comprised less than 11 per cent of the Western Australian population. Currently an estimated 13.5 per cent - 225 000 - of Western Australians are over 60. Within another 40 years this is expected to rise to 768 000 or 23 per cent. In less than 80 years the proportion of over 60s will have more than doubled. The anticipated increase in the age of the population will be caused by the ageing of the "baby boomers" and the post war migrants as well as the improvement of life expectancy of the population in general.

Hon P.G. Pendal: You would have a bit vested in this Mr Halden?

Hon JOHN HALDEN: It will approach Mr Pendal quicker than it will me. Senility may well have got to him already.

In addition, changes have occurred in Australian family attitudes and values in relation to the care of older family members. Australians expect to live as independently as possible for as long as possible. Perhaps one in five or one in six Australians approaching retirement is interested in moving into some form of planned retirement housing. These factors help explain the recent rapid growth seen in the retirement village industry, which first appeared in Australia in the 1950s with the efforts of church and other charitable organisations.

Over the past 10 years resident funded accommodation has become more heavily marketed. Retirement villages offer varying levels of resident support, from complete self care to supervised hostels and full time nursing homes, often within the one complex. The promotion and advertising of villages appeals to seniors' needs for a low maintenance lifestyle with guaranteed security of tenure, smooth and efficient administration providing a safe, financially viable investment. The building boom in the late 1970s and early 1980s further contributed to growth in the resident funded retirement village industry, particularly in the private sector. In other States, particularly in Victoria and New South Wales, some severe problems have emerged in this area over the past 10 years. Following the financial collapse of a large village in Victoria some hundreds of residents lost the secure future in which they believed they had invested. To prevent a recurrence Victoria has now introduced legislation to protect residents and this has been followed by similar action in New South Wales, South Australia and Queensland. Western Australia is in the fortunate position of being able to act before any major retirement village financial crisis occurs. In developing this legislation Western Australia has been able to learn from experience elsewhere. The Government's commitment to legislation in this industry has been welcomed by the industry itself. Both the private sector and the voluntary sectors of the retirement village industry have provided valuable input during the development of this legislation. Timely and well planned regulation of the industry will bring confidence and credibility. It will protect both the residents and the industry from future problems that no-one wants. With the rapidly ageing population, growth in this industry is expected in the coming years. This growth

must be built on a stable and secure base. This Bill and its associated code of practice will provide that base.

Over recent years the retirement village industry has been characterised by diversity of legal and financial arrangements, as well as of the range, standards and cost of the facilities provided. Because of this choices are often difficult to make. For many seniors this is a most vulnerable time of life. Contracts between residents and village management are often lengthy and complex. By necessity these contracts include a great deal of detail. For many older people, purchasing a place in a retirement village is their last major financial transaction. The decisions they make must suit their individual circumstances. People need to be aware of the consequences of the various choices available to them. It is therefore very difficult for people considering a move into a retirement village to compare the various options. Some people have experienced difficulties in obtaining comprehensive information, for instance about facilities actually available or about the financial status of the retirement village company. Currently under many residence contracts a resident's occupancy rights may be lost if the retirement village company enters insolvency. This applies particularly to lease and licence type arrangements. With a mass of complex and, sometimes, incomplete information, personal factors such as affordability and location may become the only factors influencing the decision. There may be a real risk of ignoring other important considerations. The information provided should also be clear and straightforward so that prospective residents and their families can make an informed decision together. For those reasons minimum disclosure standards are an essential component of this Bill. These disclosure standards cover the code of practice itself, the cooling-off period, tenure, fees, the financial situation of the village and the residents' rules. In addition to its guiding principles the code sets out the rights and responsibilities of residents and management including the information which should be provided and the broad content required of contract documents. While aiming to encourage resident input into village management the code should not unduly restrict the development of villages. The code establishes a system for dealing with disputes at the village level, a system which is augmented by two additional mechanisms in this Bill.

Achieving a sense of balance has been important in developing this legislation. Effective consumer safeguards are a central feature and the experiences in other States have been valuable. Yet the level of regulation must not be so excessive as to stifle desirable growth in the industry. In Victoria, five years' experience has suggested that regulation can stabilise the industry by discouraging the involvement of undercapitalised companies keen on early profit taking. The Retirement Villages Bill aims to provide the same levels of protection for all types of resident funded schemes. Without this Bill people who purchase under a lease for life or similar tenure arrangements are in an extremely vulnerable position in the event of a financial collapse of the village. Despite paying an amount possibly equivalent to the market value of the unit, they have no equity in their property. This has not always been made clear to them.

The types of legal tenure arrangements current in retirement village contracts are very different from most people's experience of conventional family housing. Many residents have not understood these differences. This Bill borrows from the models provided from retirement villages legislation in South Australia, New South Wales and Victoria. It will apply to all new schemes but will not disrupt existing contracts. The Retirement Villages Bill provides for a five day period before the signing of the contract, during which information must be given in an easily understandable written form. The consumer then has another five days cooling off period in which the contract may be rescinded.

Penalties are built into the Bill to protect residents' rights of tenure. The owner of a retirement village is restricted in the ways in which a village can be used for other purposes. This is achieved in the Bill by means of a memorial which must be lodged on the title, restrictions in the manner of lifting the memorial and by a statutory charge which is linked to the memorial. Due to the sometimes complex legal and financial arrangements, disputes will inevitably arise between residents and the administering body of the village, or between residents themselves. It is best when these differences can be settled at a local level. Under the code of practice, each village will be required to have its own disputes committee comprising resident and management representatives. If an amicable solution cannot be found, the Bill provides two further ways of dealing with the dispute. It can be referred to

the Ministry of Consumer Affairs for conciliation and, if that is not successful, to the Retirement Villages Disputes Tribunal.

The Retirement Villages Disputes Tribunal will be given judicial power to determine disputes and to hear applications for the transfer of residents or for the termination of occupancy rights for medical reasons or because the resident has breached the residence contract and caused serious damage or injury. No monetary limit will be imposed on the jurisdiction of the tribunal. Experts can be called on by the tribunal to advise, for example, on medical matters. The tribunal can be formed by a referee alone or by a three person panel, including consumer and industry representatives. In these ways it will be an efficient, low cost yet user sensitive way of determining disputes.

A review of the operation and effectiveness of the Act is provided for in the Bill - initially after one year and subsequently every five years. Residents will therefore be protected in three important ways. Village management will be required to provide to prospective residents specific information expressed clearly and concisely about the village, the residence contract and residents' rights and responsibilities; residents' rights to tenure will be safeguarded; and flexible and accessible avenues for settling disputes will be available.

The Retirement Villages Bill will reassure the community that adequate protection is in place and it will help people to plan for their retirement with enhanced confidence. In total it will provide consumer protection through timely regulation of the growing retirement village industry. The Bill and its associated code of practice have been developed following an extensive period of consultation with both consumer and industry representatives, who welcome them. I commend the Bill to the House.

Debate adjourned, on motion by Hon Muriel Patterson.

ACTS AMENDMENT (INDUSTRIAL COURTS) BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon John Halden (Parliamentary Secretary), read a first time.

Second Reading

HON JOHN HALDEN (South Metropolitan - Parliamentary Secretary) [10.24 pm]: I move -

> That the Bill be now read a second time.

The single purpose of this Bill is to enable the continued enforcement of Federal industrial awards before the Western Australian Industrial Magistrate. The Bill achieves that by an amendment to the Industrial Relations Act to establish an Industrial Magistrate's Court. In relation to all of the Statutes affected by this Bill, other than the Industrial Relations Act, it is simply a name change from "Industrial Magistrate" to "Industrial Magistrate's Court" and even with the Industrial Relations Act it is simply establishing the Industrial Magistrate's Court in which the Industrial Magistrate will continue to carry out the same functions. There will be no discernible change to the community because the Industrial Magistrate will continue to function in the same manner as before with one exception; that is, he or she will resume hearing enforcement matters in relation to Federal industrial awards.

The Industrial Relations Act at present provides for an Industrial Magistrate to enforce awards and orders of the Western Australian Industrial Relations Commission but a recent decision concluded that the magistrate no longer had the authority to enforce awards and orders made by the Australian Industrial Relations Commission. In that case, the magistrate in August last year concluded that because of a change in the wording of the enforcement provisions between the Federal 1904 Conciliation and Arbitration Act - repealed on 1 March 1988 - and the Federal 1988 Industrial Relations Act - proclaimed on 1 March 1989 - enforcement of Federal awards was only possible in a court and his jurisdiction was not included in the new definition of a court.

The enforcement provisions of section 119 of the 1904 Federal Act included the words -

> A penalty may be imposed by . . . Court of Summary Jurisdiction that is constituted by . . . an Industrial Magistrate under any State Act . . .

whereas the 1988 Federal Act uses the word "court" throughout the enforcement provisions - section 178 - and defines a "court" as including a "magistrate's court" which in turn includes the definition -

(b) a court constituted by an Industrial Magistrate . . .

Thus the subtle but unintended change is that a magistrate must constitute a "court" and no court is established by the Industrial Relations Act. Later in his judgment the magistrate concluded -

It seems obvious the State legislature did not see fit to create a court . . .

He went on to find that therefore he had no jurisdiction to entertain claims to enforce Federal awards. The State Legislature now wishes to make it clear that a court is being created. This amendment has been considered by the Tripartite Labour Consultative Council of Western Australia and has received unanimous support - another example of the successful way to approach changes in industrial relations law.

Although Federal awards may also be enforced in other places it has long been the practice that Federal awards in Western Australia are enforced before the Industrial Magistrate and there was no intention, either on the part of the Australian Government or this Government, that that position should change as a consequence of the new Federal Act's being introduced. Accordingly, this amendment will reinstate the authority of the Industrial Magistrate under the Western Australian Industrial Relations Act to enforce Federal awards by having the magistrate comprise a "court" within the meaning of that definition in the Federal Industrial Relations Act.

Consequential amendments to the Constitution Acts Amendment Act, Long Service Leave Act, Stipendiary Magistrates Act, Temporary Reduction of Remuneration (Senior Public Officers) Act, and the Timber Industry Regulation Act, all replace the words "Industrial Magistrate" with the words "Industrial Magistrate's Court" to reflect the new position. Other words are altered as necessary to make grammatical sense of this substitution. No change beyond a name change is intended in any of those Acts. I commend the Bill to the House.

Debate adjourned, on motion by Hon Margaret McAleer.

HEALTH AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon Kay Hallahan (Minister for Education), read a first time.

Second Reading

HON KAY HALLAHAN (East Metropolitan - Minister for Education) [10.29 pm]: I move -

That the Bill be now read a second time.

The proposals contained in this Bill can be conveniently covered under six major headings: Amendments relating to health surveyors; the treatment of sewage; public buildings; game meat; fees and charges; and penalties. Each of these matters is dealt with under a separate part of the Bill - parts 2 to 7 - with part 1 dealing with the usual preliminary provisions. I will now provide the House with an explanation of the need for seeking these amendments to the Act in the order that they will appear in the Bill.

Members will be aware of the important role that health surveyors play in the protection of the public health of the general community. That role has been recognised through the provisions of the Act and the antecedent legislation going back to the last century when health surveyors were known as inspectors.

The title of "inspector" was replaced with the existing statutory designation of "health surveyor" in 1970. The title "environmental health officer" is now recognised both nationally and internationally as the new professional title for health surveyors, and it is only appropriate that the change in title now be reflected in the law which bestows on that particular group of professionals specific statutory responsibilities.

Part 2 of the Bill deals with that position by deleting the existing definition of "health

surveyor" and replacing it with a new definition of "environmental health officer"; replacing with the new title all current references in the Act to health surveyor; providing that all health surveyors holding existing appointments under the Act be deemed to have been appointed as environmental health officers; and making provision for all references to health surveyors in other written laws to be read as environmental health officers.

Part 3 of the Bill introduces amendments that will enable new treatment methods to be considered and approved for the on-site disposal of domestic sewage where connection to the mains sewerage system in unavailable. The existing provisions of the Act are restrictive in that they provide only for bacteriolytic treatment methods of sewage to be considered and do not provide sufficient power to enable the Health Department, in conjunction with local authorities, to ensure that approved installations of appliances using that method of treatment are appropriately maintained. Such appliances are identified in the Act as, "apparatus for the bacteriolytic treatment of sewage". Septic tanks are such apparatus, and members will be cognisant of the fact that these appliances are in extensive use throughout the State.

While there are general concerns associated with the impact septic tanks are having on the environment, the maintenance of these systems by individual householders is relatively straightforward. However, new sewage treatment appliances are significantly more sophisticated in their operation than the basic technology involved in the septic tank's system. These new systems employ both mechanical and chemical methods of breaking down the sewage. A critical component in the operational effectiveness of these new appliances is that they must be maintained on a regular basis by experienced technicians throughout the lifetime of the unit.

One such appliance which has gained substantial support in the Eastern States is the aerobic treatment unit. Basically, this unit is a scaled down form of a sewage treatment plant suitable for single household use. The unit incorporates a mechanically operated aeration system to assist with the breakdown of the sewage and a chlorination chamber to allow disposal of effluent by irrigation to the garden. The units do not rely on below ground installation and are therefore an acceptable alternative to septic tanks, particularly in marginal areas where site conditions are not suitable for septic tank installations. The units are environmentally friendly, but are slightly more expensive than a conventional septic system to install and maintain.

In order to allow consideration to be given to the installation of aerobic treatment units and similar appliances as and when they become available in this State, the provisions of the Act dealing with "apparatus for bacteriolytic treatment of sewage" need to be widened to enable compulsory public health compliance mechanisms in respect of the approval and maintenance of such systems to be put in place.

Part 3 of the Bill provides for those matters by deleting the existing definition of "apparatus for the bacteriolytic treatment of sewage" and inserting the less restrictive definition of "apparatus for the treatment of sewage"; amending the various references in the Act to the old definition so that they comply with the new definition; and amending section 107 to allow for the compulsory maintenance of such apparatus as part of the approval process prior to installation and for regulations to be made in support of that process, including the prescribing of maintenance and inspection charges.

Part 4 of the Bill provides for the devolution of responsibility for approving the building and opening and alteration of public buildings from the Health Department of Western Australia to local government. Generally speaking public buildings are those buildings in which members of the public assemble for a common purpose. Schools, churches, local community centres and places of entertainment such as nightclubs, entertainment areas of licensed premises and theatres are examples of public buildings. Hospitals are, by definition, not deemed to be public buildings. Statutory responsibility for ensuring that such buildings comply with standards of construction, including drainage, ventilation, lighting and sanitation requirements, and for securing the general safety and convenience of members of the public using those buildings has, since before the turn of the century, been vested in the Commissioner of Public Health, and more recently the Executive Director, Public Health, of the Health Department.

As members will be aware, local government authorities also have responsibility under the Local Government Act for the issuing of building licences and for ensuring that buildings are

constructed in compliance with the Building Regulations 1989, which replaced the Uniform Building By-laws. The new building regulations incorporate, by adoption, the provisions of the Building Code of Australia, which sets specific structural and safety standards for public buildings which are referred to in the code as "assembly buildings" not covered in the former Uniform Building By-laws. That change prompted a re-examination of the need for the Executive Director, Public Health, to have a continuing statutory role in relation to public buildings in order to reduce duplication of activities, including regulatory requirements. That examination concluded that public health and safety would not be compromised if the statutory responsibilities of the Executive Director, Public Health, relating to approving the building and opening and alteration of public buildings were to be devolved to local government.

Part 4 of the Bill provides for the devolution of those statutory responsibilities by repealing the existing provisions of the Act and inserting a new regulatory scheme for public buildings. It has been necessary to develop a new scheme to ensure that the transfer of this function is supported by legislation which will allow local government to carry out its statutory obligations in this area effectively. The Health (Public Buildings) Regulations 1972 and the Health Act (Public Buildings Electrical) Regulations made under the existing provisions of the Act have also been reviewed and updated, and a new set of regulations is to be produced to complement the new statutory scheme for public buildings.

In general terms the new scheme continues to encompass the principal objects of the existing provisions of the Act reformulated to allow the approval process in respect of the construction, extension or alteration of public buildings that fall within the definition of "assembly building" in the Building Code of Australia to be dealt with like any other building under section 374 of the Local Government Act. The construction, extension or alteration of public buildings which do not fall within the definition of "assembly building", such as circus tents and enclosed sports grounds, will continue to be dealt with under the Health Act. Proposed new sections 176 and 177 provide for those matters.

The definition of "public building" has been redefined as set out in proposed new section 173, principally for the purposes of sections 176 and 177, so that it is more appropriately aligned to the definition of "assembly building". A certificate of approval specifying the purpose or purposes for which a public building can be used and the maximum number of persons the building may accommodate will still need to be issued before a building can be opened or used as a public building. However, the relevant local government authority will now be responsible for issuing the certificate instead of the Health Department. This change is set out in proposed new section 178.

One of the more important aspects of the existing provisions of the Act is that of the ongoing inspection of public buildings to ensure that crowd control and escape ways, and firefighting and emergency lighting requirements are appropriately maintained in order to secure the safety of the persons who make use of those buildings. These matters are currently dealt with under the Health (Public Buildings) Regulations 1972. However, as the control of overcrowding and obstruction of escape ways are matters where persons authorised to undertake such inspections need the ability to respond immediately to any given situation in order to protect the public safety through relieving the overcrowding or removing the obstruction, suitable powers are given to such officers through the provisions of proposed new section 179 to assist them to deal with those potentially dangerous situations. The persons authorised for the purposes of new section 179 are environmental health officers, certain police officers, and other persons authorised by the chief non-elective executive officer of a local government authority or the Executive Director, Public Health, of the Health Department as defined in proposed new section 173 as "authorised person".

Regulation making powers to maintain existing standards of design, construction, safety and maximum accommodation requirements for public buildings not covered under the Building Regulations 1989 and the Building Code of Australia are provided for by proposed new section 180. The existing public buildings provisions of the Act do not bind the Crown, and that position is maintained by proposed new section 174. Penalties for breaches of proposed new part VI of the Act are maintained at the same levels as apply to the existing provisions. Appropriate savings and transitional provisions are provided by clause 15 of the Bill.

Part 5 of the Bill introduces provisions which will enable certain species of animals in their

wild state to be taken for slaughter and processing under controlled conditions so that the meat derived from the animal can be made available for sale for human consumption. There is a growing market in the production of meat derived from game animals such as buffalo, deer and rabbits which are farmed for that purpose. Interest has also been shown in extending this market to animals in their wild state, including kangaroos. South Australia and Tasmania have had regulatory control over meat derived from such animals for a number of years.

This Government announced its intention to legislate in this area in May 1989. That decision was made following consideration of a report on game meat compiled by a group of experts from the Departments of Health, Conservation and Land Management, and Agriculture, the Commonwealth Department of Primary Industries and Energy, the Commonwealth Scientific and Industrial Research Organization, the WA Institute of Environmental Health, and the Western Australian division of the Meat and Allied Trades Federation of Australia. The report recommends that the Code of Practice for Game Meat for Human Consumption (1989) produced by the National Standing Committee on Agriculture be used as the basis for establishing regulatory control of the game meat industry. The code, which has national acceptance, sets the public health standards that should be complied with in the slaughter, handling, storage, transport and processing of game meat that is to be made available for sale for human consumption. It also covers inspection and branding requirements and standards of construction for field depots and processing establishments.

Part 5 of the Bill provides for the amendment of part VIIA of the Act to introduce a new division 2A which incorporates comprehensive regulation making powers to allow adoption of the standards set out in the code. It also empowers the Executive Director, Public Health to prohibit, by notice published in the *Government Gazette*, the slaughter for sale of game animals in specified areas of the State. This power is required to allow such action to be taken in order to protect the public health when it is known that a species of game animal in a particular area is diseased or is considered for other reasons to be unfit for human consumption. The amendments contained in part 5 of the Bill are intended to complement the animal management programs administered by other State agencies. In order to maintain the integrity of those programs a savings provision has been included. This will ensure that the operational effect of these amendments does not interfere with the requirements of the written laws under which those programs are administered. These amendments will allow more economic and beneficial use to be made of the State's game animals and will provide consumers with a wider choice of meats and meat products that are both nutritious and safe.

Part 6 of the Bill introduces long overdue reforms to the fees and charges provisions of the Act. The Health Act charges each local authority with the responsibility of carrying out the provisions of the Act within its municipal district. Part of that responsibility involves local authorities in the issuing of licences and granting of registrations in accordance with the requirements of the Act. The Act provides power for local authorities to make by-laws in respect of those matters for which licences and registrations are required, including the power to impose fees and charges to assist in offsetting the cost of administering those schemes. The Act contains 17 separate provisions that empower local authorities to prescribe fees and charges by by-law. A number of those provisions fix the maximum fee or charge that may be prescribed. Some of those fixed fees and charges have not been subject to increase since the Act's inception; others have not been amended for 30 years or more, with the latest changes having been effected in 1975. This has resulted in an added burden being placed on local authorities by restricting their ability to prescribe reasonable fees and charges for their services in those areas. The amendments covered in clauses 20 to 25 of part 6 of the Bill lift that burden by deleting the provisions in the Act which fix a maximum fee or charge. These amendments will allow local authorities to impose fees and charges that more reasonably reflect the costs of providing the necessary services associated with the processing and issuing of the required licences and registrations.

The second reform introduced by part 6 relates to the existing need for fees and charges imposed by local authorities under the Act to be prescribed by by-law. This procedure is both cumbersome and costly as the Act requires that the by-laws be both confirmed by the Executive Director, Public Health, and approved by the Governor before they have effect. Also, the time involved in meeting those requirements does not always allow local authorities to implement change within presupposed time frames, which can cause

difficulties for local authorities in the management of their financial affairs. In order to resolve these difficulties a new section 344A is introduced by clause 26 of the Bill to empower local authorities to set fees and charges by resolution in lieu of making by-laws. Proposed section 344A has been drafted along similar lines to section 191A of the Local Government Act and covers those 17 separate provisions of the Health Act to which I have previously referred. I am advised that section 191A of the Local Government Act has worked extremely well since its introduction in July 1987 and I have no reason to believe that proposed section 344A will operate any differently. The amendment also provides the Minister with power to revoke or amend a fee or charges set by resolution if considered to be excessive. These amendments support the generally held view that local authorities should be given greater autonomy to manage their affairs.

The final part of this Bill reintroduces a general penalty provision into the Act, the former provision having been repealed by the Health Amendment Act 1987, and establishes specific penalties for breaches of sections 144 and 147. These existing deficiencies are preventing the Act from being fully enforced. Part 7 also introduces appropriate changes to the penalty provisions to support the new public buildings requirements set out in part 4 of the Bill. I commend the Bill to the House.

Debate adjourned, on motion by Hon Barry House.

ROAD TRAFFIC AMENDMENT (POWER ASSISTED PEDAL CYCLES) BILL

Second Reading

Debate resumed from 13 November.

HON GEORGE CASH (North Metropolitan - Leader of the Opposition) [10.46 pm]: This Bill seeks to amend the Road Traffic Act by changing the definition of a moped by inserting after the words "pedal cycle" the passage ", but does not include a power assisted pedal cycle". Also it proposes that the definition of a motor vehicle be amended by inserting after the words "to a motor vehicle" the passage ", but does not include a power assisted pedal cycle". The other specific change in this Bill is to insert a new definition in section 5 of the Road Traffic Act. That definition defines a power assisted pedal cycle, which is to mean "a vehicle designed to be propelled through a mechanism operated solely by human power, to which is attached one or more auxiliary propulsion motors having a combined maximum output not exceeding 200 watts;".

Members who have followed the reintroduction in Western Australia of power assisted pedal cycles will understand that the current provisions of the Road Traffic Act do not allow for the use of these power assisted pedal cycles without having them licensed in the same manner as a motor cycle or moped under the current Act. It was considered that as they were pedal cycles with helper engines there was nothing to require them to comply with the normal licensing arrangements under the Road Traffic Act; hence the requirements of this Bill. It should also be noted that it is intended that these power assisted pedal cycles be used only by persons over the age of 16 years. The Opposition supports the proposals contained in the Bill.

By way of background, in 1990 a Mr Otto Schatz of Booragoon approached members of the Opposition to enlist their support in amendments to either the Road Traffic Act regulations or the Road Traffic Act itself. He explained that he first approached members of the Opposition when the current situation - that was in October 1990 - was that the Federal law allowed bicycles to be ridden on a road as long as the motor or the helper engine was under 200 watts, but in fact the States did not recognise this Federal law. Mr Schatz approached other States to see whether amendments could be made to their various Acts so that the power assisted engine could be used in those States, and I note in some advice that was provided to me on 30 October 1990, nearly 13 months ago, that Mr Schatz stated that when he approached the State of Victoria it took two hours to receive permission for the use of these helper engines; in the case of South Australia it took four hours to receive permission. In Western Australia, Mr Schatz indicated, it had taken 14 months - that is, until October 1990. Of course, if we add 12 months to that, 25 months have passed.

I recognise that Hon Derrick Tomlinson has worked very hard to ensure that the legislation was brought before the House. I also recognise the assistance given by the Minister for

Police, Hon Graham Edwards, because at one stage it was hoped that a regulation would be all that was required to ensure the helper engines could be used in Western Australia. It took some time, however, for it to be decided there was a need to amend the Act. That is the reason the Bill is now before the House.

While I congratulate Victoria and South Australia for taking two hours and four hours respectively to grant permission for the use of these helper engines, I hope that if anyone is looking to amend the Road Traffic Act - as simple as this amendment is - it will not take 25 or 26 months to address the issue. Many members would remember that about 20 years ago in Western Australia we had a proliferation of engine helpers installed on bicycles; it now appears that the wheel has turned, so to speak, and we will again see -

Hon Doug Wenn: Was that power turned or pedal turned?

Hon GEORGE CASH: It was a power assisted turn; more than just a pedal turn. I am hopeful that we will again see the pedal cycles with their engine helpers on the roads of Western Australia. A question was raised regarding whether it was intended that a bicycle equipped with an engine helper could be used on a dual purpose path. Perhaps the Minister could clarify the situation.

I indicated earlier that the Opposition supports the legislation; I also indicated that it was pleased to deal with the measure as expeditiously as possible through the Legislative Council. I have therefore tried to be as concise as possible with my comments. The Opposition supports the Bill.

HON J.N. CALDWELL (Agricultural) [10.52 pm]: I support the Road Traffic Amendment (Power Assisted Pedal Cycles) Bill. However, I note that use of the cycles is restricted to people who have attained the age of 16 years. I am concerned about invalid people. I believe that invalids younger than 16 years of age will not be permitted to use this type of conveyance. I realise also that elderly people may use these machines; I have seen this in my home town, and I realise what an asset they are. Young disabled people of, say, between 12 and 15 years of age could be capable of steering such machines safely. Although I realise that the age limit must apply somewhere I feel very sorry for people who cannot walk.

Hon Derrick Tomlinson: A young lad of 12 years of age in Northam would have benefited from these power assisted pedal cycles. His parents were considering buying one for him.

Hon J.N. CALDWELL: That was the point I was trying to make. I feel very sorry for these people. Maybe they would be allowed to operate such a cycle off-road. Perhaps the Minister could confirm that in his response. Perhaps those people could use these cycles on footpaths or through parks. I support the Bill.

Debate adjourned to a later stage of the sitting, on motion by Hon Fred McKenzie.

[Continued on p 6888.]

SITTINGS OF THE HOUSE - EXTENDED AFTER 11.00 PM

Tuesday, 26 November

HON GRAHAM EDWARDS (North Metropolitan - Minister for Police) [10.55 pm]: In order to complete the business of the day, I move without notice -

That the House sit beyond 11.00 pm.

HON GEORGE CASH (North Metropolitan - Leader of the Opposition) [10.56 pm]: As the motion is couched in general terms I understand that it means we could be sitting until this time tomorrow night. If that is the case, the Opposition is not prepared to support the motion. However, if it is the case that the Minister wants to sit on in order to complete Order of the Day No 8, the Road Traffic Amendment (Power Assisted Pedal Cycles) Bill, the Opposition might reconsider its position.

Hon Graham Edwards: I was not sure of arrangements which might have been arrived at by the Leader of the House; that is the reason I couched the motion in those terms. My understanding was that the House would deal with Order of the Day No 8 followed by Order of the Day No 6.

Amendment to Motion

HON GRAHAM EDWARDS (North Metropolitan - Minister for Police) [10.57 pm]: I move -

To add the words "with a view to completing Order of the Day No 8".

Amendment put and passed.

Question (motion as amended) put and passed.

ROAD TRAFFIC AMENDMENT (POWER ASSISTED PEDAL CYCLES) BILL

Second Reading

Debate resumed from an earlier stage of the sitting.

HON GRAHAM EDWARDS (North Metropolitan - Minister for Police) [10.58 pm]: I wish to defend the Government's record. This matter was dealt with only 12 months ago, on 20 November, by the Traffic Board, which approved a submission relating to the use of power assisted pedal cycles. I take the point that the process has taken some time, although not as long as indicated by the Leader of the Opposition. I note with interest the use of the comparison between Western Australia and both South Australia and Victoria. I should emphasise that South Australia and Victoria were able to adopt the alcohol level of 0.05 very quickly, just as they moved to adopt the compulsory wearing of bicycle helmets very quickly. I raise those points because I know that the Leader of the Opposition has an interest in these matters.

I am not sure whether the power assisted pedal cycles can be ridden on dual pathways, and so rather than give an incorrect answer I will ascertain the correct information and convey it to both Hon John Caldwell and the Minister handling the Bill in another place. That should meet the needs of members opposite.

The requirement that a person attain the age of 16 before using the cycles is sensible. I have looked at the cycles; they are very good. It may be that in years to come we will reconsider the age limit. However, it is better to phase in this age limit and be prepared to review it later on rather than -

Hon J.N. Caldwell interjected.

Hon GRAHAM EDWARDS: This is not the sort of bike to use off the road;, it is simply a push bike with a unit fixed to it. I believe they would be more specifically purchased for on-road or hard top use. I note the involvement of the members opposite and thank them for bringing this matter to my attention. I ask the House to support the Bill.

Question put and passed.

Bill read a second time.

Committee and Report

Bill passed through Committee without debate, reported without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by Hon Graham Edwards (Minister for Police), and transmitted to the Assembly.

ADJOURNMENT OF THE HOUSE - ORDINARY

HON J.M. BERINSON (North Metropolitan - Leader of the House) [11.02 pm]: I move -

That the House do now adjourn.

It appears that some misunderstanding may have arisen between me, the Leader of the Opposition and the Leader of the National Party. I understood that we agreed last week that as well as starting at 10.30 am this and next Thursday, we would sit until midnight rather than 11.00 pm on the other sitting nights. If that is not the case, I confess that I was wrong.

Hon George Cash: That is clearly wrong; we agreed to the 10.30 am start on Thursday in

lieu of the late sitting on Tuesday and Wednesday on this and next week. There was a clear understanding that we would sit until 6.00 pm on both this and next Thursday. My comments in that regard can be found in *Hansard.*

Hon J.M. BERINSON: I accept that; however, I signal that the least I must do is again approach the leaders on the other side of the Chamber for some reconsideration of this question. As members would know, we will miss all of this Wednesday night's sitting, and we face significant pressure of important business to be completed. We cannot claim to have overstrained ourselves regarding sitting hours. Although I will obviously not be in a position to impose any additional sitting hours on members opposite, it will be necessary for all of us to consider just what might be usefully done in the few nights remaining to us.

Question put and passed.

House adjourned at 11.05 pm

QUESTIONS ON NOTICE

SPEED LIMITS - ROAD SPEED LIMITS REVIEW COMMITTEE

1034. Hon GEORGE CASH to the Minister for Police representing the Minister for Transport:

(1) Who are the members of the road speed limits review committee?

(2) When was the committee formed and how regularly does it meet?

(3) What procedure does the committee adopt to ensure it is aware of the views of affected local authorities when the committee is reviewing speed limits within a given local authority?

(4) Has the committee met with the Cunderdin Shire Council or the Dowerin Shire Council to discuss the impact of changes to speed limits?

(5) If not, will the committee seek the views of these councils?

(6) Will rural local authorities be required to bear the cost of replacement signs should the committee recommend changes to speed limits within the boundaries of affected local authorities?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

(1) Mr John Kobelke, MLA - Chairperson
Mr John Moore - Main Roads Department
Mr Joe North - Traffic Board
Mr Wiebe Tieleman - WA Municipal Association
Mr Len Thickbroom - Police Department.

(2) May 1991. The committee has met on three occasions.

(3) The committee's chairperson sought comment from all local governments.

(4)-(5) No. However, both the Cunderdin Shire Council and the Dowerin Shire Council have made a written submission to the committee.

(6) No.

FAMILY CENTRE - LAND, KENT STREET, BUSSELTON
Community Services Department Transfer - Education Facilities Proposal

1078. Hon BARRY HOUSE to the Minister for Education:

I refer to the Minister's recent approval of the transfer of vacant Ministry of Education land in Kent Street, Busselton to the Department of Community Services for the construction of a family centre -

(1) Is the Minister aware that this block of land, near the centre of the town, has been earmarked as an integral part of the future plans for education facilities in Busselton contained in a submission drawn up by Ministry of Education officials and a committee of local principals?

(2) Does the transfer of this block of land for other purposes mean that the Minister has rejected the proposals contained in the development plan for education facilities in Busselton?

(3) If not, why was some other block of land not considered for the family centre?

Hon KAY HALLAHAN replied:

(1) In approving the location of the proposed family centre in Busselton, the ministry was aware of proposals, which are being developed locally, for the future planning of educational facilities.

(2)-(3)

The family centre will use only a portion of the site. Planning for the utilisation of the whole block on which the West Street school is currently located will address proposed local educational initiatives.

ROADS - HALLS CREEK-WYNDHAM HIGHWAY
Upgrading

1111. Hon N.F. MOORE to the Minister for Police representing the Minister for Transport:

(1) Is it intended to upgrade the whole of the Halls Creek-Wyndham Highway?

(2) If so, when is it expected that the upgrading will be completed?

(3) What funds have been allocated to this road in the 1991-92 financial year?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

(1) Yes.

(2) The section of Great Northern Highway between Halls Creek and the intersection with Victoria Highway is part of the National Highway system for which the Commonwealth has accepted financial responsibility. A program of widening 90 kilometres of predominantly single lane road and construction of a number of bridges on this section commenced in 1990-91. It is anticipated that these works will be completed by 1995, but it is dependent on the availability of funds.

(3) $8.3 million - for works associated with the Bow River-Victoria Highway project.

SCHOOLS - SCHOOL OF THE AIR
Transceivers Replacement

1117. Hon N.F. MOORE to the Minister for Education:

(1) Is it intended that the transceivers used by School of the Air students will be replaced by more technologically advanced communications systems?

(2) If so, what changes will be made and when?

Hon KAY HALLAHAN replied:

(1) Advances in technology are constantly being evaluated and will be progressively introduced subject to assessment of their educational and cost effectiveness.

(2) Not applicable.

FITZROY CROSSING - COMMUNITY HEALTH EMPLOYEES
Accommodation Shortage

1124. Hon N.F. MOORE to the Minister for Education representing the Minister for Health:

(1) Is the Minister aware of the shortage of accommodation, particularly married accommodation, for community health employees in Fitzroy Crossing?

(2) If so, what proposals does the Government have to overcome this problem?

Hon KAY HALLAHAN replied:

The Minister for Health has provided the following reply -

(1) I am advised there is no shortage of accommodation given the present staffing establishment. The Health Department recognises, however, that the mix of married and single staff will vary from time to time and will address this by securing appropriate accommodation when resources permit. For instance, a two bedroom unit is being provided this financial year.

(2) Not applicable.

FITZROY CROSSING - HALLS CREEK
Community Health Offices - Staff and Resources Shortage

1126. Hon N.F. MOORE to the Minister for Education representing the Minister for Health:

(1) Is the Minister aware that, as a result of the outstation movement, there is a shortage of staff and resources available to the Fitzroy Crossing and Halls Creek offices of community health?

(2) If so, what proposals are in place to alleviate the problem?

Hon KAY HALLAHAN replied:

The Minister for Health has provided the following reply -

(1) I am advised there is no present shortage of staff and resources at Fitzroy Crossing and Halls Creek. Staffing levels at both of these towns have been increased over the past two years and are considered adequate to meet the present need.

(2) Not applicable.

HOSPITALS - HALLS CREEK HOSPITAL EMPLOYEES
Accommodation Shortage

1128. Hon N.F. MOORE to the Minister for Education representing the Minister for Health:

(1) Is the Minister aware that there is a shortage of adequate accommodation, especially married accommodation, for employees at the Halls Creek Hospital?

(2) If so, what action is being taken to alleviate the problem?

Hon KAY HALLAHAN replied:

The Minister for Health has provided the following reply -

(1) I am advised there is no shortage of accommodation given the present staffing establishment. The Health Department recognises, however, that the mix of married and single staff will vary from time to time and will address this by securing appropriate accommodation when resources permit. For instance, a request for additional accommodation is to be submitted for consideration in the Health Department's 1992-93 housing program.

(2) Not applicable.

HOSPITALS - DERBY HOSPITAL
New Extensions Opening

1129. Hon N.F. MOORE to the Minister for Education representing the Minister for Health:

(1) Is it correct that the new extensions to the Derby Hospital were recently officially opened?

(2) Which members of Parliament were invited to the opening?

Hon KAY HALLAHAN replied:

The Minister for Health has provided the following reply -

(1) Yes, on Saturday, 2 November 1991.

(2) The extensions were opened by the member for Kimberley, Hon Ernie Bridge. The Health Department was responsible for issuing invitations to appropriate members of the Legislative Council. I understand that due to a misunderstanding between the department's central office and its Derby office, these invitations were not sent to the three Government members of the Legislative Council and the two Opposition members of the Council from the Mining and Pastoral Region.

The department sincerely regrets the oversight and I have instructed the commissioner to write to these members of Parliament extending an apology.

LEDA - LANDCORP DEVELOPMENT
Local Community Confusion

1141. Hon P.G. PENDAL to the Attorney General representing the Minister assisting the Treasurer:

(1) Is the Minister aware of the widespread local community confusion over the exact area at Leda to be developed by LandCorp?

(2) Will the Minister provide, as a matter of urgency, the full legal description of the Leda land to be developed by LandCorp?

(3) Will the Minister also urgently table the appropriate maps of the proposed development?

Hon J.M. BERINSON replied:

The Minister assisting the Treasurer has provided the following reply -

(1)-(3)

There is no widespread confusion. It is a well known fact that land which can be developed needs to be appropriately zoned under the metropolitan region scheme and local town planning scheme. These zoning plans can be viewed at the Department of Planning and Urban Development and Town of Kwinana respectively.

For the past five years LandCorp has been endeavouring to rationalise the existing zonings at Leda, among which is the creation of a substantial conservation reserve. However, until such time as a structure plan is adopted the existing zonings apply. Consequently, little purpose would be achieved in tabling any structure plan or certificates of title.

EXMOUTH - MARINA DEVELOPMENT

1155. Hon P.H. LOCKYER to the Minister for Police representing the Minister for Transport:

(1) Has any officer from the Department of Marine and Harbours taken any prospective developers to Exmouth with a view to examining the development of a marina in the town?

(2) When did this visit take place?

(3) Will members of Parliament who represent the area be kept briefed on the possible development of a marina?

(4) If not, why not?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

(1) Yes.

(2) Saturday, 2 November 1991.

(3) Except where confidentiality has been requested by the private sector the members of Parliament will, as far as possible, be kept advised on the possible development of a marina.

(4) Not applicable.

YAKABINDIE PROJECT - DOMINION MINING
Esperance or Geraldton Shipments - Transport Method

1156. Hon P.H. LOCKYER to the Minister for Police representing the Minister for Transport:

(1) With regard to the proposal to mine nickel at Yakabindie, has Dominion Mining indicated whether the product would be shipped from Esperance or Geraldton?

(2) What method of transport would be used to move the product?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

(1) Esperance.

(2) Dominion Mining has announced its intention to transport nickel concentrate by road to Leonora and then by rail to Esperance.

AIRPORTS - LEARMOUTH AIRPORT
Exmouth Shire Council Control Approach

1157. Hon P.H. LOCKYER to the Minister for Police representing the Minister for Transport:

(1) Has the Government received any approach to vest the airport at Learmonth, near Exmouth, with the Exmouth Shire Council?

(2) From whom did the approach emanate?

(3) What is the Government's position on the matter?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

(1) No. The airport is owned by the Commonwealth Government, which is responsible for any transfer to local control of the civil areas of the airport.

(2)-(3)
Not applicable.

EDUCATION MINISTRY - KIMBERLEY EMPLOYEES
Government Vehicles

1169. Hon P.H. LOCKYER to the Minister for Education:

(1) How many employees of the Ministry for Education in the Kimberley have Government vehicles?

(2) Where are these employees situated?

(3) Are any of these vehicles permitted to be used privately?

Hon KAY HALLAHAN replied:

(1) Officers located at the district office and schools take vehicles home for security reasons, because secure premises to house vehicles overnight are not available at the district office or schools.

(2) The Kimberley District Education Office, Kununurra; Kalumburu, Doon Doon, Oombulgurri, Glen Hill, Wangkatjungka, Cherrabun, Wananami, One Arm Point, Looma and La Grange Primary Schools, and Fitzroy Crossing District High School.

(3) No. However, in remote area schools, staff are permitted to drive a Government vehicle to the nearest centre once a year.

SCHOOLS - SHARK BAY SCHOOL
Shift Proposal

1173. Hon P.H. LOCKYER to the Minister for Education:

(1) Has a proposal been put to shift the Shark Bay School?

(2) If so, where did the proposal come from?

(3) Is it the intention to shift the school?

(4) If so, when and where?

Hon KAY HALLAHAN replied:

(1)-(2)
The ministry has not received such a proposal. However, it is understood that the Shire of Shark Bay, in conjunction with the Department of State

Development and the Department of Land Administration, has released a long term planning proposal for Shark Bay which indicates a future alternative school site in Denham.

(3) No.

(4) Not applicable.

SCHOOLS - DISABLED CHILDREN
Extra Facilities

1175. Hon MURIEL PATTERSON to the Minister for Education:

In relation to children with physical and learning disabilities being required to attend State schools -

(1) What extra facilities will be provided?

(2) Will the child be supervised if the teacher leaves the room?

(3) If yes, by whom?

(4) What staffing ratio is anticipated; i.e. teaching aide and ancillary staff?

(5) Has the cost of relief staff been budgeted?

(6) Will counselling and in-service training be made available for teachers and staff?

(7) What assistance will be provided for children who require lifting?

(8) Who is to supervise the child on or off the bus?

(9) Have budget increases been allocated for each school participating?

Hon KAY HALLAHAN replied:

(1) Students with physical and learning disabilities are not required to attend State schools. However, where necessary and possible, schools are modified to make them accessible for students with physical disabilities. A full range of education support facilities and services supplement what is already available in schools.

(2) Schools make arrangements for an appropriate level of supervision for all students irrespective of their disability.

(3) This depends upon the individual arrangements made by schools.

(4) Staffing ratios vary according to the particular situation and the needs of the student.

(5) Support for students with disabilities is not dependent on relief staff.

(6) Yes.

(7) Requirements for assistance vary. Hydraulic lifts, modified facilities and the use of designated staff to assist students are the main forms of assistance.

(8) Parents are responsible for students catching buses to school. Schools are responsible for students disembarking.

(9) Provision for students with disabilities is made from within existing budgets. Schools are modified and additional resources allocated to schools as required.

ABORIGINAL EDUCATION - FEDERAL FUNDING
Programs

1182. Hon N.F. MOORE to the Minister for Education:

I refer the Minister to Press reports relating to an injection of Federal funding for Aboriginal education and ask what is to be the main thrust of the programs the subject of this special funding?

Hon KAY HALLAHAN replied:

The funding is provided to support the goals of the Aboriginal education

operational plan of the Ministry of Education. The main thrust is to improve the educational outcomes of Aboriginal students. This is occurring through projects in curriculum development, professional development of teachers, parent participation and early childhood education.

WORKERS' COMPENSATION - AUDIOMETRY REGULATIONS
Australia and New Zealand Society of Occupational Medicine - Western Australian Branch Meeting Request

1183. Hon GEORGE CASH to Hon John Halden representing the Minister for Productivity and Labour Relations:

(1) Has the Minister received a request from the Western Australian Branch of the Australia and New Zealand Society of Occupational Medicine seeking a meeting with the Minister to discuss the recently gazetted Workers' Compensation Audiometry Regulations which the society believes are not in the best interests of workers because of problems arising from the implementation of the regulations?

(2) Has a date been set for the meeting?

(3) If so, when will the meeting occur?

Hon JOHN HALDEN replied:

(1) The Western Australian branch of the Australian and New Zealand Society of Occupational Medicine has written to the Minister for Productivity and Labour Relations requesting an opportunity to address problems perceived within the regulations. The Minister has replied requesting the society provide more specific details of any concerns.

(2)-(3)
Not applicable.

HEALTH PROMOTION FOUNDATION - SPORTING PROJECTS FUNDING

1188. Hon MAX EVANS to the Minister for Education representing the Minister for Health:

What projects of a sporting nature have been funded from the Health Promotion Foundation fund to date?

Hon KAY HALLAHAN replied:

The Minister for Health has provided the following reply -

Projects of a sporting nature funded to date have been listed in the Healthway newsletters published by the Western Australian Health Promotion Foundation. The first edition was published and distributed in August and the second edition has just been published and distributed. I understand the newsletters are sent to all members of Parliament but should the member require an additional copy these are available on request from the Health Promotion Foundation office in Havelock Street, West Perth.

EDUCATION MINISTRY - ACTING SUPERINTENDENT OF EDUCATION, KIMBERLEY
Hotel Accommodation

1201. Hon P.H. LOCKYER to the Minister for Education:

(1) Why is the acting education superintendent in the Kimberley living at a hotel rather than a Government Employees Housing Authority house in Kununurra?

(2) Is the Minister aware that the accommodation account from 21 August 1991 to 26 September 1991 was $3 076.55?

(3) Is the Minister also aware that telephone calls to the total of $589.95 were booked to this officer's account at the hotel?

(4) Will these two accounts be paid for by the Government?

(5) If not, what proportion does the Government pay?

Hon KAY HALLAHAN replied:

(1) The executive house which GEHA has allocated to the acting superintendent of education is currently occupied by an officer of another department. The acting superintendent is living in a hotel, pending the house being vacant.

(2) Yes.

(3) Ministry records indicate the value of telephone calls to be $600.75.

(4)-(5) Yes; however, the cost of telephone calls will be recouped from the officer.

SERVICE STATIONS - SUNDAY TRADING HOURS

1208. Hon GEORGE CASH to Hon John Halden representing the Minister for Consumer Affairs:

(1) Is the Government considering permitting service stations to operate on Sundays outside the current roster system?

(2) If so, will the Minister provide details of the proposal?

Hon JOHN HALDEN replied:

The Minister for Consumer Affairs has provided the following reply -

(1)-(2) No.

REAL ESTATE AND BUSINESS AGENTS BOARD - LICENCES AND PERMITS
Renewal Notices

1210. Hon PETER FOSS to Hon John Halden representing the Minister for Consumer Affairs:

(1) How far ahead of, or after, the renewal date does the Real Estate and Business Agents Board - REBA - usually send out renewal notices for licences and permits issued by the board?

(2) Are licensees able to complete an application for renewal without the renewal notice?

(3) What is the usual period taken by REBA to process renewals?

Hon JOHN HALDEN replied:

The Minister for Consumer Affairs has provided the following reply -

(1) Two months ahead.

(2) No, the application takes the form of a statutory declaration required under the Act.

(3) Assuming there are no inquiries to be made as a result of the completion of the renewal form within one month of receipt.

EDUCATION MINISTRY - REDUNDANCY PACKAGES
Six District Superintendents

1211. Hon DERRICK TOMLINSON to the Minister for Education:

(1) Can the Minister confirm that six District Superintendents of Education applied for, and have been offered, voluntary redundancy under the current Public Service scheme?

(2) If those persons accept the offer, will their resignations take effect from 21 November?

(3) Which education districts are affected?

Hon KAY HALLAHAN replied:

(1) Yes.

(2) Three resignations will take effect from 21 November 1991. Two district superintendents have obtained extensions until 20 December 1991 and one until 5 December 1991 - approved by the Public Service Commission.

(3) The districts which are affected are -

Joondalup
Armadale
Willetton
Manjimup
Perth South
Northam

WASTEWATER TREATMENT PLANTS - ALBANY FORESHORE INDUSTRIES
Successful Tender Announcement

1213. Hon MURIEL PATTERSON to the Minister for Police representing the Minister for Water Resources:

(1) When will the successful tender for the waste water treatment plant to service Albany's foreshore industries be announced?

(2) What is the new plant estimated to cost?

(3) What is the lowest tender price?

Hon GRAHAM EDWARDS replied:

The Minister for Water Resources has provided the following reply -

(1)-(3)

Tenders are currently being evaluated and an announcement will be made in due course.

EVIDENCE ACT - SECTION 101 (2) AMENDMENT

1216. Hon REG DAVIES to the Attorney General:

Can the Attorney General indicate when the crucial amendment to section 101(2) of the Evidence Act 1906 will come before the House?

Hon J.M. BERINSON replied:

The amendment is one of a range of issues relating to the evidence of children which are now in the final stages of consideration.

PESTICIDES - ENVIRONMENTAL PROTECTION AUTHORITY
"Response to the report 'Monitoring Pesticides - A Review'"
Recommendations - Pest Control Complaints

1217. Hon REG DAVIES to the Minister for Education representing the Minister for Health:

(1) With regard to the 11 recommendations made by the Environmental Protection Authority in its Bulletin 499 of February 1991 "Response to the report 'Monitoring Pesticides - A Review'", what progress towards implementation has been made in relation to each recommendation?

(2) Since 1 June 1990, how many complaints from members of the public relating to -

(a) pest control operators; and

(b) pest control companies

has the Health Department investigated?

(3) How many of the investigated complaints relating to 2(a) and 2(b) pertained to an apparent breach of the Health (Pesticides) Regulations?

(4) In each case what was the nature of the alleged offence?

(5) How many of the investigated offences were referred to the Crown Solicitor for advice about the likelihood of successful prosecution?

(6) In relation to each investigated alleged offence -

(a) how long after the date it was committed was the offence reported to the department;

(b) how long after the alleged offence was committed was it investigated by the department; and

(c) how long after the date each alleged offence was committed did the Health Department refer the matter to the Crown Solicitor for advice about the likelihood of prosecution?

(7) In relation to each investigated alleged offence, when was the Crown Solicitor's advice received?

(8) In how many of the cases was the Crown Solicitor's advice positive?

(9) Does a statute of limitation apply to offences under the Health (Pesticides) Regulation?

(10) If so, what are the details?

Hon KAY HALLAHAN replied:

The Minister for Health has provided the following response -

(1) This should be referred to the Minister for the Environment for a response.

(2) Twenty complaints have been received and investigated by the Health Department of Western Australia since 1 June 1990. It is not possible to differentiate between complaints relating to pest control operators and pest control firms.

(3) Eight investigated complaints pertained to apparent breaches of the Health (Pesticides) Regulations.

(4) (a) Spraying of a park under unsuitable conditions.

(b) Four offences of inappropriate use of organochlorine.

(c) One offence of use of chemicals not authorised on licence and not placing a notice of treatment in the meter box.

(d) One offence of an unlicensed operator using unauthorised termiticides, failing to place a notice of treatment in the meter box, and one offence of employing an unlicensed person.

(5) Four investigated cases were referred to the Crown Solicitor for advice on a number of offences.

(6) (a) One one occasion offence committee and reported same day. On three occasions offence committee and reported next day. On one occasion offence committed and reported three days later. On one occasion offence committed and reported 13 days later. On one occasion offence committed and reported five weeks later. On one occasion offence committed and reported 22 weeks later.

(b) Five cases were investigated by the Health Department the day after notification. Three cases were investigated by the Health Department on the day of notification.

(c) One case was not referred to the Crown Solicitor as the local authority was pursuing action. In two cases referral to the Crown Solicitor occurred 20 weeks after the offence. Two cases were not referred to the Crown Solicitor as legal action was determined as inappropriate due to the circumstances of

the breach. One case was not referred to the Crown Solicitor because of statute of limitations constraints. One case was referred to the Crown Solicitor six weeks after the date of the offence. One case was referred to the Crown Solicitor eight weeks after the date of the offence and a referral on a further charge was made 11 weeks after the date of the offence.

(7) It is not possible to individually provide details of the Crown Solicitor's advice due to current procedure. The case details and available evidence are referred by file to the Crown Solicitor's office. If a prima facie case is believed to exist, complaint papers are prepared and the complainant is notified verbally. The complainant receives the papers and then makes the complaint before a justice of the peace. The complaint papers are rarely accompanied by other documentation unless further details or evidence is requested.

(8) The Crown Solicitor's office agreed that a prima facie case existed on three of the referred cases. Actions are progressing or have been taken on all three.

(9) Yes.

(10) A complaint must be made or sworn within six months of the date of the alleged offence.

ABORIGINES - COMMUNITY DEVELOPMENT EMPLOYMENT PROGRAM
Recipients - Rate of Payment

1218. Hon N.F. MOORE to the Minister for Employment and Training:

With reference to the Minister's answer given on 12 November 1991 to question on notice 1115 -

(1) How many Aboriginal persons are recipients of community development employment program payments?

(2) What is the current rate of payment under this scheme?

Hon KAY HALLAHAN replied:

(1) The community development employment program is a federally funded project run by the Aboriginal and Torres Strait Islander Commission. Information of the detailed kind requested should therefore be directed to my Federal colleague for Aboriginal Affairs, Hon Robert Tickner.

(2) Not applicable.

PEARLING INDUSTRY - FISHING LICENCES
New Licences Moratorium

1222. Hon P.G. PENDAL to the Hon Mark Nevill representing the Minister for Fisheries:

(1) With reference to the pearling industry how many people hold pearl fishing licences in Western Australia?

(2) Has a moratorium been placed on the issuing of new licences?

(3) If so, when was the moratorium instituted?

(4) What is the rationale behind the moratorium?

(5) How many pearl hatcheries operate in Western Australia?

(6) When did these commence operating?

(7) Has the establishment of the hatcheries resulted in reducing the threat to pearl shell in the wild?

(8) If so, will the Minister undertake to consider increasing the number of pearl fishing licences issued?

(9) How many members constitute the pearling industry advisory committee?

(10) How many committee members are not licensed pearl fishermen?

Hon MARK NEVILL replied:

The Minister for Fisheries has provided the following response -

(1) Thirteen under the Western Australian Pearling Act.

(2) Yes.

(3) 9 September 1988.

(4) Stocks in the principal areas of the fishery are fully exploited.

(5) There are two facilities producing pearl oyster spat on an experimental basis.

(6) One commenced in June 1989 and the other undertook experimentation last year.

(7) No.

(8) Not applicable.

(9) Twelve.

(10) Four.

SCHOOLS - HARVEY AGRICULTURAL SENIOR HIGH SCHOOL
Gymnasium Construction

1227. Hon BARRY HOUSE to the Minister for Education:

When will a gymnasium be built at the Harvey Agricultural Senior High School to provide an adequate undercover area for the students who attend the school?

Hon KAY HALLAHAN replied:

It is not possible to give a firm date when Harvey Agricultural Senior High School will be provided with a hall-gymnasium. However, the needs of the school will be fully considered in future capital works programs.

SCHOOLS - GOVERNMENT SCHOOLS
Stationery - State Print Purchase Direction

1228. Hon BARRY HOUSE to the Minister for Education:

(1) Have all Government schools been directed to purchase all stationery required by schools from State Print?

(2) If not, are individual schools free to order and purchase their stationery requirements from local businesses?

Hon KAY HALLAHAN replied:

(1) No.

(2) Yes.

ST JOHN AMBULANCE SERVICE - GOVERNMENT REIMBURSEMENTS

1233. Hon N.F. MOORE to the Minister for Education representing the Minister for Health:

(1) Does the State Government reimburse the St John Ambulance Service in the event that users of ambulances are unable to, or refuse to, pay for ambulance services?

(2) If so, under what circumstances are reimbursements made and what is the annual cost?

(3) If not, why not?

Hon KAY HALLAHAN replied:

The Minister for Health has provided the following reply -

(1) No. The State Government funds the St John Ambulance Association ambulance service via a yearly grant.

(2) Not applicable.

(3) The management of bad debts rests with the St John Ambulance Association.

QUESTIONS WITHOUT NOTICE

PRISONS - CANNING VALE PRISON
Gymnasium - Dormitory Conversion

735. Hon GEORGE CASH to the Minister for Corrective Services:

Some notice has been given of this question.

(1) Is it intended to convert the gymnasium at the Canning Vale Prison into a dormitory to provide accommodation for sentenced prisoners?

(2) If yes, will the Minister provide the reasons for the need for such action?

Hon J.M. BERINSON replied:

(1)-(2)

I have seen the question but I think that it was treated as a question on notice. In any event, if I can work from memory, and subject to E&OE, the answer is no.

MOTOR VEHICLES - K AND L CLASS LICENCES
12 Month Period Reduction Regulations

736. Hon GEORGE CASH to the Minister for Police:

Some notice has been given of this question. I refer to question 1087 on Wednesday, 13 November 1991.

(1) What section of the relevant Act or regulations allows for discretion to be used in extenuating circumstances to enable a reduction in the required 12 month period between the issue of a K class licence and the application for an L class licence?

(2) What is the procedure applied to seek such discretion?

(3) In whom is the discretion vested?

Hon GRAHAM EDWARDS replied:

I thank the member for some notice of the question.

(1) Section 44(1)(b) of the Road Traffic Act 1974.

(2) Written application to the Traffic Board.

(3) The Director, Police Licensing and Services.

OFFICIAL CORRUPTION COMMISSION - POWERS
Government Opinion Reversal

737. Hon P.G. PENDAL to the Leader of the House:

I refer to the Government's back down over the powers of the Official Corruption Commission.

(1) Will the Leader of the House convey to the Premier our congratulations on the reversal of her previous stance and that of the Leader of the House?

(2) Will he request the Premier to inform Parliament of the reasons for the dramatic change of heart that led the Government to alter its stance yesterday?

(3) Does the Leader of the House concede that his own credibility has been damaged by his previous stance being overridden by the Premier overnight?

Hon J.M. BERINSON replied:

(1)-(3)

The first part of my answer must necessarily draw attention to the fact that I am not the Minister responsible for the Official Corruption Commission.

Hon P.G. Pendal: I am asking you to convey certain things to the Premier.

Hon J.M. BERINSON: Normally, to a request of that sort, I would be inclined to say that I am only too happy to do so. In this case some small exception does arise because even without the commission's coming within my portfolio authority, it is clear that all the assumptions on which the question is based are wrong. I do not know what Mr Pendal has in mind when he indicates there has been some reversal of the Premier's position or any other member of the Government's position in relation to the Official Corruption Commission. We announced earlier this year that in accordance with the Act there would be a review of the whole Act, and public submissions were then called. We indicated at that time also that following public submissions the Government would review the Act, as the Act itself required, and there is nothing that has been said from that day until yesterday, or today for that matter, which involves any reversal of anyone's position in what the Premier had to say.

EDUCATION MINISTRY - ACTING SUPERINTENDENT OF EDUCATION, KIMBERLEY

Vacant Education House

738. Hon P.H. LOCKYER to the Minister for Education:

I refer to the answer to question on notice 1201 supplied today, concerning the acting superintendent of education in the Kimberley living at taxpayers' expense at the motel at Kununurra.

(1) Is the Minister aware that an Education house is empty in the town as a result of a direction from the acting superintendent to a resident school teacher to leave the house so that he could take advantage of the GEHA house that had an ensuite? The GEHA house was allocated to the Water Authority.

(2) Will the Minister now direct the acting superintendent - who is a single person - to shift into the empty Education house in an effort to save taxpayers' money? So far that expenditure amounts to $3 076 for one month's accommodation and meals at the hotel which is picked up by the public purse while the Education house remains empty.

Hon KAY HALLAHAN replied:

(1)-(2)

The matter referred to by the member will be fully considered.

COMMUNITY SPORTING AND RECREATION FACILITIES FUND - GRANT APPLICATIONS

Judging on Merits

739. Hon J.N. CALDWELL to the Minister for Sport and Recreation:

When sporting bodies make applications for sport and recreation grants will the applications be judged on merit or will they be judged on a first-come-first-served basis up to the closing date around February next year?

Hon GRAHAM EDWARDS replied:

I assume that the member is referring to the CSRFF facility scheme. The applications will be judged on their merits. From memory, the applications close about February 1992. At that stage we will be in a position to advise local government of the results of the applications in time for them to budget accordingly for the next two or three years. As in the past, these matters will be judged very much on their merits. Traditionally, about 60 per cent of the fund is spent in country areas, and I would assume that the member would see some merit in that.

DRUNK DRIVING - VIDEO EQUIPMENT LEGISLATION

740. Hon PETER FOSS to the Minister for Police:

What action has been taken in relation to the Legislation Committee's recommendation to the Government on further video equipment being placed in police stations to assist with drunken driver identification?

Hon GRAHAM EDWARDS replied:

Government priority on video equipment has been directed more to other criminal matters. The member may be aware that the Premier recently announced an allocation of $2 million for the provision of video equipment across the State. I find it interesting that the member pursues this question when his colleagues were not able to support other recommendations of the Legislation Committee, particularly relating to the 0.05 BAC issue.

I want to see a whole range of improvements at traffic headquarters. We are addressing those issues at the moment. I ask the member to be patient. It may be that in the not too distant future he will hear some good news.

LANDCORP - WESTPAC BANKING CORPORATION
Amarillo Estate Purchase

741. Hon DERRICK TOMLINSON to the Attorney General representing the Minister assisting the Treasurer:

Can the Attorney confirm that LandCorp is negotiating to purchase the Amarillo estate at Karnup for $10 million; and can he also confirm that Amarillo estate is zoned rural and is intended to remain so under the metropolitan region town planning scheme for the next 10 years?

Hon J.M. BERINSON replied:

I thank the member for some notice of that question. The Minister assisting the Treasurer has provided the following reply -

There are no current negotiations between LandCorp and Westpac Banking Corporation in relation to this matter. The Minister can confirm the land is zoned rural, but cannot confirm that it will remain so for 10 years.

PRISONS - CANNING VALE PRISON
Gymnasium - Dormitory Conversion

742. Hon J.M. BERINSON :

Could I have members' indulgence to indicate that I have received the answer to the question asked earlier by the Leader of the Opposition. He asked "Is it intended to convert the gymnasium at the Canning Vale Prison into a dormitory to provide accommodation for sentenced prisoners?" I confirm that the answer to that is, no.

SCHOOLS - CAPEL PRIMARY SCHOOL
Bus Service Withdrawal

743. Hon BARRY HOUSE to the Minister for Education:

Can the Minister advise if the uncertain future of Capel Primary School students, involving the withdrawal of their school bus service to Busselton Senior High School, has been resolved?

Hon KAY HALLAHAN replied:

I did meet with Hon Barry House and students from the school rather briefly and pleasantly before the recess week. I gave them to understand that the matter would be settled fairly quickly. I do not have an update on the position but I will get it for them this week.

TAFE - FUNDING CUTBACKS
Course Funding Assurance

744. Hon MURRAY MONTGOMERY to the Minister for Education:

My question relates to cutbacks in TAFE funding. Will the Minister give an assurance that funds will be found to allow students to complete courses that have already been started, rather than see those students in reality forced back into the Commonwealth Employment Service/Department of Social Security areas, and then at a later stage return to TAFE for retraining?

Hon KAY HALLAHAN replied:

I have indicated in a number of forums that the State Government is very concerned that at a time of high unemployment and recessionary conditions we find ourselves facing great difficulty in providing further education and training opportunities for young people. To that end we are taking every opportunity to provide places that will allow not only young people but also other people to access training which is relevant. The only condition I would put on that is that more and more training directions in this State will be determined by the State Employment and Skills Development Authority and its industry employment and training councils so that training is industry directed. I reassure the member that opportunities will be able to be created to allow young people either to commence or to continue the training that will most benefit them. Sometimes it is true that there is a reallocation of resources because it is determined that if people complete a particular course of training there will not be jobs at the end of it anyway. If members want to provide details of particular circumstances, if they are concerned about a particular constituent, I would be very happy to follow that up and obtain the information; but generally my answer would stand.

ARTS DEPARTMENT - ARTS BUDGET

745. Hon P.G. PENDAL to the Minister for The Arts:

Because my question is in 19 parts I stress that some notice of it has been given.

(1) What is the actual Arts budget directly administered by the Department for the Arts?

(2) Is the Department for the Arts' Treasury allocation diminishing?

(3) How much of the allocation is now drawn from the Lotteries Commission?

(4) What percentage of the budget goes to the department's administration? Is it increasing year by year? What cuts in funds have been applied internally?

(5) What is the department's consultancy budget?

(6) What is the executive director's discretionary budget? What criteria apply to the distribution of this budget?

(7) What criteria did the Department for the Arts use in recommending the withdrawal of funds from major arts organisations.

(8) Who was involved in making the recommendations to the Minister for The Arts?

(9) Why is there a variation in the percentage of funds withdrawn from individual organisations?

(10) What consultation took place with arts organisations in making the recommendations to the Minister?

(11) What plans does the Department for the Arts have to restore funding?

(12) Have new arts organisations received increased funds while established organisations received funding cuts? What criteria were applied to this distribution?

(13) Among the arts agencies, which agencies actually produce art? Which agencies coordinate arts events? What is the ratio of producers to non-producers? How many of the latter group were in existence 10 years ago?

(14) What is the total amount of money withdrawn from arts agencies in this round of grants?

(15) Has there been any reduction in the funds available for special projects?

(16) Where is the balance of the funding committed to the State theatre from the combined grants of the Hole in the Wall Theatre and the State Theatre Company of Western Australia? What is the exact differential?

(17) How much funding was allocated to the Australian Opera by the State Government in 1991? How much has been reallocated to the Western Australian Opera Company for 1992?

(18) Where does the Health Promotion Foundation funding fit into overall State cultural planning?

(19) Where does the Gordon Reid Foundation funding fit into overall cultural planning for Western Australia?

Hon KAY HALLAHAN replied:

I acknowledge that Hon Phillip Pendal gave some notice of his question, but as I understand it, it must have been reasonably late notice for the amount of information that has been requested.

Hon P.G. Pendal: No, it was not; it was quite generous.

Hon KAY HALLAHAN: Was it? Members will appreciate that quite a lot of time would be needed for the collation of the information. It has only just arrived on my desk since the commencement of question time; so I have not had time to peruse it thoroughly in the way that I would like to in order to provide the very full and accurate information that I invariably provide. I will provide the information as it is and if Hon Phil Pendal wants further clarification I will leave him to follow it up.

(1) The Arts budget administered by the Department for the Arts for 1991-92 is $12 269 000.

(2) The Treasury Consolidated Revenue Fund allocation for the Department for the Arts for 1990-91 was $7 285 000 actual and for 1991-92 is estimated at $6 233 000. As a result of reduced Government receipts, which I referred to in a previous question, due to the current economic recession, the CRF allocation was of necessity reduced for the Department for the Arts as indeed it was for many Government departments and agencies.

(3) The Lotteries Commission funding for 1991-92 is $6 036 000. That is a best estimate as Lotteries Commission funding is computed on an annual turnover basis.

(4) The Department for the Arts carries out a range of administrative activities including the administration of censorship of State films, videos and publications and coordination of arts agencies within the Arts portfolio. It also administers a grants program. The percentage of the department's budget expended on administration of the grants program is six per cent in 1991-92. This figure is declining through improved work practices and productivity increases. The Staff of the department are employed on terms laid down by the Public Service Commission. The salary costs of the department reflect the Public Service salaries award. Non-salary costs of the department have been reduced by 11.7 per cent, compared with the previous year.

(5) The department's consultancy budget for 1991-92 is $134 275.

(6) The executive director does not have a discretionary fund.

(7) In assessing applications for funding the department applies artistic and financial administrative criteria. The artistic assessment criteria include quality of performance; exhibitions; services; production standards; ability of the organisation to achieve its stated artistic aims; personnel involved in programs; benefits to the community and/or industry; ability to reach new audiences; and innovation and development of the art form. The financial and administrative assessment criteria cover the financial health and stability of the organisation; effective management and administration; compliance with the existing industrial awards; and marketing and promotion.

(8) Recommendations regarding special project applications are made by the peer assessment panels to the Minister. The panels consist of artists and administrators in various fields of the arts. Other funding recommendations are made by the Department for the Arts and through wide community consultation. In the fields of theatre and dance the peer assessment panels also provide an assessment of the artistic programs of the organisations.

(9) The assessment criteria noted in response to question (7) will apply in making determinations.

(10) Continuing consultation with arts organisations and the arts industry is undertaken by me and the Department for the Arts. Formal consultations take place between senior officers of the department and representatives of each arts agency in April prior to submission of applications and in late July after the applications have been assessed.

(11) The department's ability to provide funding for the arts is based on the State Government allocation, which in turn is based on the revenue that the State receives. In the last year of the Liberal Government administration, Arts Council funding was only $2.2 million. Since taking office this Government has increased funding to $12.2 million, an increase of approximately 550 per cent. Strategies are in place to attract alternative sources of funding via partnerships and joint ventures with other Government agencies for projects such as the percent for art scheme, which has already benefited artists.

(12) No new arts agencies will receive funding for 1991-92.

(13) The definition of "produce art" is ambiguous. The objective of all funded arts agencies is to assist with the production of art. The organisations which are directly responsible for an artistic product include the Deck Chair Theatre Inc, Spare Parts Theatre Inc, Swy Theatre Co Inc, Black Swan Theatre Company Acting Out, State Theatre Company of Western Australia, West Australian Opera, West Australian Symphony Orchestra, Western Australian Youth Orchestra, 2-Dance Plus Ltd, West Australian Ballet Co Inc, Fremantle Arts Centre Press, Australian Children's Television Foundation and Magabala Books. Those organisations which coordinate or assist art activities include the Ethnic Music Centre of WA, AADE Dance Triennium, Crafts Council of Western Australia, National Exhibitions Touring Structure for Western Australia, Perth Institute of Contemporary Art, Community Arts Network (Inc), Film and Television Institute (WA) Inc, Festival Fringe Society of Perth, Festival of Perth, Fremantle Arts Centre, Fremantle Arts Foundation and Dumbartung Aboriginal Corporation. Of the 26 arts agencies 14 produce art and 12 coordinate or assist arts activities. By comparison in 1980-81 nine organisations in the "produce art" category existed, either under their current names or as predecessors to the current

organisations, and in the coordination and assisting category five organisations existed. Therefore, over the last decade of the Labor Government there has been a great increase in arts activities.

(14) Funding applications are assessed annually based on available funds and performance of applicants. I will seek further clarification on this question.

(15) Special projects funding for 1991-92 is $201 000 less than was allocated in 1990-91.

(16) I will seek clarification on this question.

(17) Funding of $200 000 will be provided to the Australian Opera in 1991-92. The general purpose grant for the West Australian Opera Company in 1991-92 will be $650 000, an increase of $150 000 on the general purpose grant in 1991.

(18) The overall objectives of the Health Promotion Foundation are to offer sport, the arts and racing replacement funding for tobacco sponsorship; sponsorship support for those activities which encourage a healthy lifestyle and provide an opportunity to promote health messages; fund activities that promote health, particularly that of young people; and to provide grants to organisations engaged in health promotion programs and research.

(19) The Gordon Reid Foundation was established by the Lotteries Commission to provide access to the performing arts for country and regional residents. This activity falls within the objectives of the Lotteries Commission in overcoming social disadvantages. The Gordon Reid Foundation does not have a role in developing arts and culture as such.

EDUCATION MINISTRY - SIX DISTRICT SUPERINTENDENTS
Redundancy Packages - Future Positions

746. Hon DERRICK TOMLINSON to the Minister for Education:

(1) I refer to the Minister's answer to question on notice 1211 contained in today's Supplementary Notice Paper which refers to the six district superintendents of education having accepted voluntary redundancy. Does the Government intend to fill those six vacancies?

(2) If not, will it take the opportunity of those six vacancies to reorganise the administrative structure of the Ministry of Education?

Hon KAY HALLAHAN replied:

(1) The Ministry of Education will be filling those positions. Some notification will be given to the existing superintendents of those vacancies. That may provide an opportunity for some superintendents located in remote areas to express interest in moving to the metropolitan area. I was in Newman last week and I spoke to a superintendent there about those opportunities and he is currently deciding if he and his family would like to move to the metropolitan area.

(2) These vacancies do not provide an opportunity for restructuring.

MEMBERS OF PARLIAMENT - CORPORATION SEARCHES
No Fee Payment

747. Hon PETER FOSS to the Attorney General:

What progress has been made by the Government with regard to restoring to members of the Western Australian Parliament the ability to search corporations without payment of a fee?

Hon J.M. BERINSON replied:

This is not a matter on which I can provide a detailed response at this stage.

Lengthy negotiations will take place with the Australian Securities Corporation regarding the continuing availability to the State of its records. The question of availability to members has, as I recall it, been addressed but I am not confident enough of the outcome to give a reply now. If the member cares to put that question on notice I will see it is addressed as soon as possible.

EDUCATION SERVICE PROVIDERS (FULL FEE OVERSEAS STUDENTS) REGISTRATION BILL - PROCLAMATION

748. Hon N.F. MOORE to the Minister for Education:

(1) Will the Education Service Providers (Full Fee Overseas Students) Registration Bill be dealt with this session?

(2) If not, why not?

Hon KAY HALLAHAN replied:

(1)-(2)

It is my intention to have that Bill dealt with as early as it is possible to arrange. I want it dealt with this session, before Christmas.