Legislative Council

Thursday, 30 October 1980

The PRESIDENT (the Hon. Clive Griffiths) took the Chair at 2.30 p.m., and read prayers.

QUESTIONS

Questions were taken at this stage.

LEAVE OF ABSENCE

On motion by the Hon. H. W. Gayfer, leave of absence for six consecutive sittings of the House granted to the Hon. T. McNeil (Upper West) due to private business.

BILLS (2): REPORT

1. Acts Amendment (Motor Vehicle Pools) Bill.
2. Door to Door (Sales) Amendment Bill.

Reports of Committees adopted.

POLICE AMENDMENT BILL

Third Reading

THE HON. G. E. MASTERS (West—Minister for Fisheries and Wildlife) [2.49 p.m.]: I move—

That the Bill be now read a third time.

THE HON. H. W. OLNEY (South Metropolitan) [2.50 p.m.]: I wish to speak briefly on the third reading of this measure. The reason for my doing so is that, during the course of the Committee stage which members will recall took some time and involved a number of different speeches on the part of members who participated, a comment was made by the Minister in answer to a query raised by my colleague, the Hon. Peter Dowding, that the particular approach adopted in respect of the provisions concerning the appointment of special constables had been at the suggestion of the Law Reform Commission.

On inquiry one finds on 25 March 1975, the Law Reform Commission of Western Australia submitted to the then Minister for Justice (the Hon. Neil McNeill) a report on special constables which was project No. 29. The report is set out in the usual way and includes a working paper which the commission circulated prior to formulating the report.

I wish to refer to some aspects of the report, because it is rather informative in relation to the background of the present legislation. I regret I did not advert to it previously when the matter came before the Chamber in the Committee stage and I regret that the Minister himself did not refer the House to it in his second reading speech on the Bill.

I wish to refer to page 7 of the report under the heading "Recommendations". There is then a subheading which reads "In what circumstances should there be power to appoint special constables?" and I should like to read paragraph 17 which has a further subheading *"In emergencies"*.

The PRESIDENT: Order! I ask the member to resume his seat and other members to refrain from audible conversation whilst the member is speaking.

I would like to draw to the attention of the member that, when speaking on the third reading of a Bill, the scope he has is to give reasons the Bill should or should not be read a third time. It does not provide an opportunity to enter into a new debate, similar to that which has taken place already. I am not suggesting at this stage the member is transgressing, but I feel he might be about to.

The Hon. H. W. OLNEY: I am sure if I do transgress, you, Sir, will call me to order. However, I will do my best not to transgress.

The very reason I rise is to try to persuade the House not to read the Bill a third time, because in the submission I am putting to the House I am indicating that the Government has mistaken what the Law Reform Commission was saying to it. In fact, had the Government read the report and given attention to it—in the Committee stage we were led to believe the Government had done so—it would have done exactly what the Hon. Joe Berinson wanted it to do; that is, it would have defined the term "civil emergencies" definitively and not in the expansive way the Government sought to do.

In that context, I wish to read paragraphs 17, 18, and 19 of the commission's report. Under the heading "In what circumstances should there be power to appoint special constables—(a) *In emergencies*" the commission made the following statement—

> 17. Under the present law the power of a magistrate or two justices to appoint special constables under s. 34 of the Police Act is principally related to the existence of "tumult, riot or felony". The general power of the Commissioner of Police to appoint special constables under s. 35A certainly extends to such emergency situations (see

paragraph 13 above and paragraph 42 of the working paper).

18. The Commission suggested in its working paper that the power to appoint special constables should exist not only in circumstances of civil disturbance but also in other emergency situations, such as natural disasters. No commentator disagreed with this view, and the Commission accordingly recommends that the Police Act be amended so as to clarify that appointments may be made in all civil emergencies, not just those arising out of "tumult, riot or felony".

19. The Commission also suggested that it might, for example, be thought appropriate to appoint civil defence workers as special constables, as can be done in New Zealand. However, the Civil Defence and Emergency Service of Western Australia informed the Commission that, in its view, it would be inappropriate to do so. The Service's reason was that although at a time of disaster both police and civil defence are working to a common end, their spheres of responsibility differ.

It is clear from an examination of these paragraphs in the report of the Law Reform Commission that, in talking about the need to have power to appoint special constables at a time of civil emergencies, the commission was in fact talking about circumstances of natural disasters. I would have thought that by seeking to introduce the term "civil emergencies" into the Police Act as one of the circumstances that justified the appointment of special constables, the Government would give attention to the recommendations of the Law Reform Commission which clearly was directing its thought to the additional areas of natural or other similar-type disasters.

Therefore, members on this side of the House reaffirm their belief that the proposal contained in the present Bill is quite unacceptable and indeed was not the proposal put to the Government by the Law Reform Commission five years ago, despite the fact that the Minister indicated in the Committee stage the Government was acting upon the recommendation of the commission.

A number of other interesting aspects are contained in this report and I commend them to the Minister for Police and Traffic for attention. Of particular relevance to the matter to which I am referring is the recommendation that the power to appoint special constables ought not to be left with magistrates and justices of the peace. Indeed, the Law Reform Commission suggested initially justices of the peace ought not to have this power and only magistrates should be able to make appointments of this nature. However, on maturer consideration, the commission came to the conclusion that magistrates ought not to have the power; but rather the power to appoint special constables ought to lie with the Commissioner of Police. The Law Reform Commission felt the Commissioner of Police should have the power to control, appoint, discipline, and dismiss constables appointed for a special purpose in the same way as he has that power in regard to other constables.

This makes good sense, and if followed through would answer the objections raised by the Hon. Peter Dowding when he drew the attention of the House to the fact that it was quite inappropriate that police officers should have foisted upon them as colleagues in a situation of disaster, riot, or tumult people simply appointed by justices of the peace on an *ad hoc* application of some other person.

There is a great deal yet to be done on the question of special constables and the Government has chosen to take one recommendation from a report which has been around for five years and has given the appearance of implementing it. However, by taking up that point I believe I have indicated the Government has acted contrary to the actual recommendations of the report.

I say to members of the House that for the reasons that have been canvassed in the Committee debate and for the additional reasons I have just given, the Bill should not be read a third time.

THE HON. G. E. MASTERS (West—Minister for Fisheries and Wildlife) [3.01 p.m.]: The Government did make some detailed statements on this matter a few nights ago and we had to listen to a diatribe in reply, most of which was a considerable amount of bickering over words, and I suppose that is the way in which lawyers operate. I am not surprised that the costs in the legal profession are so expensive.

Several members interjected.

The Hon. G. E. MASTERS: I have made an explanation of the term "civil emergency" and have pointed out that we used a broad term because it needs to be that way. Of course any member of the public who understands commonsense and ordinary common words would fully understand what it means. Despite what the Hon. Des Dans says, the public will know exactly what I meant. Therefore, it is unfortunate that

the lawyers in this House became involved in the diatribe.

The Hon. J. M. Berinson: It was unfortunate, but it was because you did not respond to the matter.

The Hon. G. E. MASTERS: I have defined the term "civil emergency" and it is obvious what it means. The people who will make the determination are judges or justices of the peace who may be appointed. Justices of the peace are members of the community who are responsible people and they will be able to understand the term.

The Hon. H. W. Olney: The Law Reform Commission thought they were the most unsuitable.

The Hon. G. E. MASTERS: The Law Reform Commission certainly talked about a civil emergency. We followed that report and determined as we saw fit.

It is obvious Opposition members disagree, but they would disagree with anything the Government supported. The Opposition even disagreed when the Hon. Sandy Lewis quoted from a dictionary. They argued about the dictionary definitions.

The Hon. D. K. Dans: You are a mental giant.

The Hon. G. E. MASTERS: Common sense should prevail and the members of the public when reading this debate will shake their heads in wonder.

The Hon. D. K. Dans: You will be a great asset to the Battye Library.

The Hon. G. E. MASTERS: I will not be drawn into an argument with the Hon. Des Dans who contributed to the diatribe last evening.

Several members interjected.

The PRESIDENT: Order!

Question put and passed.

Bill read a third time, and returned to the Assembly with an amendment.

HOUSING BILL

Second Reading

THE HON. G. E. MASTERS (West—Minister for Fisheries and Wildlife) [3.04 p.m.]: I move—

That the Bill be now read a second time.

This Bill is to repeal the State Housing Act 1946-75, and to replace it with legislation more in keeping with requirements of today and of the foreseeable future.

The present State Housing Act was enacted in 1946. Although it has been amended on a number of occasions since, it has not been substantially changed in emphasis as community needs have altered over the years.

The existing Act has proved wanting in a number of respects. It also contains much relating to what is broadly administrative detail and on that account has become very cumbersome and an inhibiting element in maintaining an efficient and cost-effective administration, which could quickly adapt to changing economic circumstance and the introduction of new practices in the private sector.

In that context, it seemed appropriate to repeal the legislation and introduce a completely new Act which would better meet requirements.

In the preparation of new provisions embodied in the Bill, the main aims have been—

to have a clear statement of principles, and allow their implementation through a flexible administration;
to ensure a continuing role for the Housing Commission in those fields which can be serviced only by a public housing authority;
to provide a supplement to the private sector to ensure a complete service to those people requiring accommodation;
to provide a more effective instrument of Government action in the total field of housing;
to ensure that at all times the policies and practices adopted by the Housing Commission are in conformity with the broad policies of the Government of the day.

The provisions of the Bill, which represent important changes to the existing legislation, are as follows: Firstly, the objectives have been broadened and clarified. No longer is the Housing Act to be confined to the provision of housing for persons of limited means. For much of what is wanted now, limited means is not a useful criterion, but rather we need to be able to cater for people, such as single workers and working couples for whom, in many country centres at least, the private sector is making no provision.

The objects also clearly allow the commission to administer housing agreements between the Commonwealth and the State, and so avoid amendments to the Housing Act whenever there is a new agreement.

With regard to membership of the Housing Commission, the existing provisions place certain qualifications on membership and have at times inhibited the appointment of members with a particular competence relevant to the current activities of the commission.

It is proposed to retain a membership of seven persons, including the *ex-officio* membership of

the general manager of the commission. Beyond that all other special qualifications are to be removed and members will be appointed who have the experience and competence required to deal with the pertinent issues of the time.

At the same time the opportunity is being taken to change the open-ended method of appointments and bring them into line with current practice to provide for appointments for a specified term. There is also a provision for the appointment of a deputy for each member.

The powers of the commission have been stated in a clearer way. At the same time, they have been extended to give legislative sanction to some aspects which have been developed over the years. These relate particularly to making the facilities of the commission and the services of its officers available to assist any organisation engaged in activities related to the objects of the Housing Act.

In regard to rental operations, the commission has been inhibited by existing statutory provisions which do not allow renting other than to an eligible applicant. There is a demonstrable demand for assistance by the commission to non-profit organisations, particularly in the health and welfare fields, which require accommodation for staff or clients.

Specific examples are St. John Ambulance, slow learning children's groups, child-care centres, etc. There is now to be a provision allowing the commission, with ministerial consent, to rent or lease to any public authority or body corporate.

There is also a specific power to fix rents and grant rebates. In regard to rebates, the procedures have in the past rested substantially on provisions in successive Commonwealth and State housing agreements. This is regarded as unsatisfactory and a specific authority in the Housing Act is seen as desirable and appropriate.

In respect of purchase assistance the existing Act contains a number of detailed and accounting matters which are no longer seen as appropriate items of legislative importance. Also the whole thrust of the Act is to purchase houses already built by the commission. Likewise, the additional powers to finance on mortgage are restrictive and overly detailed.

The new provisions are designed to allow maximum choice by the purchaser of style and locations, and to permit a flexible financing approach which can readily adjust terms and conditions to changing circumstances. Where necessary, such conditions can be tailored to the needs of different categories of applicants.

It must be emphasised that there will be no statutory power to alter any contracts of sale or mortgages in force at the time the new legislation comes into effect. Those are valid and binding contracts which may be altered only with the consent of both borrower and Housing Commission.

Finance provisions are essentially the same as in the present Act, but have been extended to allow all transactions of the commission to be handled through a single fund. This will facilitate and simplify accounting procedures and will also make easier the presentation of a single set of financial statements encompassing the whole of the Housing Commission's operations.

In addition to these major changes, many provisions of a procedural and administrative nature in the existing Act are not now relevant and have either been deleted or revised to cater for present and future influences. The result will be a modern, more flexible Housing Act to serve the public housing needs of the State.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. F. E. McKenzie.

WESTERN AUSTRALIAN MARINE AMENDMENT BILL

Second Reading

Debate resumed from 28 October.

THE HON. D. K. DANS (South Metropolitan—Leader of the Opposition) [3.10 p.m.]: The Opposition agrees with this Bill which is to amend three sections of the Western Australian Marine Act. It will give power to those named in the Bill, and listed also in the Minister's second reading speech, to close certain waterways when they become seasonal hazards to the boating community, and in particular, to the inexperienced.

Members will recall that there have been three fatalities this year—two at the Mandurah Bar and one at the mouth of the Murchison River. We do not know of course that these fatalities would have been prevented had these amendments been in force. No matter how we legislate, in the final analysis responsibility rests with the people concerned. The fact that power is to be given to certain individuals to close the waterways may, in the fullness of time, go some way towards minimising dangerous situations.

The second amendment removes the requirement that some craft—and particularly catamarans—must carry items of equipment such as anchors and distress flares while they are

racing. It is outlined clearly in the Bill, and the Minister left us in no doubt, that this provision is to apply only in racing circumstances. No-one will have any objection to that provision.

The last amendment deals with regulatory provisions, and again the Opposition does not oppose it. We hope that the amendment giving the people named in the Bill the right to close certain waterways will have some effect. I have spent a considerable amount of time on the sea—I love it in all its moods. However, on many occasions I have been very frightened while at sea. It is a terrifying and disastrous element with which to grapple.

Greater emphasis should be placed on educating the public in regard to problems associated with the ocean even—and I may take a punt here—if we had to raise the registration fee for boats a little on the understanding that any extra funds would be used in this way. With the number of boats in use and the stupid things people do I am frequently surprised that there are not more fatalities.

I commend the Bill to the House.

THE HON. D. J. WORDSWORTH (South—Minister for Lands) [3.15 p.m.]: I thank members for their support of the Bill. I think the point the Leader of the Opposition was making is that those who have had a lifetime of experience are the ones who really respect the sea, and those who have no knowledge of it are the ones who put out to sea with no real understanding of it. Tin boats that go on top of a car are available comparatively cheaply, and inexperienced people put to sea with children and even babies on board having no idea of the loading capacity of these boats. Without doubt, the ready availability of boats at a reasonable price and the inexperience of many members of our community have prompted this legislation. I thank members for their support.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

Third Reading

Bill read a third time, on motion by the Hon. D. J. Wordsworth (Minister for Lands), and passed.

RECORDING OF PROCEEDINGS BILL

Second Reading

Debate resumed from 28 October.

THE HON. J. M. BERINSON (North-East Metropolitan) [3.19 p.m.]: There is a general understanding that the function of Parliament is to consider legislation for the purpose of deciding whether it is good or bad. Last week the Hon. Peter Dowding made a useful point, as he so often does in this Chamber, when he suggested that there are in fact preliminary questions which should be asked before we even reach that stage.

Those preliminary questions are: Is there any real point to the Bill? Does it serve any useful purpose which makes it worth enacting? Like the firearms legislation to which Mr Dowding referred, this measure appears to me to require an answer in the negative.

As I understand it, the Bill contains only two major provisions. In the first place, it authorises the recording and preparation of transcripts in proceedings in defined courts and tribunals. In regard to the courts, that has been done at all levels for many years with no apparent detriment due to the absence of legislation.

It is true that the Bill would serve to extend the range of bodies of which recordings might be made. For example, it would cover the position of an arbitrator under the Arbitration Act. However, the absence of such a provision does not seem to have led to any problems in the past; certainly, it has not been suggested by the Minister that problems have been encountered. That appears to deal with the first of the reasons for this legislation.

The only other reason might be that this Bill provides some statutory authority for recognition of transcripts as official records. In this respect, I must confess to limited personal experience. However, on the basis of that experience I must say I do not know of any instance where the absence of legislation has been an inhibiting factor—and again, the Attorney General has not suggested any single occasion when the absence of statutory authority has prevented or limited the use of transcripts in further proceedings.

As far as I know, no question has been raised when a Local Court transcript has been produced on appeal to the District Court; no question has been raised when a transcript of proceedings of a Supreme Court, before a single judge, has been brought before the Full Court or, for that matter, the High Court of Australia. To this stage, no legislation covers transcripts, yet so far as I am

aware, no problem of any sort has arisen as a result.

If anyone has any doubts on the matter, these should be removed by a brief examination of the history of the very proposal we have before us now. In 1975, the Parliament enacted the Recording of Evidence Act. That passed through both Houses on an explanation virtually identical with that which was given on this occasion. However, for technical reasons referred to by the Minister, the Act was never proclaimed; it has not taken effect. In the five intervening years since 1975 there has not been the faintest skerrick of evidence to suggest that any legitimate interest has been adversely affected by that.

If we could survive to 1975 without any legislation on the matter and if, since 1975, we can survive with legislation which has not been permitted to take effect, I put it to the House there is a fair assumption we can continue quite safely to survive without legislation now. That is what we should do in the absence of strong and positive reasons for now moving to further legislation and further regulation.

So far, no such reason or justification has been offered by the Government; and, especially, from a Government supposedly dedicated to an opposition to big Government, it is surprising to see this apparent support for an item of legislation for its own sake.

Having made that preliminary point in relation to the apparent absence of need for the legislation, let me go on to a couple of matters with regard to potential costs. One question which is left quite open in the Bill is: Who is going to foot the bill? The costs are not inconsiderable. In answer to a question asked of the Attorney General on 15 October, which appears at page 2236 of *Hansard* it was stated that the estimated cost of transcripts was $3.65 per page. In a moment I will suggest the answer was mistaken in some respects, but that is not relevant for present purposes.

I believe that estimate would be near enough to right; there is no reason to doubt that it is correct. It raises very serious questions as to who is going to meet the bill in relation to the extended definition of "tribunal" in this legislation, again using the example of "arbitration" in the Arbitration Act.

Who is going to foot the bill when, as so often happens, a matter becomes subject to that procedure as a result of an insurance or building contract? In that type of arbitration, in any event there is often a very serious imbalance in the capacity of the respective parties to meet the costs of the arbitration proceedings, especially in the instance of insurance companies, to which I have just referred. It is no problem at all for an insurance company to look down the barrel at $4 per page for a transcript of proceedings, which may become necessary when taking the action further; however, a very substantial problem could arise for a party to the arbitration proceedings opposed to the insurance company.

If as one preliminary to an arbitration procedure the question arose as to whether, arising from this Bill, the arbitration tribunal would require a transcript, we could be placing one of the intending parties in a position of looking at costs in the region of $1 000 or more for the transcript alone in the event of loss. That prospect could be very daunting. Costs are daunting enough now, in many of these cases, given the overwhelming strength of one of the parties. However, it can become even more daunting when a person realises that, in addition to all the other costs in the event of loss, he would face the loss of $1 000 or more, depending on how extensive are the proceedings and, therefore, the transcript.

I notice there is no direct provision in the Bill for the meeting of these costs. No doubt it is intended they should be met by the regulation-making power contained in clause 22(2)(f), which provides that regulations may be made "prescribing the fees to be paid in respect of any recordings, transcripts and reproductions". I suppose that is a matter which will emerge in the regulations. However, it is a matter which should be given consideration at this stage. We should be considering the possibility of very serious detriment to parties arising from this provision. Its effect in the case of the extended definition of "tribunal"—not a case such as we have in the courts, where the courts themselves meet the basic cost of preparing the transcript—could be considerable.

In the courts, no question of a party meeting the cost arises unless a copy of the transcript is required. That position could not possibly occur in the situation of the extended definition of "tribunal". It is in that situation that a serious question of cost could and almost certainly would arise.

Having raised the question of potential additional costs which might arise in the future, it is not out of place to refer to the present position of costs under the situation which already exists. Again I refer the Chamber to my question on notice 283 which was as follows—

(1) What is the charge per page to applicants of copies of transcripts in the—

(a) Supreme Court;
(b) District Court;
(c) Local Courts;
(d) Courts of Petty Sessions;
(e) Industrial Arbitration Commission;
(f) Industrial Appeal Court;
(g) Workers' Compensation Board; and
(h) State School Teachers' Tribunal?

The answer was that it would be $1.50 per page of copied transcript in respect of the Supreme, District, and Local Courts, Courts of Petty Sessions, and the Workers' Compensation Board. In the case of the Industrial Arbitration Commission and the Industrial Appeal Court, parties are provided with a free copy. That is also the position in the Family Court, which I omitted to include in the list. It was indicated also that copies are provided free of charge to parties before the State School Teachers' Tribunal.

Looking at all those cases—and they are the common cases—where a charge of $1.50 per page of copied transcript is applied, I suggest that these costs are excessive, ought to be reviewed, and ought to be reduced. In the first place, the costs of litigation these days are heavy enough without these additional costs. More important than that is the consideration that these charges of $1.50 a page—which may not sound very much, but when added up can involve a substantial sum when dealing with hundreds of pages of transcript—do not relate to the costs of copying; the $1.50 is vastly more than the cost of copying.

It is in that sense that I suggested before that the answer provided to my question was incorrect. I do not suggest there was any intention to mislead the House in the answer, but what I asked was, "What is the charge per page to applicants of copies of transcripts . . ." and I listed the various cases. The answer I received indicated that the estimated cost per page was $3.65, which cannot possibly be the actual cost of a copy of the transcript, that being done by a photostat machine. The answer obviously is not an answer directed to the question, which was the cost of copying the transcript. It can be sensibly understood only as an answer directed to the cost of preparing the transcript itself—having the tapes going and the stenographers converting them into typewritten pages.

The proposition I put to the Attorney General is, that it is an integral part of the general administration of justice that these transcripts should be prepared and available in the first place; just as the other basic costs of the administration of justice are met by the State, and for very good reason; just as the judges' salaries are met by the State and the cost of maintaining the buildings and the various clerical assistants and ushers is met by the State. Just as there is a very good reason for all these basic costs of justice being met by the State—and no-one would pretend they are anywhere near met by court fees—so there is an identical argument that the cost of the original preparation of the transcript ought to be met by the State.

The Hon. P. G. Pendal: Would you say the parties to the litigation are entitled to a free copy of the judgment?

The Hon. J. M. BERINSON: No; what I am saying is that the preparation of the transcript ought to be regarded as part of the basic process of the administration of justice. I go on from there to say that the cost of obtaining copies of the transcript ought to be met by the parties. That is a proper area where the "user pays" principle ought to apply. But as will be obvious to anyone with any experience of photostating, it does not cost $1.50 a page. We might consider the cost to be closer to 10c or 20c a page.

The Hon. P. H. Wells: What about wages?

The Hon. J. M. BERINSON: The cost of materials alone would be not more than 5c and I am sure no-one would suggest that even the most highly qualified servant of the State, required to place a document on a machine and to press a button, would use up more than 15c worth of his time, even including overheads.

The Hon. P. H. Wells: You are saying they are there to do a job.

The Hon. J. M. BERINSON: Of course; but they are not there to do just that job. In no court will anyone find a person employed solely to attend to these machines; it would be just part of that person's work. At 15c per page, considering the very small amount of time involved and the limited expertise required for the duty, 15c would be a more adequate repayment to the State. Perhaps the figure would be 25c or 30c; but what I am really putting to the Attorney General is the principle that parties to litigation who find themselves in need of a transcript should not be asked to contribute to the original preparation of the transcript, just as they are not asked to do so if they do not request a copy. There is no question of parties having to contribute to the cost of a transcript if they do not want a copy.

The cost involved should be accepted by the State. The cost of the copies as such ought to be accepted by the parties; but that cost cannot

remotely approximate an amount like $1.50 per page. If anyone is in any doubt about that, perhaps I can demonstrate it further by pointing to a very curious anomaly which exists at the District Court, or which I should say did exist earlier in the year when I first came across it. At least at that time the District Court did not have a photostat machine. If one applied to that court for a copy of a transcript, an officer of the court would nick up in the lift to the Corporate Affairs office on the floor above and obtain the copies there.

Before coming into the Chamber today I had the opportunity to check the position, and remarkably, even to this day, if one applies to the Corporate Affairs Office for a photostat copy of a document the charge is 20c.

The Hon. I. G. Medcalf: We will have to fix that!

The Hon. J. M. BERINSON: But if one obtains—necessarily indirectly—a copy of a District Court document from the same machine, using the same material and effectively the same manpower, the cost is $1.50. I suggest to the Attorney General that the way to overcome this anomaly is not to increase to $1.50 the charge by the Corporate Affairs Office; such a charge would be rank highway robbery. I suggest we should reduce the charges in these other courts to 20c or about 20c or whatever the figure can reasonably be for the cost of the service. Certainly the cost should be reduced to something far less than $1.50 a page.

I think the example of the District Court is a useful one, and the anomaly is illustrative of what I am trying to say. By the way, I believe the court shares the use of a machine with the Corporate Affairs Office, which is a reasonable and rational economy. Having praised both offices for that we will no doubt find on further checking that the District Court has acquired a machine, if not two, and that if it has not acquired two, when it goes into its new premises and has difficulty in filling the acreage of office space provided it will have many more than two machines.

The Hon. A. A. Lewis: Who do you think is paying for it?

The PRESIDENT: Order!

The Hon. J. M. BERINSON: I hope the Attorney General takes note of the general principle I am trying to convey, and that is that these days the cost of litigation can be oppressive. We ought to look for ways to minimise that expense rather than to maximise it. It appears to me to be eminently reasonable to accept that as I have put to the House that the original cost of preparing a transcript is a proper cost to be ascribed to court activities and that if we are to consider costs for copies then I believe they ought to be limited in some way and ought to bear some direct relationship to the actual cost of copying.

I finally mention, but at this stage only in passing, that a number of apparent drafting errors appear in this Bill. The matter was adverted to by my colleague in the Assembly, Mr Bertram, but I do not know whether that put the Attorney General on notice of the problem or whether with his normal diligence in these matters he discovered the problem for himself. However, the fact remains the Attorney General advises me that it is not proposed to proceed with the Committee stage of the Bill today, but that further consideration might be given to the terms of the Bill between now and the date to which the Committee stage will be adjourned.

Since the Government apparently is to give further consideration to these matters, there does not seem any great point to my elaborating them now. Before I leave the present debate, I return finally to my initial point to which I hope the Attorney General will respond. After our having gone so long without the need for this proposed legislation and without any suggestion of any problem having arisen from the absence of the itemised regulations which this Bill will provide, why suddenly and without any real explanation is it determined by the Government that we cannot continue in the present way any longer?

Sitting suspended from 3.45 to 4.02 p.m.

THE HON. H. W. OLNEY (South Metropolitan) [4.02 p.m.]: I recall that a few weeks ago Mr Pike became upset when Mr Berinson suggested members of the Press went home when he was about to speak.

The Hon. R. G. Pike: And I said they went home before I rose to speak.

The Hon. H. W. OLNEY: Now it seems members have gone home because they had advance warning that I had the call.

The Hon. D. K. Dans: The Press reporters have not even come in.

The Hon. H. W. OLNEY: Mr Berinson led this debate for the Opposition, as properly he should as the Opposition spokesman on legal affairs. In the true spirit of a House of Review, he managed to make his speech without indicating his attitude to the Bill, and what attitude the Opposition will take to it. I think this is most commendable because obviously Mr Berinson has reserved his opinion until he hears the reply of the Attorney General to the various questions he raised.

I had to check with Mr Berinson to ascertain what the Labor Caucus decided in respect of this Bill, and I found the decision was sufficiently complicated to enable me to say that I will take the same view as Mr Berinson, and I will indicate later when the vote is taken whether I support the Bill. In the meantime, I will disagree with some of the comments Mr Berinson made.

The Hon. P. H. Wells: We encourage that.

The Hon. H. W. OLNEY: Before I do so, I would like to comment upon a matter raised by Mr Berinson; that is, the need for this legislation. Although my deputy leader is so many years older than I—he has followed two other professions before entering law; and I might say he has followed his three professions with distinction—I think I have the doubtful advantage of having practised law for perhaps 20 years longer than he has.

I recall when I was first an articled clerk in 1952, I worked in the recently demolished Colonial Mutal Building, which building contained the office of the Edna Spark firm of court reporters. At that time the firm operated as a contractor for the verbatim reporting of the then Court of Arbitration, which was later abolished and became the Industrial Commission. From my recollection that was the only judicial body which had a regular system of court reporting, and it was done in the way the proceedings of this House are recorded; that is, by shorthand writers who then type a transcript. That system had been in practice in the Court of Arbitration for many years before as I now know, because frequently I have occasion in the course of my extra curricula activities to refer back to old Industrial Court and Arbitration Court proceedings; and the transcripts are available going back over many, many years.

This has been a great service to the community at large and, in particular, to those persons, parties, and bodies—unions and employers and others—who have recourse to that set of tribunals.

In more recent times the shorthand writing in that tribunal has been converted to electronic recording, a system which, again, I believe was pioneered in the Industrial Commission of Western Australia; and it has ultimately flowed through to many of the other courts. I might say that in Western Australia the system of court reporting is exceedingly good by Australian standards. The accuracy of transcripts and the speed with which they become available is to be commended.

The Hon. H. W. Gayfer: Can they identify interjections in the court?

The Hon. H. W. OLNEY: They can indeed; but the thing is that normally there are only three or four, or perhaps eight or 10 at a maximum, in the Industrial Commission; and an operator sits in a little glass box at the back and notes who says what. The interjections can be identified readily. I might say the degree of interjection, the volume of interjection, and, indeed, the frequency of interjection are somewhat less in courts than in this place.

The Hon. J. M. Berinson: How does the level of sense compare?

The Hon. H. W. OLNEY: About the same; I am hedging my bets on that one.

As I was saying, the system in Western Australia is an exceedingly good one. Only yesterday it was my lot to appear before the Commonwealth Conciliation and Arbitration Commission, when other parties were represented by advocates and counsel from another State. The question of availability of transcript arose and our visitors from the Eastern States were staggered to find the transcript normally would be available at the end of the day's hearing. Sometimes one receives the transcript only up to the luncheon adjournment, and the rest of the transcript on the following morning.

The postion in other States is that transcripts sometimes do not become available for two or three weeks or more after the event. So in this State—and I believe it was pioneered here—we have a very good system.

One of the contracting firms in fact is able to transcribe tapes sent by air from the Eastern States and to send back transcripts quicker than they can be prepared in the Eastern States; in fact a Western Australian firm has contracted to provide transcripts for some of the Federal courts in the eastern capitals.

The need for a transcript is fundamental to any judicial proceeding. I recall in earlier years I occupied a judicial bench in a remote part of this State for a brief period before tape recordings and the like were even thought of. In those days there was always a need for the magistrate to take down in writing everything that was said. This was a very difficult task, which certainly kept him awake; in fact I suppose it was a blessing in disguise in some of the northern courts.

However, it is absolutely essential that a proper record is made in any court proceedings, and there are a number of alternatives for recording what takes place. One is the holograph or handwritten record made by the presiding judge

or magistrate. Another is the most unsatisfactory system of having a typist sit next to the judge, clattering away as the witnesses give evidence. That is a most undesirable and unsuitable method, although I believe it was the first mechanical means of recording used in this State. I think it was instituted by a former City Coroner (the late Pat Rodriguez).

The trouble was, the typist normally could not hear what the witness said because she was typing the last statement. So there was a tendency for the magistrate, or whoever might be presiding, to tell her what was said. It did not necessarily happen that it agreed with what the witness had said; and if the witness chose to dispute the magistrate's understanding of what he said, frequently an argument ensued. Sometimes the witness was asked, "Well, why have you changed your story?" That is a method which has been used; and I would suggest it was most unsatisfactory.

There is, of course, the shorthand writing system, which has its limitations, with the greatest respect to those people who ply the profession of shorthand writer. It is less satisfactory than the electronic recording systems that have been adopted in this State.

The Bill repeals the 1975 Recording of Evidence Act which was assented to almost exactly five years ago but which has not been proclaimed. Members will be interested to know that in the intervening five years the recording of proceedings has gone on in many courts—in most of the metropolitan courts—without any identifiable problems. I join with Mr Berinson in asking: Why do we need the new Act? The Leader of the House has told us that the old Act—the one that never worked—had some problems or difficulties. In his second reading speech, the Leader of the House said—

> . . . it became apparent that it would not be possible to cover the needs of the various courts and tribunals due to the variety of situations to which the Act needed to relate.

Earlier in his speech, he said—

> . . . due to a number of technical difficulties associated primarily with the drafting of regulations, it has not been possible or practicable for the Act to be proclaimed.

One wonders exactly what goes through the mind of a draftsman when he is drafting a Bill like the Recording of Evidence Bill of 1975. One can come to one of two conclusions only. The first is that the draftsman was quite incompetent, in which case one would have thought that the Minister responsible at the time would have detected that and not presented the Bill. The second conclusion is that the draftsman was given unsatisfactory instructions; and having drafted the Bill in accordance with his instructions, he has produced an unsatisfactory result. We do not know what is the position here; but nevertheless the 1975 Act has been found wanting in some respects. We are not told exactly why or in what regard it is unsatisfactory, except that technical difficulties have caused it to be repealed.

I support Mr Berinson's comment about small government and big government.

The Hon. R. G. Pike: Are you agreeing with him now?

The Hon. H. W. OLNEY: In five years, the Bill to do exactly the same job has increased from nine pages to 16 pages, and yet it is still not satisfactory. It has to be looked at before it is considered in Committee. One wonders aloud what the members down the other end do. Here we are reviewing legislation, albeit through diatribe and other means of discussion, making a reasonable attempt to review the legislation without crossing every "t" and dotting every "i"

The Hon. R. G. Pike: But not nitpicking?

The Hon. H. W. OLNEY: Not nitpicking, certainly.

The Hon. R. Hetherington: Scrutiny is not nitpicking.

The Hon. H. W. OLNEY: Not only are we doing the job of the Opposition, but it appears to me that half the time we are doing the job of the Parliamentary Draftsman. We have had presented to this House a Bill which does not even satisfy the will of the Government. Therefore we might ask, "Is the court system going to fall apart whilst the Committee stage of this Bill is delayed?" Obviously the court system will not fall apart. In fact, it will go on in the same way as it has gone on for 28 years, to my knowledge, with the evidence in the proceedings in the courts being recorded to the general satisfaction of the litigants, the presiding judicial officers, and the appellate courts.

There is a number of different circumstances in which a record of court proceedings is necessary. I suppose the primary one is for the benefit of the judge or judicial officer. Obviously he needs to have a record of what is said before him both by witnesses and those who appear before him to advocate the cause for the parties. Even in a trial that lasts a short time only, it cannot be left to the mere memory of a judge to recall exactly everything that was said. Even in these days of electronic recording in most courts the judges in the Supreme Court—and I am not sure about the

magistrates as I do not appear in their courts very often—still note down, with an amazing degree of accuracy, what is said by the witnesses. In the old days—and they were not many years ago—one had to go very slowly so that the judge or magistrate could write the evidence down. One of the advantages of electronic recording has been that one can conduct a case without having to watch the magistrate's pen or the judge's pen. That is an additional advantage—

The Hon. D. J. Wordsworth: It might be a disadvantage. You do not know if you have made your point or not.

The Hon. H. W. OLNEY: Indeed. The old idea of watching his pen was quite good sometimes, because if one asked a question and received a good answer, and one did not see the pen move, one asked the question again to make sure that the judge wrote it down.

The Hon. D. J. Wordsworth: If it is a comfort to you, the Attorney General is writing hard.

The Hon. H. W. OLNEY: In order to arrive at a decision, the court needs an accurate record of what is said to supplement the memory and personal notes of the participants in the proceedings.

Another critical need for a record of court proceedings is to have available to an appellate court a proper record of what has gone on in the court of first instance. In this State for some years now, it has been possible to present to appellate courts a verbatim transcript of the lower court proceedings, including interjections. In my own experience, for a time I served as associate to the late Sir John Dwyer when he was Chief Justice. At that time, everything was written down by hand by the judge. I recall the problems that were associated with translating that judge's notes, when someone dared to appeal against him.

He had a particular sort of shorthand which was very accurate, but only he could read it. Other judges had different methods and, without mentioning names, a great variety of handwriting was exhibited which sometimes made it virtually impossible to obtain a proper record of what was said.

Therefore, this system of recording by a mechanical device is a great boon to litigants when they want to take their cases to appeal. Even today in courts where magistrates still record their notes by their own hand, if one wishes to appeal, one cannot obtain a copy of the notes of evidence until the notice of appeal is lodged. This has always been a great bone of contention, because frequently lawyers who do not appear at the initial trial are asked to advise on appeal and, unless they know what was said in the evidence, they cannot do so.

Under the electronic system where one can obtain a transcript very promptly, if one can afford to pay for it, one can get the transcript before lodging the notice of appeal, and a lawyer can make a better fist of advising litigants who are dissatisfied with the decision in the initial instance.

Perhaps one of the most important reasons advanced for this legislation is that, on occasions, a record of what is said in evidence in a court is required at the trial of a witness for perjury. When this legislation is enacted, it will facilitate the proving of evidence given by witnesses in other courts, which will enable the prosecution, in the case of a perjury charge, to prove what was said to be untrue evidence given in another court.

I am not sure of the difficulties of proving evidence in relation to perjury charges. One case received publicity recently; but I suggest there are few problems associated with the proof of the evidence of persons who are charged with perjury in our courts. During the five years since the 1975 Act was proclaimed, I am not aware of difficulties experienced in proving that a witness said something in a court, in order to substantiate a perjury charge against that witness. The situation that exists appears to operate satisfactorily to the extent that it operates at all.

Of course, even the best systems of recording, based upon modern technology, for obvious reasons have not permeated to remote areas. I know the contractors who operate in this field are, if asked, able to set up their machinery in practically any situation. The other day I was reading a transcript of the inspection of a work site down at Wagerup by an industrial commissioner. Apparently as those concerned walked around inspecting the site, their comments were recorded. It was very useful to have a record of what everyone said about the work site.

However, in magistrates' courts in remote areas, recording systems cannot apply. This is unfortunate, but it is a fact of life, and it remains for the justice or magistrate to record the proceedings properly.

Of course, there are problems when evidence is recorded in handwriting. As an aside, I should like to refer to a case which went to appeal in the Full Court a few years ago. The magistrate who heard the case initially had taken down the evidence on a warm, summer afternoon. His notes of evidence were produced to the Full Court and they finished up with a wriggly line drawn across the page and a note, "I am going to sleep". When

that record was produced to the Full Court, a few choice words were said about the magistrate, and quite rightly so.

However, I can understand his problem. One tends to get a little weary when one sits in a hot courthouse taking down notes and I have had this experience myself.

Nevertheless, as I have said, the recording of evidence of proceedings in courts, is of paramount importance to the administration of justice. Whilst it is of paramount importance both to the judge to be able to know what has been said before him and to the parties afterwards to know whether they have a basis for appeal, one of the difficulties inherent in the system is that the cost of obtaining a transcript is often prohibitive.

I have had rather extensive experience in the Industrial Commission where members will see from the answers given to questions asked by the Hon. Joe Berinson on 15 October, transcripts are provided free to the parties.

As I said earlier, sometimes there are eight to 10 parties to a case and each one is given a copy of the transcript free of charge. This is a most useful and fair arrangement. On this point the Hon. Joe Berinson and I differ. Whereas my colleague would accept a charge of 10c 15c, 20c or 30c a page for the transcript, I would not. I would give a copy of the transcript to the parties free of charge. This procedure is adopted in the case of serious offences dealt with in the Supreme and District Courts. Obviously it has been recognised that, in the interests of criminal justice, people on trial for a serious offence should be given a copy of the transcript.

The Hon. R. G. Pike: Are you saying the difference is 20c or 30c?

The Hon. H. W. OLNEY: It is 20c or 30c a page. The difference may not sound very much, but the cost mounts up. Even when a fairly retiring sort of person such as myself who says little—certainly no more than is necessary—conducts a case, there will be approximately 100 pages of transcript a day. Many trials and other types of proceedings last for two or three days and under the present system one can expect to pay $300 for a copy of the transcript of a two-day trial.

It is always the unsuccessful party who needs a transcript—probably the successful party could not care less. Therefore, as an additional burden the unsuccessful party has to pay approximately $150 a day for a copy of a transcript of the trial. That is an added impediment to the equalisation of the incidence of justice in its administration in our courts.

I suggest serious consideration be given to the State absorbing the total cost of supplying copies of a transcript to parties to a trial. I am not talking about other people who may want to come along and have a copy of what has been said. However, as pointed out by my friend, Mr Berinson, parties to proceedings are frequently on very unequal terms. In the civil courts a great proportion of cases are contested effectively on one side by ordinary citizens, whom I normally seem to get as clients, and on the other side by insurance companies which seem to have unlimited resources and always have the ability to pay for a transcript. The inequalities with which the parties start are exacerbated by the need for the transcript to be paid for.

I urge, with a degree of sincerity and force, the Attorney General to give some consideration to the possibility of liberalising the availability of transcripts to all parties, without charge.

Apart from the indictable offences in superior courts, in all areas administered by other Ministers where there are court proceedings—such as the teachers' tribunal and the Industrial Appeal Court—transcripts are provided. Perhaps some thought may be given to the availability of transcripts to all parties, without charge.

I regret I am unable to say whether I support or oppose the Bill. Whilst there is nothing in the concept of recording of evidence and proceedings to which I take objection, I have a number of reservations to individual provisions in the Bill. No doubt, when we are in the Committee stage and the Attorney General indicates his reservations, we may find we are of one mind.

THE HON. I. G. MEDCALF (Metropolitan—Attorney General) [4.31 p.m.]: I am sorry I cannot thank members for their support of this legislation.

The Hon. J. M. Berinson: We have you worried now.

The Hon. I. G. MEDCALF: However, I can hope for the best and hope that wisdom will prevail and that members will be aware there are good reasons for our wanting this legislation to be passed.

I wish to deal with the points raised by both speakers to this Bill in relation to the costs involved. It was interesting to note the divergence of views. It was particularly interesting for me to hear Mr Olney indicate that he believed that transcripts should be provided free of charge as distinct from the Hon. Joe Berinson who believed that some charge should be made which is

equivalent to what one would pay for a photocopy.

Those two views have been put to me on previous occasions. There are those who say we are charging too much and therefore we should make a reasonable charge such as 50c a copy, or even perhaps 40c or 45c.

The Hon. J. M. Berinson: Do I take it that with the two views put to you, one is that it should be free and the other is that it should be 20c a copy and we compromise at $1.50?

The Hon. I. G. MEDCALF: There have been two general views put to me and they equate between free and $1.50; for ease of argument.

Had the Hon. Howard Olney not spoken and put forward his point of view I would have been forced to tell members of occasions when I have had this view put to me by various people who have said that it is quite wrong that people should have to pay for anything at all, let alone the cost of a transcript. A school of thought in the community believes that if one is involved in legal proceedings, civil or criminal, one should not have to pay anything. It may be that the Hon. Howard Olney holds this view. Whilst in theory it would be very nice and whilst I might personally object to paying anything at all for anything, we must appreciate that if there are things we want in life we must fund them. It just has not been possible for us to extend social welfare to the degree of providing transcripts free of charge as suggested by the Hon. Howard Olney, or for the minimal amount which has been requested by the Hon. Joe Berinson.

I am not sure whether he was asking for the cost to be 20c or 30c per page.

The Hon. J. M. Berinson: I was asking for a charge approximating the actual cost of the copy.

The Hon. I. G. MEDCALF: The actual cost per copy would be considerably more than 20c a page. I do not want to go into the costs of a public servant pressing a button for 15 seconds or the cost of his selecting the right kind of paper, and so on. We would also have to consider the overall cost of supplying copying machines to each floor of the new District Court building.

I was delighted to hear of the economy practised in the District Court and the Corporate Affairs office. I note the District Court is making up for some of the loss at the Corporate Affairs Office. The charge is $1.50 for copies which are being dispensed at 20c. In my view the Corporate Affairs Office is grossly undercharging and I would be very surprised if I could be proved to be wrong. Can the Hon. Joe Berinson recall whether legal practitioners make a much higher charge than that?

The Hon. H. W. Olney: Do they ever!

The Hon. I. G. MEDCALF: I do not know what the charge is. I am out of touch with the present scale of costs.

The Hon. J. M. Berinson: I recall it is about 50c.

The Hon. I. G. MEDCALF: Our own Supreme Court taxing scale allows for more than 40c a page for a photostat copy and I think that is generous. I do not know what legal practitioners charge. Perhaps the Hon. Joe Berinson could say what he charges in his private capacity as a lawyer.

The Hon. J. M. Berinson: Much less.

The Hon. I. G. MEDCALF: I understand the charge is in excess of 50c.

The Hon. J. M. Berinson: The scale is 40c.

The Hon. I. G. MEDCALF: I am delighted to hear that. This is really a question of how far we can go on this matter, and according to the information which was supplied to me, $3.65 per page is charged. That was at the time the figures were supplied to me and I would be surprised if that figure is not more now.

The Hon. J. M. Berinson: That was only a month ago!

The Hon. I. G. MEDCALF: Exactly! I would have thought that a reduction of more than half was rather generous.

The Hon. H. W. Olney: It will cost that just for the judge. The judge orders his transcript anyhow so the cost is $3.65 and there is no recoup on that amount. Could not three parties order the transcript, and you could then make a profit at $1.50.

The Hon. I. G. MEDCALF: I do not expect the judge pays.

The Hon. H. W. Olney: The judge will receive a copy, irrespective of whether a party requests a copy.

The Hon. I. G. MEDCALF: This discussion on the economics of the matter ought to be left in the hands of the experts.

One aspect of this matter is that transcripts are not made in all cases. In some cases there is a recording, but no transcript is provided. The transcript is not provided because of the extra costs and sometimes one copy only is requested. Sometimes no copy is requested.

We should look at the matter over the totality of the courts and not only in relation to the

Supreme Court, the District Court, and the Family Court.

The Hon. J. M. Berinson: Or the Industrial Commission.

The Hon. I. G. MEDCALF: There are complications with regard to the Family Court because the Commonwealth pays; there are questions of supply and demand; then because of the Courts of Petty Sessions one has to take a more general view of the matter.

I will add because it is relevant to the question of costs in this Bill although it is slightly different that I do not believe there will be any increase in the scale of costs as a result of this Bill. We are involved in a discussion of the costs as they are at present; I do not believe this Bill will increase the charges. No suggestion has been made that the present rates are to be increased—no-one has suggested that.

The Hon. J. M. Berinson: What about the position of a tribunal such as the Industrial Commission which comes under the Industrial Arbitration Act and does not receive a transcript?

The Hon. I. G. MEDCALF: That situation would apply only if it were declared a tribunal under the Act.

The Hon. J. M. Berinson: With due respect, it is automatically a tribunal by the definition of the word "tribunal" in clause 5 of the Bill.

The Hon. I. G. MEDCALF: If recording equipment did not exist at that tribunal the proceedings could not be recorded. You cannot disagree with that.

The Hon. J. M. Berinson: I am completely lost.

The Hon. H. W. Olney: What if the tribunal directed that a transcript be taken under that other section?

The Hon. I. G. MEDCALF: If the Attorney General directed that a transcript be taken it would be taken under clause 7.

The Hon. H. W. Olney: We pay for it then, do we?

The Hon. I. G. MEDCALF: It would be paid for in the normal way.

The Hon. J. M. Berinson: So would the Attorney General request it?

The Hon. I. G. MEDCALF: The situation would be no different from what occurs at present. The Attorney General would not request it for his own purposes; he would request it only when necessary. He would not make any request for a transcript of proceedings in the Family Court, the Supreme Court, or the District Court; the practice would carry on as it is. In the case of the Court of Petty Sessions it would be necessary for the Attorney General to make a declaration, and that is what is proposed to take place. The declaration would be made and that court would be able to record its proceedings.

The Hon. J. M. Berinson: What would happen if you made a recommendation for a transcript to be prepared in a civil proceeding when no party requested a copy?

The Hon. I. G. MEDCALF: I do not think it would be likely that a request would be made without the agreement of the party.

The Hon. H. W. Olney: One party might request it under clause 7.

The Hon. I. G. MEDCALF: One party might request it, and in such a case I believe the parties would be required to put forward their views to the Attorney General before he made the declaration. That is a practice which has to be governed by the regulations.

The Hon. J. M. Berinson: That cannot be right under the definition of the word "tribunal". If one looks at clause 5(b) one will see that "any person having . . . authority to hear, receive, and examine evidence . . ." is regarded as a tribunal; and the person in charge of that tribunal may require a transcript.

The Hon. I. G. MEDCALF: That person may require a transcript.

The Hon. J. M. Berinson: Would that be without the agreement of the parties?

The Hon. I. G. MEDCALF: I am not disputing that.

The Hon. J. M. Berinson: Without the agreement of the parties?

The PRESIDENT: Order!

The Hon. I. G. MEDCALF: I would think that would be subject to the reference to the arbitrator; that would be covered in the reference to the arbitrator.

However, if I may continue, I do not believe any change will occur in the costs and particularly, in relation to the scale of costs. No suggestion was made that that will occur or that any great extension of the area to be covered will occur. While on that point, I say that indeed at the moment in some remote areas the tribunals are covered. I am told portable tape recording machines are in use in some of the remote areas—in Carnarvon and Port Hedland and some of the areas covered by the magistrate from Northam. The proceedings are recorded, but are not transcribed necessarily unless a request is made for a transcript for the purpose of an appeal or some such other purpose.

I will refer generally to the question of why we need this proposed legislation. It is true that in 1975 the Recording of Evidence Bill was passed, but it has not been put into use. The reason for that was explained in the second reading speech. It was found that it was not possible to devise the regulations sufficiently to apply in all circumstances; it was not possible for them to apply to different courts—it was too inflexible. Nevertheless I am informed the legislation was adopted at the request of the judges. I know the Parliamentary Draftsman has been blamed for this, but I was informed that the legislation was copied from an Act of another Australian State at the request of the judges who felt the need for that Act; I am told that is its origin.

I know it is still the view of the judges that we should have statutory authority which we do not have at present for the recording of proceedings. As a result of a request for that authority the Master of the Supreme Court has been active in this area for some time. I understand he believes it is necessary to have an improved Act to enable greater flexibility in the recording of court proceedings. So a committee was set up which comprised the Master of the Supreme Court, the Solicitor General, the Crown Prosecutor, and the Assistant Under Secretary for Law.

The Hon. J. M. Berinson: I think the Hon. H. W. Olney withdraws his objections.

The Hon. I. G. MEDCALF: I do not know; that is up to him. The committee has been working on this Bill for some considerable time—indeed, since 1975. The result is that it reached the conclusion that it is necessary to have much more comprehensive and comprehensible legislation to enable the recording of evidence to be applied in a much greater number of situations and variety of circumstances with better overall control. That is the basic reason for the proposed legislation.

I hope I have given a sufficient answer to, firstly, why it was necessary to envisage changing the 1975 legislation and, secondly, why we now require revised legislation. I must add I am advised that at present some authority exists for the recording of evidence in the criminal courts and that this authority rests on the criminal practice rules. However, they have limited application and do not apply to other courts. It is considered highly desirable and, indeed, necessary that we should have some statutory authority to proceed in this area. I hope members opposite will now feel they have some justification for supporting this legislation.

The Hon. D. K. Dans: And hope that the transcript will be free.

The Hon. I. G. MEDCALF: While I cannot claim I have gained any great inspiration from the comments made by the member for Mt. Hawthorn in another place, nevertheless, I indicated to the Hon. J. M. Berinson before this afternoon's sitting commenced—and now I indicate to the House—that one or two aspects of this Bill may require some further consideration by the Parliamentary Counsel. I have had discussions with him and that is why I suggest, in order to give him an opportunity to look at one or two points I have raised, that the Committee stage of this Bill be dealt with on another occasion.

I commend the Bill to the House.

Question put and passed.

Bill read a second time.

ROAD TRAFFIC AMENDMENT BILL

Second Reading

Debate resumed from 28 October.

THE HON. D. K. DANS (South Metropolitan—Leader of the Opposition) [4.50 p.m.]: The Opposition does not support this Bill. Perhaps we could have found some reason to support some of it had the Bill, or the second reading speech by the Minister, provided more information.

We are well aware of rising costs, but it seems to us that almost invariably the person most affected by increased charges happens to be the motorist.

I might say at this stage I am aware that Mr Gayfer will support the Bill, because he has already made that statement.

Some of the increases to be imposed as a result of the passing of this Bill are minor. The recording fee will rise from $4 to $6; and whilst I know that increase will please some country shires, it is an increase of $2 on individual motorists. And so it goes on. There is to be an increase in the fee for learner-drivers' permits from $7 to an amount depending on the time taken and the number of tests taken to obtain a driver's licence.

The Minister has indicated that 88 per cent of applicants obtain their driver's licence at the first or second test, and the remaining 12 per cent require further testing. Because that 12 per cent of the population do not obtain their licences at the first or second test, they will be charged—as a penalty, it appears to me—$10 for each

subsequent test. There are instances where some people are required to take a number of tests before they obtain a driver's licence. Some people in our community find it difficult to pass any kind of test, not because of a lack of gray matter, but because when they are faced with an examination they freeze up. I have read about a person in England who had been for a test 102 times, and still did not have a driver's licence.

The Hon. A. A. Lewis: That works out at over $1 000.

The Hon. D. K. DANS: Better than 20c a copy for transcript!

The Hon. A. A. Lewis: Who should pay for the failures?

The Hon. D. K. DANS: It is not a question of who pays for the failures; the question is one of constantly increasing charges and costs on the community. Whilst we have the situation where both the State and Federal Governments are engaged in a battle to hold down inflation, we must appreciate the eagerness with which Governments, at the first sign that some instrumentality might be making a slight loss, get themselves into the cost spiral situation.

It must be apparent to members in this Chamber that on the one hand the Government is trying to hold down costs, but on the other hand it is feeding fuel to the fire. I do not know the answer. But, the flow-on from all these increased charges results in a further push to inflation.

I do not think the Budget debate has finished in another place; certainly it has not been concluded here. But, before the ink is dry on the Budget, we now have a move to increase charges further. I could be unkind and say this is another method of increasing costs by stealth over the whole of a year, so that by the next Budget the Government can truthfully say it has not done this or that. To use the words of the Minister, this is not in fact a tax; it is just a charge to keep pace with constantly rising costs. Of course, that is true. But, whether it is a tax or a charge, the general public have to pay and the increase will be reflected in the CPI figures. It will be reflected in the national wage case; and because this particular charge deals with the motoring public—both private and commercial—its effect will be reflected in general costs to the community.

In order to support this Bill I would have liked more information to have been made available in the second reading speech. I am not being critical on this occasion, but it is very difficult for us to consider Bills when we do not have access to Treasury figures, and when we do not know the thinking or the reasoning involved when the Government reaches the conclusion that charges must be increased.

Because we do not have that information available to us, I feel we have to err on the side of caution and oppose the Bill. The Bill was introduced in another place by the appropriate Minister, and debated fully by the shadow spokesman on road traffic matters. That debate is fully recorded for all to read and there would not be much purpose in my debating the issue at great length in this place other than to say I hope that during the Committee stage the Minister will try to tell this House the reason the Government has, so soon after the introduction of the Budget, gone into the first stage of increasing charges to the motorists.

Another provision in the Bill indicates that the money collected will now all go to the Consolidated Revenue Fund, and the fuel levy will go to the Main Roads Department. The fuel levy is another charge. We also know that the cost of petroleum products is extremely high, and that those costs will increase even further.

While these increases do not appear to be large on paper, they will add a further burden to the motorist. That burden will reflect on the State and increase costs. They will flow on to the commercial sector and will increase the cost of almost every commodity we use. We oppose the Bill.

THE HON. H. W. GAYFER (Central) [4.59 p.m.]: I rise in support of this Bill. I was asked whether I would make my usual speech, and the answer is, "Yes".

I listened with interest to the Leader of the Opposition's summation of the Bill. I am rather surprised that he did not support it, and does not intend to. However, we should take cognizance of the reasons he put forward for his not supporting it.

I would like to deal firstly with the recording fee. I have always believed the recording fee was not high enough.

The Hon. D. K. Dans: I am not going to dispute that.

The Hon. H. W. GAYFER: It is not sufficient to enable the councils to cover even the cost of the girl they must employ.

The Hon. A. A. Lewis: They just break even.

The Hon. H. W. GAYFER: Perhaps they just break even as the Hon. A. A. Lewis said. As my colleagues here and in another place know, I have been quite upset about this matter for some time. Three years ago I made inquiries of 18 local

authorities. I discovered that the average cost of recording was $2.39, and the highest cost was $6.50 for one shire. To refer to the average cost does not really help the shires where it is costing more.

When the recording of motor vehicle licences was first taken over by the local authorities—a practice and a principle which I still support—the recording fee was not high enough. As I said, it has been three or four years since I conducted my survey, and so increasing the fee to $6 per vehicle is still far short of what is required.

The Hon. A. A. Lewis: Too little too late!

The Hon. H. W. GAYFER: I thank the Hon. Alexander Lewis again. Nevertheless, the shires will welcome the rise, and I welcome it for another reason.

Many local authorities are in the situation of being ready to hand back motor vehicle licensing to a central licensing authority, purely and simply because they are not paid enough for the actual recording. I have stated before that perhaps this is an act of bureaucracy to keep the figures so low that it does not pay the agencies to do the recording and in this way we will achieve fully centralised licensing under the one authority. As members know I have opposed that principle at all times in this Chamber.

Consequently, I support the clause which deals with an increase in the recording fee. I am sorry that Mr Dans does not agreed with the Bill when it would do a great deal for country shires by enabling them to carry on with the activity of recording licences. It is often very useful for local authorities to know the number of vehicles in their areas, and it is a rather nice tradition for the authorities to have their own number plates. These number plates serve many purposes, one of which is a boost to tourism.

The Hon. D. K. Dans: As I said, with a little more information I would have supported it.

The Hon. H. W. GAYFER: Mr Dans referred to the chicken-and-egg situation. We all know that everything is increasing in cost month after month and that if the recording fee is increased, it will force up other costs. If the fee is not increased, and if the shires are to continue licensing, they will have to increase rates and taxes to the general public. Under the amendment, the individual requiring the service will pay for it every time he changes his number plate or licence, renews it, or replaces his vehicle.

The Hon. D. K. Dans: Would you not say this is one of the complications of our society?

The Hon. H. W. GAYFER: That is true, even the increase in our own salaries has that effect, and Mr Dans knows how reluctant we are to accept those increases.

The Hon. D. K. Dans: Oh yes!

The Hon. H. W. GAYFER: Nevertheless, this increase is necessary, and I support it.

The Bill provides also that in future the fee will be prescribed by regulation and will not be specified in part 1 of the second schedule of the Act as at present. I can see Mr Dans' reluctance to support that proposition because regulations can slip by us. Anyone who has served in this Parliament for some time is aware of that, and certainly I join him in hoping that responsible cognizance will be taken of that point by a responsible quarter. These regulations will have to be drawn up in co-operation with a responsible body such as the Country Shire Councils' Association. Otherwise we will find members introducing motions to disallow regulations because the amount prescribed in the regulation is too high.

I could further agree with Mr Dans that it is time the motorist was protected, so obviously we can understand his reasoning.

It is rather amusing that when this recording fee was introduced in 1975—and it was said to be too low then—the authorities were permitted to charge another $1 when a refund was made on the unused portion of a cancelled vehicle licence. We know motorists can apply for this refund, although it is not mandatory for it to be granted. The $1 fee will no longer apply, and the increase in the recording fee is to make up for the loss to the shires in such situations. So we could say that in a certain percentage of cases, the recording fee has been increased by $1 only. I have not worked out the actual percentage, but certainly it is far too low an increase on the figures I obtained in regard to the recording of motor vehicle licences by the licensing agents.

I think, in all, seven other items are to be increased. Quite rightly Mr Dans has shown his concern about these increases. However, they refer to items such as learner-driver licences, with which I am not familiar. The Minister told us that the fee charged for the issue of licence plates is currently $3 which compares with an estimated cost of purchase and handling of over $4 with costs in this area rising constantly. He said it was therefore proposed that a fee of $5 will be charged from the commencement of next year.

There is a rort if ever there was one. As members know, I have spoken before in this House about the Government's incessant efforts

to issue new number plates every 12 months. We have had so many changes of style. We have had "State of Excitement", yellow on black, black on white, white on black, "WA" in large letters, and "wa" in small letters. We have taken licensing away from some country shires and issued special licence plates in those areas. In addition, we now have personalised number plates.

Why should the personalised plates have the letter "P" on the end? At least those plates are blue and black, and so are not likely to be confused with the others; so why do we have to tell people they are personalised plates? I will never know the answer to that. Most likely, next time the letter "P" will be removed and people will have to buy fresh plates. I can see this becoming quite a source for revenue-making.

The Hon. H. W. Olney: Good for industry.

The Hon. H. W. GAYFER: Yes. Members may recall that I had my own number plates, and when I initially raised this question of the number plate cult I thought at the time it was a good idea because it would set up an industry in private enterprise. I thought: People could get their own plates, and what would the colour matter?

The Hon. D. J. Wordsworth: You suffer from the same disaster.

The Hon. H. W. GAYFER: I thought it would not be a bad idea. According to yesterday's edition of the *Daily News*, people in California can make up their own number plates out of any combination of seven letters, numbers, or blank spaces.

I will not give all the examples. However, the article says—

> And the curious people who live around here have no inhibitions at all. The number-plates are hilarious.
>
> It works this way. You can have a plain dull old number-plate like we have with three letters and the rest numbers.

A little further on the article says—

> Ah, but if you pay an extra $10 a year you can make up your own, like naming a racecourse, and it has become such a fad, such a fun game everybody is doing it.

Obviously people become obsessed with this. The article says that the cash amounts to millions and it all goes to the Californian environment programme. I can see that perhaps with the introduction of this fee, the Government is getting ready to introduce yet another style of number plate. Perhaps it will say "I love Charlie" or something like that.

The newspaper article gives examples of number plates. One is "SXIS4U2", which means "Sex is for you too". Don't look so disgusted, Mr Olney! Even an academic might enjoy a number plate of that calibre. Really, there is a bit in this for everyone.

A sailor has a number plate "O2BATC", which means, "Oh, to be at sea". The article goes on to say that the girls are all in it too. The writer said he nearly went off the freeway when he saw a slinky black lady in a Honda Accord, with the number plate "SNSUOUS", or "Sensuous". But that is bigoted, because it introduces racism, and should not be allowed! Obviously the people in America believe in flaunting their wares and in advertising!

I understand the Australians in California are going around with their own plates. One is "W MTILDA", or "Waltzing Matilda"; another is "DWN UNDA", or "Down Under".

Once something like that starts in America, it will catch on here, and I can only hope the extra revenue to be gained will possibly take up some of the leeway in the area of which Mr Dans has spoken. Strange as it may seem, all these little idiocies—if one might call them that—seem to be popular and many of our people are prepared to pay an extra few dollars to do things like this. We have only to look at some of the panel vans around the place and see how luxuriously they are appointed inside and out to realise that people are prepared to spend their money on such things. In my younger days I would have loved to have a panel van to use for the purpose for which they are used by the younger generation! Nevertheless, I am not too old to admire them at this stage!

One cannot support the Bill with a great deal of enthusiasm because it will increase costs. Nevertheless, one realises that the fee for the recording of licences and the issuing of number plates is a practical one, and is needed in many ways.

I support the Bill.

THE HON. G. E. MASTERS (West—Minister for Fisheries and Wildlife) [5.16 p.m.]: I thank Mr Gayfer for his comments, and I have noted the reluctant opposition presented by the Hon. Des Dans. I think that is the right way to describe it. I admit, of course, that charges are being increased and that Government members, like Opposition members, are concerned at what seems to be an ever-increasing cost spiral. I suppose it is fair that the motorist should come in for his or her fair share of the imposition of extra charges.

Nevertheless, these are minor charges and somewhere along the line someone has to pay for the increased charges which were explained fairly in the second reading speech, and which are due to increasing costs.

The Hon. D. K. Dans: I made that clear. I would have liked a little more Treasury information.

The Hon. G. E. MASTERS: I will refer to that in the Committee stage.

It is fair that a charge must be made to cover increasing costs. That is only good management. I believe the State Government is a good manager in the field of finance because it has managed to balance its Budgets over a period of years; despite the criticism of the Opposition, the Government believes that is the right way to go about its business. Members opposite probably disagree with that, but that is the way we want to operate.

One could argue that the result of increased costs is increased inflation. Mr Dans is quite right; there must be a balance somewhere, and a decision has to be made. The decision of the Government is to seek as far as possible only reasonable increases in charges, and to strike a balance. We do not believe that is a disastrous policy; it is just plain, good sense.

Mr Dans said he would seek more details in respect of the increased charges. Therefore, I propose to take the Committee stage at the next sitting of the House and endeavour to obtain more details in the meantime.

Mr Dans mentioned the fuel levy. Again, that is a charge to the public, and one which is needed to pay for the things the public themselves demand and require. It is fair to say that public requirements are possibly becoming too great these days and the public expectations are too high. Perhaps somewhere we have to face the facts and say that, as a Government, we cannot do any more. But while pressure is being placed on all members of Parliament, I guess we have to respond in the best way we can.

In respect of Mr Gayfer's speech, he has always been regarded in this Chamber as the watchdog and champion of country shires. Time and time again he has raised the matter of the recording fee and said it is an impost on local authorities which has caused them to lose money, and that they should receive compensation. Perhaps this is partly a way to do that.

Mr Gayfer talked about the cost of number plates, and referred to the matter of personal number plates. Perhaps some people would maintain that even $5 is expensive; however, there are many people who would willingly pay $30, $40, or even $50 for personal number plates.

Mr Gayfer said he once had his own number plate. He referred to some amusing combinations of letters and numerals on personal number plates. Doubtless, many people use their initials, followed by numbers. Mr Gayfer's personal plate could easily be "GAY 1". I suggest he would need to be very careful in that respect! I simply draw that to his attention in case at any time in the future he decides to purchase such a plate.

The Hon. D. K. Dans: It would not do him a scrap of good.

The Hon. G. E. MASTERS: I commend the Bill to the House.

Question put and passed.

Bill read a second time.

BANANA INDUSTRY COMPENSATION TRUST FUND AMENDMENT BILL

Second Reading

Debate resumed from 28 October.

THE HON. D. K. DANS (South Metropolitan—Leader of the Opposition) [5.21 p.m.]: The Opposition agrees with this Bill. From my reading of the Bill, and the Minister's second reading speech, I note that the measure relates to compensation to be paid to banana growers in the Carnarvon area. Members would be aware of the effect on that industry of cyclone "Hazel", and would know there was some dissatisfaction with the amount of compensation paid as a result of that disaster. It is on record that there is a certain amount of dissatisfaction about the existing compensation scheme.

I understand a referendum was held in the Carnarvon area and the growers accepted the proposals put by the Government. I do not know the exact figures, but I understand it was carried with a slight majority. As a result, this legislation is now before the House.

I have read the Legislative Assembly debate on the Bill. In that Chamber, the Bill was handled on behalf of the Government by the Minister for Agriculture, and by the shadow Minister for Agriculture (Mr H. D. Evans) on behalf of the Opposition. I see nothing to induce me to go any further than to say the Opposition supports the legislation.

THE HON. P. H. LOCKYER (Lower North) [5.23 p.m.]: I support the Bill. I appreciate the remarks of the Leader of the Opposition. It is true that a referendum was put to the growers in Carnarvon. The old Banana Industry

Compensation Trust Fund Act had become unsatisfactory. It is not easy to get a community comprising such a large cross-section of different European people to agree totally on amendments to a Bill of this nature. The Minister for Agriculture acted very responsibly in arranging a referendum on the subject; it killed all speculation as to whether what the Government was proposing was the right or wrong thing to do.

The Hon. D. K. Dans: Was it carried by a large majority?

The Hon. P. H. LOCKYER: It was not. If I recall correctly 99 votes were cast and less than 60 votes were in the affirmative. It caused some speculation amongst the growers and heavy lobbying on both sides. I believe that is a healthy condition in a democratic society such as ours, and the answer is there in black and white.

The amendments contained in this legislation are good ones. It is important to protect a large industry such as the Carnarvon banana industry against disasters such as cyclones. Cyclones are the main enemy of the banana industry. It is interesting to note that very little damage was sustained to the banana crop during the last floods at Carnarvon, because fresh water moving slowly through the plantations does not do much damage. However, heavy winds over a short time inflict a substantial amount of damage, and this, basically, is why the legislation is before us.

I believe this is a good Bill which will be welcomed by the growers at Carnarvon.

THE HON. D. J. WORDSWORTH (South—Minister for Lands) [5.25 p.m.]: I thank members for their support of this legislation. As has been stated, the Carnarvon banana industry has been plagued by cyclones and this form of insurance, where producers contribute to the scheme, is an important one. This scheme needed a little revamping. The Minister went to Carnarvon and successfully negotiated this matter, and the opinions of the industry are expressed in this Bill.

I inform the House that as I have a small amendment to move during the Committee stage, I intend to take the Committee stage at the next sitting of the House.

Question put and passed.

Bill read a second time.

CEMETERIES AMENDMENT BILL

Second Reading

Debate resumed from 28 October.

THE HON. D. K. DANS (South Metropolitan—Leader of the Opposition) [5.27 p.m.]: The Opposition agrees with this Bill in principal and in detail.

The Hon. G. E. Masters: Thank you.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

Third Reading

Bill read a third time, on motion by the Hon. G. E. Masters (Minister for Fisheries and Wildlife), and passed.

APPROPRIATION BILL (CONSOLIDATED REVENUE FUND)

Consideration of Tabled Paper

Debate resumed from 29 October.

THE HON. F. E. McKENZIE (East Metropolitan) [5.30 p.m.]: This Bill gives us the opportunity to speak on any subject. I take the opportunity to speak on two matters that have been causing me some concern.

The first matter is the crediting of tenants with interest on bond money. I know it is a very minor point, but it is one that members ought to be given the opportunity to raise in this House. I have raised it on a number of occasions; and on the last occasion I received a reply from the Minister for Fisheries and Wildlife representing the Minister for Consumer Affairs as follows—

> A report of the Law Reform Commission of Western Australia recommended against compelling landlords to invest bond money for interest to accrue to tenants.
>
> The Government's view is that administration costs are too high to warrant it, particularly in view of the very few complaints received.

That might very well be the case as far as the Government is concerned; but certainly it is not my view. I cannot understand why the administration costs would be too high to warrant it. Surely it is a simple matter of paying the bond into a bank or some trustee fund, without a great deal of administration cost being involved. In fact, that is generally what takes place now. The money is paid and credited to an account somewhere.

Later I will produce evidence to the House to show that members of the Real Estate Institute of

Western Australia, in the main, have a system in which the interest on bond money is credited to all tenants, if a bond is required.

It is true that the Law Reform Commission of Western Australia recommended against compelling landlords to invest bond money, with interest to accrue to the tenants. However, what we must realise is that that decision of the Law Reform Commission was made in 1975. Since then, the Senior Referee of the Small Claims Tribunal has recommended on three occasions that legislation be passed compelling landlords to credit interest on bond money to tenants. Those three occasions occurred since 1975 when the Law Reform Commission made its report; so it is time for the Government to have another look at the situation.

The report of the Law Reform Commission on tenancy bonds was brought down on 17 January 1975; and it included the following in paragraph 25—

> 25. Whether or not interest on bond money is payable depends on the capacity in which the landlord or his agent holds the money, and the terms of the agreement. If the landlord holds the bond money as trustee for the tenant it might be argued that, as a matter of strict law, he should place the money in an appropriate interest earning investment. If, however, the landlord holds as a debtor, no interest is payable to the tenant, unless the agreement specifically provides. The Commission understands that in the majority of tenancy arrangements in Western Australia, no interest payments are made by the landlord.

Then it goes on, in paragraph 26—

> While many commentators were in favour of interest being paid to tenants, the Commission considers that, having regard to the relatively small amounts of bond money involved (which frequently would not exceed $100), the short terms of many tenancies, and the administrative costs, the imposition of a statutory obligation on the landlord to pay interest on the bond money to the tenant is not warranted. The Commission is of the view that this should be left to the agreement of the parties.

The Government bases its view on the recommendation of the Law Reform Commission in 1975. Since 1975, there has been a considerable change, not only in the amount of bond money required. I doubt whether one would find many landlords who were prepared to accept an amount as low as $100 as bond money. In 1975, the Law Reform Commission said that very few people would pay bond money in the vicinity of $100. In addition, the interest payable in 1975 would have been at the rate of about 6 per cent or 6½ per cent, whereas in 1980 it would be about double that figure. There has been a complete change.

Now I come to the reports of the Senior Referee of the Small Claims Tribunal. The first report is the one of 1977, two years after the Law Reform Commission made the recommendation on which the Government bases its view. In part, this is what the senior referee had to say—

> I must say, as in 1976, the least trouble in tenancy bond cases is where the agent is a member of the Real Estate Institute. Interest is always paid on bond money where one of these gentlemen is the agent, whereas in other cases, only a fraction of landlords ever credit the tenant with interest. My thanks are again due to the Institute's management for its willing co-operation with the Tribunal.
>
> There are some cases which come before the Tribunal in which we suspect, that, monies paid by way of bond are put by landlords into their own accounts and interest obtained thereon and not paid to the tenants.
>
> In one case, it was admitted by a landlord that he had received interest on the bond money and had not credited the tenant with it.
>
> In another, it was admitted by the landlord that he paid the bond money into his Building Society Account and this helped him to pay off his mortgage on the subject premises.
>
> In other cases, the landlord is hesitant as to what he did with the money and just the other day, one said he could not remember.
>
> In these cases, it is a fair assumption that, it was never intended to return the bond to the claimants.

I will not quote any more of that. However, I will emphasise this point—

> Interest is always paid on bond money where one of these gentlemen is the agent, whereas in other cases, only a fraction of landlords ever credit the tenant with interest.

In that case, the senior referee is talking about an agent who is a member of the Real Estate Institute. A little further on, the senior referee said—

> As I said, there are few landlords, however, who are crediting the tenants with interest on their bonds. The question I ask

myself is "If the Real Estate Institute insists on interest being paid, why cannot others do the same?" All sorts of excuses are offered and many say they will not pay interest unless forced by law. It is respectfully suggested that the time has now arrived when consideration should be given to compelling landlords to credit tenants with interest on their bonds.

In many instances, claimants are in fairly poor circumstances and need their bond money to secure other premises. After wrangling for some weeks in unsuccessful attempts to get their money back, they have to make a claim before the Tribunal. This means that a successful tenant will not get his money back for some considerable time. Interest should, therefore, be payable up to the time the money is repaid.

Those were the comments of the senior referee, magistrate A. G. Smith, in his report for 30 June 1977.

Magistrate Smith has been very consistent in his comments on this matter, but the Government has taken no action. I have a duty to the many people involved with paying bonds to raise this matter in Parliament and to support the senior referee's comments. I shall quote from his 1978 report as follows—

Except with members of the Institute and some other agents, it is seldom that interest is ever credited. In most cases, the landlord merely pays the bond money into his current account and has the use of it for the whole period of the tenancy, whereas it could have been earning interest. I feel certain that many landlords will never credit or pay interest unless compelled by law. The payment of interest works both ways because if there is a bad tenant and breaches of the tenancy agreement occur, interest helps to pay for any damage.

His reports can be found in the annual reports of the Department of Labour and Industry. I have not seen the report for 1980, but his 1979 report contained the following comments—

I repeat comments made in my 1978 Report on this matter. Not only do some landlords have the benefit of the claimants' bond money for the whole period of the tenancy but at the expiration thereof, arguments and vituperation persist for many weeks after and finally the dispute comes before the Tribunal. Interest, therefore, should be payable right up to the date on which the Tribunal orders the money to be repaid. Right up to that date, the landlord has either been drawing interest, himself or making use of the capital. The money has only been paid to the landlord by way of security and as the Real Estate Institute strongly points out, it is the tenant's money subject to legitimate deductions.

I have lately been coming to the conclusion that it would be far better for some independent body or stakeholder to hold the money.

As I have previously indicated, except where the Real Estate Institute is involved and in other rare cases, it is seldom that interest is credited at all.

Magistrate Smith's comments are a good argument for some action to be taken. It has been a long time since the Law Reform Commission made its decision in 1975 that it was not necessary or not warranted to take any action. Magistrate Smith has persistently recommended that interest on bond moneys should be repaid.

I have taken up the case on behalf of those people who are required to pay bond money. This no longer is a small matter. The interest on bond money now must be quite considerable. What does a landlord do with the money? He has to put it somewhere; he cannot leave it lying around in his office. Interest is being earned on that bond money which is not really his to keep. The interest is money belonging to the tenant.

The cost of damage to any premises could be taken from that interest. It is to the credit of the Real Estate Institute that in all cases it ensures that interest is paid to the tenant. If it is good enough for the institute to have this done it is good enough for all landlords to do the same. It is the fair thing to do.

While this may be only a small matter when compared with other things that come before the Parliament, I believe it to be a very important matter just the same. Someone has to take the bit between his teeth. I hope that some time during the next session of Parliament the Government will review this matter and bring forward legislation. If it does not do this, in the final year of this current Parliament I will introduce a private member's Bill. The Government, as big as it is and as involved as it is with many matters, should still be concerned with problems such as this confronting the community. I feel quite strongly about it and as I have indicated, I am prepared to introduce a private member's Bill.

The next matter on which I wish to speak relates to a visit to my office by a person associated with a group calling itself the State

Energy Commission Action Group. Its representative brought to me a document, a copy of which it had supplied to the Minister for Fuel and Energy, and which contained proposals for a rebate system. I had a long discussion with the young lady who called on me.

The Hon. P. H. Wells: It is always nice to have a young lady bring these deputations.

The Hon. F. E. McKENZIE: That is very true. She was a sensible young lady and she struck a note of accord with me which made me feel sympathetic towards her cause.

As members realise, I represent a province in which there are many people who are below the poverty line.

The Hon. P. H. Wells: Like some of my areas.

The Hon. F. E. McKENZIE: I do not know whether members of the group have visited the Hon. Peter Wells; I imagine they would have visited other members of Parliament besides myself.

They have drawn up three recommendations which I shall quote as follows—

1. ELIGIBILITY
   That all low income earners be eligible for the rebate, low income earner being defined as those families whose income is below the poverty line.
2. REBATE
   That the consumer's total electricity account (including fixed charge) be reduced by 20 per cent.
3. That the consumer's total gas account (including fixed charge) be reduced by 25 per cent.

I indicated that at the appropriate time I would raise this matter in Parliament. I do not know what decision, if any, the Minister has made; I have not heard that he has agreed to the proposals. Consequently I am bringing this matter before Parliament now. The following reasons were given in support of a rebate—

> Welfare organizations and the Charitable Trusts are feeling the pressure as more and more people are presented with large energy accounts and needing food parcels and monetary assistance.
>
> The S.E.C. Action Group believes that the S.E.C. and the State Government should work together to alleviate the distress low income earners are suffering through a wider rebate system.
>
> Too few people receive the current rebate either because of non-eligibility or too high an electricity consumption rate.

I hope members will take note of that, because an increasing number of people in the community are falling into this category. More and more people are falling below the poverty line as a result of the downturn in the economy and the policies of the Government. That matter ought to be of concern to everyone who has a responsibility to the electors of Western Australia. Under the heading, "Introduction" the following points are made—

> As workers in the field of Welfare we are seeing people daily, who are unable to afford the cost of gas and electricity. These include working people on very low wages, aged and invalid pensioners, widows, supporting parents and individuals and families dependent upon Unemployment and Sickness Benefits. It is clear that energy charges are increasing proportionately at a greater rate than are the incomes these people receive. For example, Social Security pensions increased by 5 per cent on May 1st 1980. On the same day gas and electricity charges rose by 24 per cent and 18 per cent respectively. One social worker saw a family of five where 10 per cent of their invalid pension income went on energy. The family's high consumption was caused by having to care for an invalid which involved extra washing and heating.

The people in those circumstances have nowhere to turn. They are not granted additional compensation, because their cases fall into a special category; therefore, they do not receive a rebate on their electricity and gas accounts.

The Hon. P. H. Wells: That was the glory of the solid fuel burner. You could burn rubbish and obtain heat.

The Hon. F. E. McKENZIE: I suppose these people could do that and they could also scrounge around for some wood. A number of these people end up in SHC homes, because they cannot afford to go anywhere else. At least there is an opportunity for them to qualify for a rebated rental in an SHC home.

The Hon. P. H. Wells: There is also the fallacy of using electricity for heat. Solid fuel burners are cheaper.

The Hon. F. E. McKENZIE: One may obtain accommodation at a rebated rental rate from the SHC, if one can justify one's case. However, people in SHC accommodation are forced to use gas or electricity, because wood burners are not installed. In fact, wood-burning stoves and fireplaces have been removed and they are no longer replaced. However, I do not want to get involved in that argument.

I made the point, these people may be able to obtain assistance from the SHC in the form of accommodation at a lower rate of rental than is normally charged; but they do not receive a rebate on their SEC accounts. Pensioners may receive a small rebate, but such a small amount of electricity and gas may be used to qualify, that few people can take advantage of that, especially in the winter.

I should like to quote further from this document so that members are aware of the situation in respect of people who have to live below the poverty line. To continue—

> For example, Wesley Central Mission has experienced a 33 per cent increase in demand and St. Vincent de Paul 50 per cent. Many organizations are now reluctant to give a food parcel to a family more than once, and it is common for welfare workers to spend hours organizing food parcels for a family who has paid out an S.E.C. account and has no more money for food.

I shall turn now to the situation which applies in regard to the SEC. On page 3 of the document the following statement appears—

> According to figures supplied to the group between 1978 and 1979 the number of disconnections increased eightfold. Some people endure considerable hardship and go without electricity and gas for long periods. They have cold showers (despite the season) use candles and portable gas cookers, with increased accident and fire risk.
>
> If people approach a welfare organization for help, an application for assistance can be made to one of the two main charitable Trusts in Perth—The Wearne Trust and the Distressed Person's Relief Trust. Again, because of increase in demand on their funds, money is becoming more difficult to obtain from these sources.

The Hon. Mr Wells is probably thinking about The Salvation Army and I know that organisation does an excellent job, but I am not too sure of its position when it comes to paying people's electricity accounts. I have no doubt, in special circumstances, The Salvation Army would provide help also; but it is impossible to list every charitable organisation involved. I do not intend to exclude The Salvation Army, because I am aware of the good work it does. To continue—

> Between January and April 1980 the Distressed Person's Relief Trust paid out 57 electricity accounts. Total amount of these accounts is getting larger and thus causing a greater drain on Distressed Person's resources.
>
> The policy of once only help is stringently applied and only the most extreme cases of hardship can be assisted. It now takes up to 4 weeks to get an appointment with the Distressed Person's Relief Trust. It used to take one.

I shall turn now to the effects of the new increases in relation to which the following statement is made—

> It is our experience, as well as that of others working in welfare agencies, particularly where emergency relief is provided, that many pensioners and those on low income have difficulty in paying their energy bills under the current rate. To increase this by 18 per cent for electricity and 24 per cent for gas only serves to exacerbate an already intolerable situation for these people.

There is an appendix attached to this document, but I will not detail it, because of the time factor. To continue—

> As Appendix 1 indicates Western Australia has the highest energy charges of all States. With the increases the differential shifts the proportion even higher. Thus West Australian pensioners on a federal scale (Social Security) are penalized more than those of other States. If, for example, the South Australian scale is applied, West Australians using 4 800 units over a 12 month period pay $100.00 more than those across the border.

I do not want to take the matter much further, but I should like to quote briefly from the appendix as follows—

> State comparisons of domestic electricity costs; based on consumption of 1 200 units per quarter, totalling 4 800 units per year. The following figures include, all charges, levies on tax that make up the total bill.

ACT	$128.88
South Australia	$161.96
New South Wales	$163.28
Tasmania	$183.52
Queensland	$193.56
Victoria	$206.96
Western Australia	$252.00

Those figures were calculated in the seventh month of 1979. However, after the current increases—by that I mean the increases which were levied last May—the figure for Western Australia jumped to $297 per annum.

In 1974 the average annual bill was $115.20, and today it is $297; that is an increase of $181.

It can be seen people in Western Australia are paying far more for their electricity than people in any other State of Australia. The people most affected by this are those living below the poverty line and it is incumbent on this Government to do something to assist them by providing an equitable rebate system.

We have the most expensive electricity in Australia and the only way we can provide assistance to these people is for the Government to take action. I am not saying other people do not need assistance, but a case can be made out for those who exist below the poverty line.

With those few words, I indicate my support for the motion.

Debate adjourned, on motion by the Hon. P. H. Wells.

House adjourned at 6.00 p.m.

QUESTIONS ON NOTICE

FIREARMS AMENDMENT BILL

Weapons and Persons Involved

337. The Hon. H. W. OLNEY, to the Minister representing the Minister for Police and Traffic:

(1) What are the names of the persons to whom licences have been issued in respect of the 168 firearms referred to in the Minister's second reading speech on the Firearms Amendment Bill?

(2) When were those licences first issued?

(3) Does the Police Force or any other Government agency have, or have access to, any firearms of the type referred to in the Minister's speech?

(4) If so—

(a) what types of firearms are they;

(b) are they automatic, semi-automatic, or otherwise;

(c) when were they first acquired or available; and

(d) for what purpose are they used?

The Hon. G. E. MASTERS replied:

The Minister for Police and Traffic advises as follows—

(1) and (2) Without the consent of the licence holders, I am not prepared to disclose the names or dates of issue for general publication.

(3) Yes.

(4) (a) to (d) The Agriculture Protection Board has two 7.62mm SLR rifles on a corporate licence for the destruction of feral donkeys in the north-west.

The disclosure of firearms held by the Police Force is not in the best interests of law enforcement.

ROADS

Guildford Road-Morley Drive Link

358. The Hon. F. E. McKENZIE, to the Minister representing the Minister for Transport:

When will construction of the new road linking Guildford Road and Morley Drive, through Bayswater, be commenced?

The Hon. D. J. WORDSWORTH replied:

No commencing date has yet been determined. The Main Roads Department has written to council proposing early discussions with a view to agreeing on details of the route and a possible construction timetable.

STATE SHIPPING SERVICE

MV "Kimberley"

359. The Hon. D. K. DANS, to the Minister representing the Minister for Transport:

(1) Is the State Shipping Service satisfied with the performance of the MV *Kimberley* in the Fremantle to Darwin trade?

(2) Is it a fact that the MV *Kimberley* has made only one trip to the north-west ports and to Darwin?

(3) Is the Minister aware that, apart from that one trip to the north-west ports and to Darwin, the MV *Kimberley* has been engaged on the Fremantle-Eastern States trade?

(4) Was the suitability of MV *Kimberley* for the Fremantle-Darwin trade determined on her performance on that one single voyage?

(5) What is the axle load capacity of her roll-on-roll-off loading ramp?

(6) Will the Minister provide the financial details of the terms of the charter to the House for the two proposed new State Shipping Service vessels?

The Hon. D. J. WORDSWORTH replied:

(1) Yes.

(2) Yes.

(3) Yes.

(4) No. Many other feasibility factors and criteria were considered.

(5) Permissible uniform load is 3.4 tonnes per square metre. Permissible axle load is 18 tonnes per axle on air tyres with a maximum air pressure of 9.5 KP per square centimetre.

(6) Yes. When final details currently under negotiation between State Shipping Service and the owners are finalised in the immediate future.

POLICE

Drug Squad

360. The Hon. H. W. OLNEY, to the Minister representing the Minister for Police and Traffic:

(1) In each of the calendar years 1978, 1979, and 1980, how many prosecutions have been instituted by members of the drug squad?

(2) On how many occasions in each year did the prosecution accept a plea of guilty to a less serious charge in lieu of the offence originally charged?

The Hon. G. E. MASTERS replied:

The Minister for Police and Traffic advises as follows—

(1) 1 July 1977-30 June 1978 959
1 July 1978-30 June 1979 576
1 July 1979-30 June 1980 665

(2) Not known.

HOSPITAL

Fremantle: New Wing

361. The Hon. D. K. DANS, to the Minister representing the Minister for Health:

(1) What is the expected completion date for the new wing presently under construction at the Fremantle Hospital?

(2) How many extra beds will be provided?

(3) When does the Government intend to commence construction on the new Lakes hospital?

The Hon. D. J. WORDSWORTH replied:

(1) The expected completion date is currently 4 March 1981.

(2) 186 beds will be provided in the new wing. Compensating closure of substandard beds is envisaged.

(3) The question of the construction of a hospital on the Lakes hospital site at Murdoch is being investigated by Mr C. M. Campbell, a hospital consultant, who has been commissioned by the Minister for Health to investigate the needs of the Perth metropolitan area in respect of hospital beds.
Because this whole question is of a complex nature requiring much research, it is likely to be some time yet before a firm recommendation is made in regard to the Lakes hospital.

POLICE

East Perth Lockup: Prisons Act

362. The Hon. H. W. OLNEY, to the Minister representing the Chief Secretary:

(1) Is the East Perth lockup a prison within the meaning of that term in the Prisons Act?

(2) Are persons held in custody at the East Perth lockup subject to the provisions of the Prisons Act and Regulations?

(3) Are the officers in charge of the East Perth lockup required to observe the provisions of the Prisons Act and regulations in respect of persons held in custody in the lockup?

The Hon. G. E. MASTERS replied:

The Minister for Police and Traffic advises as follows—

(1) Yes—gazetted police gaol.

(2) Only those to whom the regulations apply.

(3) Answered by (2).

363. *This question was postponed.*

POLICE

East Perth Lockup: Fumigation

364. The Hon. H. W. OLNEY, to the Minister representing the Chief Secretary:

(1) Has the East Perth lockup recently been fumigated?

(2) If "Yes"—

(a) why was it necessary to do so; and

(b) was this action taken following Press reports of, or a claim by, a person on trial in the District Court that she had seen rats in the lockup whilst in custody there during her trial?

(3) Was any investigation made of—

(a) the complaint made by the lady in question; and

(b) the conditions prevailing at the lockup?

(4) If "Yes", what did such investigations reveal?

(5) Have any steps been taken to improve conditions in the East Perth lockup?

The Hon. G. E. MASTERS replied:

The Minister for Police and Traffic advises as follows—

(1) Yes.

(2) (a) East Perth lockup was fumigated in July 1980. This matter is attended to as a matter of routine, on a quarterly basis, or as desired.

(b) No.

(3) (a) Yes.

(b) Yes.

(4) One nest outside the lockup which was treated immediately.

(5) Conditions in the lockup are considered satisfactory.

COURTS: BAIL

Legislation

365. The Hon. H. W. OLNEY, to the Attorney General:

(1) As the Government does not intend bringing in its proposed new law to deal with all aspects of bail until next year, will the Attorney General give urgent attention to introducing amending legislation as a temporary measure to prevent the recurrence of a case reported recently when an accused person was refused bail overnight during her trial notwithstanding that the prosecution did not object to bail being granted?

(2) Will the Minister also give attention to the need to legislate to ensure that all judges, magistrates, and other judicial officers give reasons for all decisions they make, including a decision to refuse bail?

The Hon. I. G. MEDCALF replied:

(1) Legislation already provides power to grant bail in the circumstances referred to. It is, and necessarily must remain, a matter for the discretion of the trial judge whether bail is granted in any particular case.

(2) The ordinary rules of the common law now provide for the giving of reasons in certain circumstances—usually where there is a right of appeal. There are other cases where it is recognised by the courts that reasons should not be given. No need is seen to alter the common law position by legislation in all cases. On the particular question of bail, this is a matter which is being considered in conjunction with the proposed new bail legislation.

COURTS

Judges and Magistrates: Promotion

366. The Hon. H. W. OLNEY, to the Attorney General:

(1) Which—

(a) Supreme Court judges;

(b) District Court judges; and

(c) stipendiary magistrates;

—if any—are due to reach their respective retiring ages, or are known to be contemplating retirement, between now and the end of 1981?

(2) Is the Minister aware of legislation existing in some other countries prohibiting the promotion of judges and magistrates from one level in the judicial hierarchy to a higher level?

(3) Is such legislation contemplated in this State?

The Hon. I. G. MEDCALF replied:

(1) (a) Mr Justice Lavan;

(b) nil;

(c) Mr R. Iddison.

(2) No.

(3) No.

ELECTORAL

Wilsmore Case: Determination

367. The Hon. H. W. OLNEY, to the Attorney General:

(1) What are the circumstances that warrant the Government's apparent anxiety for a speedy determination of the appeal in the Wilsmore case?

(2) What would be the practical effect of a further delay of even 12 months in obtaining a final determination of the case?

The Hon. I. G. MEDCALF replied:

(1) and (2) The Full Court decision invalidates a significant part and, possibly, the whole of the 1979 amendment to the Electoral Act. If any election, even a by-election, should have to be held before the matter is cleared up, there is likely to be confusion.
There is also the more general consideration that the decision gives rise to considerable doubt as to just what matters in the future will require an absolute majority for their proper enactment. Clearly, the sooner this doubt is removed the better.

COURT: DISTRICT

Judges: Removal from Roster

368. The Hon. H. W. OLNEY, to the Attorney General:

(1) Have the circumstances ever arisen that a District Court judge has been permanently taken off the roster of judges sitting in criminal sessions?

(2) If "Yes"—

(a) what judge or judges are or were involved;

(b) what is the reason for such action being taken;

(c) on whose authority was it taken; and

(d) was the Attorney General of the day consulted first?

The Hon. I. G. MEDCALF replied:

(1) Not as far as I am aware.

(2) (a) to (d) Not applicable.

QUESTION WITHOUT NOTICE

DAIRYING

Milk: Filled

110. The Hon. W. R. WITHERS, to the Minister representing the Minister for Agriculture:

(1) Will the Minister confirm that filled milk is not—

(a) being manufactured in WA, and

(b) is not sold in the Pilbara and Kimberley?

(2) In view of my observation that frozen milk delivered from Perth often has the fats at the bottom of the carton instead of at the top after thawing in the north, does this indicate that those heavy fats may not be butterfat?

The Hon. D. J. WORDSWORTH replied:

(1) (a) I am advised that filled milk is not being manufactured in Western Australia.

(b) As far as is known to the Department of Agriculture, filled milk is not being sold in the Pilbara and Kimberley.

(2) The technology of freezing and thawing milk is rather complex; and I am given to understand that on occasions some of the constituents break down, forming on the bottom of the carton a residue after thawing. This matter is currently under investigation by the Department of Agriculture.