

# Legislative Council

Tuesday, 24 August 1982

The PRESIDENT (the Hon. Clive Griffiths) took the Chair at 4.30 p.m., and read prayers.

## QUESTIONS

Questions were taken at this stage.

## NORTH-WEST

### *Government Neglect: Urgency Motion*

**THE PRESIDENT** (the Hon. Clive Griffiths): Honourable members, I have received the following letter from the Hon. Tom Stephens—

Dear Mr. President,

In accordance with the provisions of Standing Order 63, I advise you of my desire to move for the adjournment of the House on Tuesday, 24 August for the purpose of discussing the current Government's neglect of the north.

I will move: "That at its rising the House adjourn until 11.00 a.m. on Friday, August 27, 1982."

Yours sincerely,

**TOM STEPHENS,**

Member for North Province.

It is necessary for four members to rise in their places to signify their support of the motion.

Four members having risen in their places,

**THE HON. TOM STEPHENS** (North) [4.50 p.m.]: I move—

That the House at its rising adjourn until 27 August at 2.15 p.m.

Before I commence this, my first speech in the House—

The PRESIDENT: Order! The honourable member's motion as he gave it to me was different from that. I recommend that he move the one he gave me in writing.

The Hon. TOM STEPHENS: Maybe you will repeat the wording of that letter to me.

The PRESIDENT: "At its rising the House adjourn until 11 a.m. on Friday, August 27".

The Hon. TOM STEPHENS: I move—

That at its rising the House adjourn until 11.00 a.m. on Friday, August 27, 1982.

This might be an opportune time to say I waive the convention of the House in relation to the protection afforded to me in terms of interjections

from the floor, whether they be from the President's Chair or from elsewhere.

I express my sincere gratitude to the electors of North Province for the overwhelming trust and confidence they have shown in my candidature to represent them here in this place as the member for North Province. I assure the electors that the trust and confidence they have shown in me is not misplaced, and that I will continue to fight for the north with all the determination that I can muster. At the same time, I express my sincere appreciation of the welcoming kindness that has been extended to me by many members and staff of this Parliament.

I commence this, my first speech in this place, conscious of the fact that I have arrived in mid-term during what I trust will be the final months of the O'Connor Liberal Government. I was elected by the voters of North Province in what was a resounding defeat for the Government. The by-election was brought about because the sitting Liberal member (Bill Withers) resigned from this Parliament in disgust at his party's treatment of the north.

The North Province by-election provided the people of the north with an opportunity to protest about the treatment they have been receiving at the hands of the O'Connor and Fraser Governments. At the same time, the voters had an opportunity to opt for a new deal for the north, and that new deal has been offered to them by the Australian Labor Party.

The Liberal Government's neglect of the north is evidenced in many ways: The electoral gerrymander; the inaction of the Government on the cost of living; the high cost and shortage of housing; the failure to respond to the needs of small businesses; the neglect of northern defence needs; the high cost of Government services; the unfair tax rate; and the inadequate zone allowance. It is the neglect by the Government, and its disregard for the north, that have caused me to rise this evening and raise this matter as an urgency motion.

The Liberal Government of Western Australia has about seven months to do something about these problems. If the Government does not attend to the problems, it will be evicted from office and the Australian Labor Party will form the Government in Western Australia. It is our party—the State Australian Labor Party—that will meet the challenge of tackling these problems in a serious and systematic manner.

In relation to electoral issues, it was the tampering with the electoral boundaries of the north that was the latest act in the Government's

disregard for the north. It was that act which sparked the protest resignation of the sitting Liberal member. When the Liberal Government altered the boundaries between the lower House seats of Kimberley and Pilbara, the previous member for North Province described it graphically as "the worst gerrymander in the western world".

Never for a moment was there any other aim for this skulduggery than to ensure that the Liberal Party's chances of holding the Assembly seat of Pilbara were good. Because of one stroke of the Government's pen, suddenly whole townships throughout the Pilbara found themselves transferred into the electorate of Kimberley. That applied to places like Newman, Paraburdoo, Goldsworthy, and Shay Gap. All those were shunted out of the Liberal-held seat of Pilbara into the northern seat of Kimberley. There was no community of interest other than their propensity to vote for the Australian Labor Party.

Many people who are unfamiliar with the region, and no doubt many of the colleagues of the previous member for North Province, may well ask what all the fuss was about. I understand that many members opposite, as well as members of the Press Gallery, were asking what the fuss was all about. It was a source of considerable pleasure to me to take my colleagues and members of the Press Gallery through the North Province and explain to them the gross nature of the Government's shenanigans in the north. It takes only a few minutes in the north to realise the seriousness of the electoral redistribution. Not only will that redistribution cause enormous hardship to the member for Kimberley, but also, and more importantly, it will disadvantage the people in the Kimberley electorate because of the situation in which they will find themselves.

Clearly, the boundary alteration was a gerrymander. It has been viewed clearly in that manner in the electorate. It was viewed as a political stunt which was not to be tolerated, and certainly not by the electorate. It was viewed in that way by even the Liberal Party's branches in the north.

We on this side of the House have heard of the shock and horror of the many Liberal Party members of Parliament who went north, trekking through in their efforts to hold the seat, only to be told by their local branches that the northern members would not work for them and that, in fact, their visits were not welcome.

The final jolt for the Liberal Party was on the evening of the poll when the results came cascading into the chief polling place with a vote of 65 per cent for the Australian Labor Party in the

North Province. To compound the injury, on that night, the principal beneficiary of the shabby political stunt that had been involved in the redistribution between Kimberley and Pilbara—the Liberal member for Pilbara—announced that he was resigning. I would not blame him. No-one on this side of the House would blame him. One has to look only at the figures that came cascading into the office on that occasion to know that. We won every box in the new seat of Pilbara. Every box from Cooke Point to Onslow, Karratha, and Wickham was in our favour.

What has gone wrong with the Liberal Party and the Liberal Government of Western Australia? Let us cast our minds over the events.

The Government announced its intention to alter the boundary a considerable time ago. After a long fight with his own colleagues, the previous member for North Province finally announced that he would resign in protest as he was no longer able to represent adequately the interests of his electorate in a situation in which his party clearly was neglecting his views and the needs of his electorate.

Meanwhile, we, the Australian Labor Party, had challenged the electoral redistribution in the courts. Therefore, the previous member for North Province decided to hold off in the hope that we could achieve through court action what he was unable to achieve through lobbying in his own party. However, our court action was unsuccessful, and finally he announced his resignation date as 22 May 1982. Finally we were to have a by-election for North Province.

The Premier gave an assurance to the Parliament that the rolls for the by-election would not be closed hastily; so the northern newspapers carried stories about the coming by-election, and urged the voters of North Province to take the opportunity to be placed on the electoral roll. The Australian Labor Party, which had urged the Government to address itself seriously to the question of non-enrolment in the north, recognised the fact that something like 22 000 people, who should have been on the rolls of North Province, were not, in fact, on those rolls.

The absence of these names from the roll was a direct result of the Government's own electoral amendments that made it so difficult for people in remote areas to enrol. Our party urged the Government to use the provisions of the Electoral Act for an electoral census to provide full enrolment in North Province. But our calls were ignored. Then we made an appeal to the Liberal Party to join with us in a combined approach to electoral enrolment in the north but, of course,

our call was ignored. So it was left to us to undertake the enrolment drive for North Province.

Very quickly between 22 April and late May the enrolment cards started to rain down from the north. Hundreds of people took the opportunity to get on the roll in order to ensure they could cast a vote in the coming by-election. By about 21 May about 1 200 cards were lying on the desks in the Electoral Department awaiting the expiry of the statutory 14-day period during which these cards must be available for inspection and possible objection.

It came as no surprise to me that the Liberal Party machine started to panic. The resignation arrived from out of the blue. I am sure it was dated and effective on 22 May, but it was received one day earlier. There is no doubt that—almost too overjoyed for words—the Liberal Party recipients of this resignation quickly advised their political mentors and bosses that luck was on their side.

At this time the Premier was overseas and the record of events becomes blurred, and depends on which record members like to believe. Some two months later, in an interview on radio 6KA, the Premier said he had not been consulted. However, on 29 May the *Weekend News* quoted him as saying that when the writ was to be issued he had caused his words in *Hansard* to be checked and there would be no Government row over the matter.

Presumably the Premier was happy with the premature issuing of the writ, which was in breach of his own assurance to the Parliament, in breach of all sense of fair play and, more importantly, in breach of the Electoral Act, in spirit if not in letter. The only thing that had happened between 22 April and 21 May was that a considerable number of voters had decided to take the opportunity to get on the electoral roll. They wanted to cast their vote of judgment on the very matters that were now being canvassed in the lead up to the North Province by-election. These matters were the very ones that had caused the previous member for North Province to resign. It does not really matter which version of the events members accept as to whether the Premier was consulted about the issuing of the writs; nonetheless, the writs were issued. The end result of the speedy issuing of writs was to disfranchise about 1 000 voters who had gone to the trouble of completing their electoral cards.

On 31 July the electors cast their vote in such a way as to deliver a short, sharp vote of protest against the Liberal Party of WA. Those shenanigans were not to be tolerated by the electorate. It

probably is never too late to learn, even for the Liberal Party. The North Province by-election probably is a matter that should be viewed with urgency and something on which the Liberal Party and the Government should dwell and learn some lessons. The electorate will not tolerate blatant tampering with the electoral system. The electorate is demanding a fair and democratic system, and these moves to democratise the system are long overdue. Apart from anything else, such views are in the long-term interests of the Liberal Party.

The Liberal Party of South Australia under Steele Hall saw the writing on the wall and agreed to democratise that State's electoral system. This applies also to the Liberal Party of New South Wales. Presumably soon the Liberal Party of Victoria will learn the lesson and be compelled to agree by the logic of the argument.

Quite soon the voice of Liberal Party members in Western Australia will be demanding what the great mass of voters in the electorate are wanting and what members of the Liberal Party branches are wanting; that is, an end to the tricks and shams of the past and the introduction of a democratic system that serves the electorate as a whole and not the narrow sectional interests of segments of political parties.

The Liberal rank and file of the north have become horrified by the representatives of their own party who do not represent the interests of their own region, yet who currently hold the gerrymandered seats in the north. The rank and file are growing disgusted that through the inequities of the electoral system some sections of the Liberal Party are gaining a stranglehold on the pre-selection process and more and more Liberal Party members are coming to this place out of touch with the broad philosophy of the Liberal Party let alone the much broader needs and aspirations of the wider Western Australian community.

I urge members opposite to dwell on the lessons of North Province. The time will come when the individuals opposite in this Chamber will have the opportunity to vote with us for democratic electoral reform. At that time I hope members opposite will see to it that diligence and alertness are shown by members opposite voting with us for the democratic reform of the electoral system. We hope that will include the whole basis of democracy: The principle of one-person-one-vote-one-value.

I am reminded of an incident involving a Liberal member in another place when that member had fallen asleep in his seat. A division had been called and he remained in his seat. He finally

awoke to find himself surrounded by members of the Labor Party. When he asked them what he was voting for, he was told that he was voting for democracy.

#### *Point of Order*

The Hon. N. E. BAXTER: Mr President, I rise under Standing Order No. 88, which provides that the debate should be confined to the question before the House, which is an urgency motion dealing with the neglect by the Government of the north of the State. I ask for your ruling about whether the member is discussing the matter before the House.

The PRESIDENT: I take note of the honourable member's point of order but at this time I am prepared to allow the member for North Province to proceed. I do agree that he is going perilously close to contravening that Standing Order. I suggest he direct his comments more directly to the motion.

#### *Debate (on motion) Resumed*

The Hon. TOM STEPHENS: It comes as no surprise to me that the neglect of the north as it relates to this electoral issue should be a matter of sensitivity to members opposite.

Opposition members: Hear, hear!

The Hon. N. E. Baxter: What about telling us what the Government has done for the north over all these years.

The Hon. Peter Dowding: Don't be such an apologist.

The PRESIDENT: Order!

The Hon. TOM STEPHENS: The gerrymander has been only the most recent example of a whole list of attempts by the current Government to stay in office by fair means or foul. No other Government in WA's history has changed or manipulated the State's Constitution, the Electoral Districts Act, and the Electoral Act in such desperate endeavours to retain office. Three times the Constitution has been changed; twice the Electoral Districts Act has been changed; three times the Electoral Act has been changed. All these attempts have been efforts to cement this Government in power in the face of declining popularity. We have seen these manouvres as part of a shameful scheme to distort the Western Australian electoral system to retain power for the Liberal Government. The Government has been prepared to steal the vote from various categories of Western Australian people.

The electoral amendments of 1979 have made it increasingly difficult for people in this State to

become enrolled for the purpose of voting in State elections. This has become no more apparent than in North Province. Section 42 of the Electoral Act prescribes that a justice of the peace, a police officer, a clerk of the courts, or an electoral officer must sign a claim card filled in by anyone who seeks to be put on the electoral roll for the first time. That provision was quite deliberately and knowingly put into the Act in such a way as to inhibit whole sections of the Western Australian population from being able to cast a vote. In the more sparsely populated electorates of this State the number of voters has been declining in some areas and they are certainly not experiencing anything like full enrolment. With the movement of population in the remote seats we now have the situation where there is the possibility that those seats will fall into our hands. The workers, the ethnic groups, young people, and Aboriginal people have been endeavouring to get on the roll but are finding it increasingly difficult to do so.

The electoral amendments have been a case of overkill. The end result has been that in the order of 45 000 Western Australians are not on the State's electoral rolls, although they are on the Commonwealth rolls, and the gap is getting wider. In North Province the census reveals that something like 44 000 people should be on the roll. However, when the roll closed on 7 May only 22 000 people were registered despite the Act stipulating that people be on the roll. The Government, the custodian of the Act, has ensured that the people have been prevented from being able to enrol effectively. The situation has now developed where about 12 000 voters are not on the new roll for Kimberley. Some 24 000 eligible voters are in the area.

Western Australians deserve an electoral system under which all members of the community have votes of equal value irrespective of where they reside, who they are, and how they derive their livelihood. I come here as a member for North Province and I indicate to members opposite that people in the remote seats of the north are saying that the electorate no longer will tolerate a system based on anything other than equal votes for all Western Australians.

Another area of Government neglect of the north which is of concern to people in my province is the high cost of living. The people of the north are still being subjected to the burden of exorbitantly high costs. Food prices throughout the north are substantially higher than prices in Perth. The differences range from 38 per cent in Kununurra and Marble Bar to 11 per cent in Broome. Prices in Karratha are 17 per cent higher

and in Port Hedland they are 15 per cent higher. Significantly, under years of Liberal Governments, the food prices gap is widening.

The north needs a prices commissioner, not just to monitor the prices and to expose rip-offs to consumers, but also to do something positive about the problems. The price spiral in the north must be checked. The Australian Labor Party believes a prices commissioner must be appointed, and it will do that when it becomes the Government. Members of the ALP will ensure as a first step that regular price surveys are conducted in the north. Where it becomes apparent that justification for inflated prices is necessary, justification will be sought.

The commissioner, supported by a Parliamentary committee, will be equipped with the power to ensure an end to the unrealistic price structure in the north. The north district needs legislation that will reduce the wholesale price of petrol, and at the same time a guarantee that the savings are passed on to the consumers. The Labor Party will introduce such legislation as one of the first priorities of the ongoing Labor administration in Western Australia. The impact of this move on the towns of the north will be quite dramatic with the price of petrol dropping by about 12c to 13c a gallon.

Another issue in the north is the question of air fares. The north desperately needs the introduction of competitors in the air transport field so that the stranglehold that the existing operator has on the air services operating in the north is smashed. Competition will ensure a better service and reduced air fares.

The Port Hedland to Bali air service has been a welcome initiative, but the success of that scheme has been jeopardised by very tardy action on the part of the Government. The Government took so long to notify the operators that the service could be introduced that they were unable to promote it to ensure the patronage that would make it initially a viable operation.

A direct service between the Pilbara and the Eastern States is another initiative that should be promoted by this Government. One of the fundamental weaknesses in the State Government's case for the abandonment or liberalisation of the nation's two-airline policy is that in Western Australia the same Government has strongly resisted moves for competition on internal routes. The Government must allow competition within Western Australia, firstly, to serve the interests of the passengers rather than the interests of the airlines. Secondly, it should ensure that such competition does not lead to a deterioration in services.

The operation that is in existence now is carried out by an airline that is reputed to be the most profitable regional airline in the world.

Housing is an issue of desperate concern in the north, a matter of considerable urgency. There is desperate need for State housing accommodation throughout the north. Building and maintenance programmes have been allowed to lag behind as the commission apparently is starved of the resources to have houses built, maintained, or repaired. Inordinate delays occur in the period required for SHC houses to be made ready for new occupants and this causes concern. The State Housing Commission has failed to prepare itself for the range of housing so desperately needed in the north.

In addition, Government housing is of a low standard and that situation has meant a very high turnover in Government employees. This is particularly obvious compared with the turnover of employees whose housing needs are met more adequately.

It is a source of discontent amongst the teaching population in particular that people are allocated such substandard accommodation facilities. The end result is that we now have turnover rates for teachers of about 50 per cent per annum, and this is a source of concern for the electors who see no stabilisation of the teaching force in the north, especially now there is a stabilisation of the resident population, such as company employees and other long-term residents.

Another angle of this housing issue has been current Government policy resulting in higher home loan interest rates.

The Government must also address itself to a realistic reappraisal of such matters as the giving of preference to country builders tendering for Government contracts. The current policy of a five per cent preference is based on contracts of a value up to only \$50 000, and this is despite the fact that the Western Australian average value of a nonresidential building outside Perth is about \$99 000—and presumably, the value of most Government contracts are in excess of that. The end result is that the preference to country builders is inadequate and the policy is in desperate need of reappraisal. Realistic incentives in that area are essential to ensure that local economies no longer are hindered and that rural decentralisation and regional development continue.

Small business in many ways holds the key to economic diversification in the north and the provision of a broader range of employment opportunities. Small business in the north needs support because of its contributions to the economy of the

north, especially in terms of employment and development. Housing problems for employees are one of the key issues for small businesses in the north and for many other people as well.

The Western Australian Government needs to be urgently commanded to address itself to defence. We urge the Government to appoint a Minister with direct responsibility to liaise with Canberra on defence matters. This Minister would pay particular attention to the defence needs of the north, and priority would be given to putting an end to the policy of ignoring the paucity of our northern defence facilities.

The patrol boat base is still necessary and yet, despite the electoral promises in the successive campaigns of the Liberal Party before the elections of 1975, 1977 and 1980, and of course, even during the North Province by-election of 1982, the patrol boat base seems no closer to construction. In the current Budget it has been dropped down on the priorities list yet again. Even in 1980-81, \$250 000 was allocated for the purchase of necessary land for the base in Port Hedland, but nothing has happened other than the return of those funds to Treasury and the failure to include the item in successive Budgets.

At least in the current Federal Budget the long-promised Derby air base has been included, but that is only for the commencement of the programme this year as part of what the Government calls euphemistically, a "rolling construction programme". We have seen the programme roll and roll and roll again, until it has eventually rolled off the end of the programme, and even if we get the Derby air base now—it would be completed in about 1989, if one is to believe the Government's own estimates—even then it will be only a bare base with no aircraft. The Liberal Government has grandstanded about defence yet there has never been any substance to its rhetoric. This State with one-third of the land mass of the continent has allocated to it something like three per cent of the Federal defence budget.

There is a most urgent need for funds to be allocated to provide better roads and communication services in the north and the current Government has failed to put the pressure on to ensure that that comes about.

The latest Federal Budget has given Western Australia a golden opportunity to establish a priority road system in the north-west of the State. I am a strong advocate of a defence priority that includes spending for roads. The bicentennial road development programme mentioned in the Federal Budget will give the nation a major road net-

work which could be used to transport our armed services to the isolated areas of the north.

It is my hope that not only the people of the north but also people throughout Australia, and in Western Australia in particular, will demand that funds be spent in that way. We have been abjectly neglected in the past by successive Liberal Governments and we urgently need funds for a dramatic upgrading of the roads in North Province.

It is also important to draw the attention of the Chamber to the very inequitable and iniquitous 1c levy that is now being applied to fuel. This levy will disadvantage the people of the north in a very serious way. If the Government cannot be encouraged to address itself to the fact that people of the north are more dependent than others in the State on fuel through their needs for freight and transport, and that such levies therefore become very unfairly shouldered by the people of remote parts of Australia, at least the Government should be encouraged to address itself to having the roads in the north-west repaired.

The most severely disadvantaged people of the north in fact are the original inhabitants; that is, the Aboriginal people. They are indeed doubly disadvantaged by being both Aboriginal and residents of the north. The current Liberal Government's approach to them is "out of sight, out of mind".

The Government has failed to follow the lead of the Federal Liberal Government and the Governments of South Australia and the Northern Territory in recognising Aboriginal land rights. The Government has treated this issue insensitively. It has portrayed the Government's ignorance of the relationship between Aboriginal people and the land, a relationship that is based on a deep, full, spiritual attachment to that land and not merely an economic one, in the sense of cash economics.

There is a desperate need for the end of the 19th century paternalistic policies of the current Government in relation to the Aboriginal people. The Government must recognise the claims of Aboriginal people and negotiate with those people in such a way as to meet their needs and satisfy their aspirations. Negotiations can be settled with justice, honesty, and common sense. A desperate need exists for a fresh approach to Aboriginal affairs in this State.

We cannot overlook the desperate situation in which Aboriginal people find themselves with the highest rate of infant mortality and leprosy in the world; with the rampant spread of trachoma; with education needs that simply are not being met; and, of course, chronic housing problems. The

situation must not be that Aboriginal people have to endure months and months of waiting for housing as happens under the present Government. They await the arrival of a more sensitive, compassionate and understanding Government in Western Australia.

Regional development and administration in Western Australia is one of the Australian Labor Party's commitments. We are committed to give it a high priority and the backup of an upgraded regional administration system, which would ensure a greater emphasis on increasing local and regional decision-making. The advisory nature of local regional bodies should become real local decision-making. We must ensure that there is a decentralisation of the decision-making powers from Perth to the regions of this State so that this vast State of ours can be governed in such a way that we look after the needs of all Western Australians and not simply the city-based people of Perth.

Tourism needs in the north have been ignored by successive Liberal Governments and the situation has never been properly evaluated or explored. It remains an area that could be of considerable use and benefit to the State's welfare in a very real way. This area can be explored.

These economic questions must be addressed by the Government realistically; the Government should drop its 19th century line and its liking for Keynesian economic theories—the comfortable furniture of the mind that never allows questions to be asked about restructuring tax scales, and alleviating the tax load of the average wage earner of the north.

We have seen the current economic policies of both State and Federal Governments ensure spiralling home loan interest rates, and that must be prevented. Those rates must be reduced. Then, in turn, we must ensure that selected parts of the economy are reflat; for example, the housing sector should be reflat. The housing and construction industry could then boost demand and reduce unemployment. There is an unhealthy competition between banks and building societies in regard to funds, and this must be stopped. The factors that have caused the high interest rates in this State and nation should be seriously reconsidered.

We must address ourselves to the problem of cash management funds in such a way that we have a more settled policy that can be quickly applied to our changing economic climate.

Statutory reserve deposits and interest rates on home loans must be reduced in order that it will assist efforts to stimulate the building industry and the economy in general. Urgent steps must be

taken by the Government in all these fields to benefit not only the people in the north but also the whole State.

[Resolved: That motions be continued]

The Hon. TOM STEPHENS: In conclusion, I will be continuing my fight for the north until these goals of a more fair and equitable Western Australia are achieved. I commend to the attention of the House these very urgent matters I have raised.

THE HON. N. F. MOORE (Lower North) [5.31 p.m.]: I sat here and, with considerable interest, listened to the honourable gentleman making his maiden speech of his election slogan, "I will fight for the north". If that is the best that the honourable member can do, I suggest that it was false advertising.

All that the member achieved was to give a long list of complaints which quite easily can be answered and that is what I propose to do during this speech.

Having listened to the honourable gentleman I am much more disappointed now than I was when Bill Withers left us. Having heard Bill's replacement I am much more disappointed because of the different approach of these two people. Bill Withers had positive ideas—

The Hon. Garry Kelly: Ignore him.

The Hon. N. F. MOORE: The Hon. Garry Kelly would not know. Mr Withers came here with positive ideas in regard to his representation of the north. He did not agree with a particular decision made by the Government and took the action that he did. All we have heard from the new member is a list of negative complaints. I listened hard for some positive suggestions. He did make some, but, as I will point out, action already is being taken on those matters by the Government.

The Hon. Fred McKenzie: Such as?

The Hon. N. F. MOORE: The new member for North Province spoke at length about electoral "reforms" and gerrymanders. I cannot believe that the member, in his maiden speech, would seek to disadvantage his electors so much. If we are to look at what the Labor Party suggested, the people of the North Province and the Lower North Province would be the most disadvantaged people in Western Australia, yet the member says we should do something about it.

Several members interjected.

The PRESIDENT: I ask honourable members to cease their interjections.

The Hon. N. F. MOORE: The 1980 election figures show that something like 631 000 votes

were cast for Legislative Council provinces and if we are to look at dividing Western Australia into equal electorates—

Several members interjected.

The PRESIDENT: Order!

The Hon. N. F. MOORE: If the Labor Party were to say we should have a one-vote-one-value system and equal-sized electorates we would have 42 127 voters in each province.

The Hon. Peter Dowding: How many?

The Hon. N. F. MOORE: There would be 42 000 voters.

Several members interjected.

The Hon. N. F. MOORE: In order to have an electoral province in the north and in remote areas we would require 42 000 people. That is the figure based on the 1980 election.

Several members interjected.

The PRESIDENT: Order! I ask honourable members to cease interjecting in order that we can all hear what the honourable member is saying.

The Hon. N. F. MOORE: I repeat that in order to have an electoral province in the north and in remote areas we would need, based on the 1980 figures, 42 000 people.

The Hon. Peter Dowding: They are old figures as well as old policies.

The Hon. N. F. MOORE: In that case the entire North Province, Lower North Province, and half the South-East Province voters would be required to make up one electorate. I ask members whether people in the North Province would be better represented under that system than they are now. The same applies to Lower North Province—would those people be worse off under that system than they are now? The Labor Party's current policy, of course, is proportional representation.

The Hon. Garry Kelly: The current policy is proportional representation.

The Hon. N. F. MOORE: Last time I made a speech on this subject the Hon. Garry Kelly was still teaching children in school.

Proportional representation is even worse for remote areas than the system I have just described. All members of the Legislative Council will seek support in the metropolitan area because that is where the political parties will be organised in matters relating to elections and to the appointment of candidates. Therefore, no-one will go to Kununurra or Leonora for example, because it would not be worth while. Most of the work

would be done in the metropolitan area because that is where the people are.

The PRESIDENT: Order! I ask the Minister not to walk in front of the member who is addressing the Chair.

The Hon. R. G. Pike: Sorry, Mr President; I did not realise.

The Hon. N. F. MOORE: I am representing my constituents by suggesting that the system we have at the present time is as good as any we will have if we are to look after people in remote areas. I am disappointed that the new member suggests a system that will disadvantage his constituents.

The Hon. Fred McKenzie: That is not right.

The Hon. N. F. MOORE: The honourable member made mention of some members in this House being out of touch.

The Hon. Peter Dowding: He was probably talking about you.

The Hon. N. F. MOORE: Unless the honourable member was talking about Mr Dowding—which was probably true—

The PRESIDENT: Order!

The Hon. N. F. MOORE: An interesting thing is that the Hon. Tom Stephens has adopted many of Mr Dowding's mannerisms. They both talk in a similar fashion—looking towards the Press gallery.

The Hon. Peter Dowding: Instead of sitting in the bar talking and drinking.

The Hon. N. F. MOORE: I strongly object to that.

The PRESIDENT: Order!

#### *Point of Order*

The Hon. N. F. MOORE: I take strong objection to the remark made by the Hon. Peter Dowding. If he was referring to me I ask him to withdraw that remark.

The Hon. Fred McKenzie: He did not say it.

The Hon. N. F. MOORE: The honourable member did say it.

The PRESIDENT: Order! I would like to know to what the honourable member is taking objection.

The Hon. N. F. MOORE: The honourable member interjected and said something to the effect that it is better than spending time in the bar. That is how I understood his remark—the implication was that I was spending time in the bar.

The PRESIDENT: Order! The honourable member is asking me to take some action. I

suggest to the honourable member that I cannot find anything that referred to him in that remark and therefore, I can see no reason to ask the Hon. Peter Dowding to withdraw it.

*Debate (on motion) Resumed*

The Hon. N. F. MOORE: Thank you, Mr President, I accept your ruling.

The Hon. Tom Stephens raised the question of air fares and suggested that competition was absolutely necessary for air services in the north. Later in his speech he said that competition was no good in regard to interest rates. I advise the honourable member that over the last six months the State Government has instructed the Commissioner of Transport and the Director General of Transport to conduct an inquiry into air fares and internal air services and put forward recommendations to the Government.

The Hon. Peter Dowding: What did the report say?

The Hon. N. F. MOORE: The recommendations have now been put forward in booklet form which has been circulated to all those persons interested in the subject of airlines in Western Australia. The Minister has requested interested people to make submissions and on receipt of those he will then be in a position to decide what the Government's attitude will be.

Some wide-ranging recommendations have been made in that report and one of those recommendations concerns competition on the trunk routes, and indicates there should be no competition in other areas. The honourable gentleman did not suggest that we should have competition in some areas and not in others. His suggestion was that we should have competition. With competition there would be a complete demise of any sort of service in some towns. I would suggest to the Hon. Tom Stephens that some of his constituents would be disadvantaged by total competition.

The Hon. Peter Dowding: He did not advocate total competition.

The Hon. N. F. MOORE: I would ask the Hon. Tom Stephens to interject and tell me what he did say.

The Hon. Tom Stephens: I spoke about the introduction of competition.

The PRESIDENT: Order! The honourable member should address his comments to the Chair.

The Hon. Peter Dowding: What a pathetic performance this is!

The Hon. N. F. MOORE: Competition could mean different things to different people. It could mean a two airline policy or it could mean an open sky policy which is total competition. The honourable member did not say which he supported.

Several members interjected.

The Hon. N. F. MOORE: The Government is now in a position to act on the recommendations put forward by the committee. I have not heard anyone suggest that the committee did not do its job in a competent manner. As the Government is concerned about the north, we can expect it to make a decision on the question of air fares and internal air services in Western Australia in the very near future.

The Hon. Tom Stephens spoke about housing. Let us look at the State Government's performance in regard to housing in the north. When I talk about the north, I am referring to the Hon. Tom Stephens' electorate. In 1977-78 an amount of \$2.7 million was spent on Commonwealth-State housing and State Housing Commission homes in North Province. In 1978-79, \$7.1 million was spent; in 1979-80, \$6.5 million; in 1980-81, \$2.5 million; and, in 1981-82, \$4.6 million was spent. The following amounts were spent on Aboriginal housing: In 1977-78 \$335 000; in 1978-79, \$500 000; in 1979-80, nearly \$1 million; in 1980-81, \$1.2 million; and, in 1981-82, \$1 million. An enormous amount of money has been spent by the Government on housing in the north.

The Hon. Peter Dowding: Whose money?

The Hon. N. F. MOORE: It was spent by the Commonwealth and State Governments.

The PRESIDENT: Order!

The Hon. N. F. MOORE: No-one will ever accept that sufficient houses have been built in the north. I would like houses to be built in my electorate. However, the State Government is doing a fine job in the field of housing and houses are being built where they should be in remote areas.

The honourable gentleman spoke about the quality of housing. Is he suggesting that the standard of State housing at Karratha should be the same as the housing built by Hamersley Iron Pty. Ltd. for its employees?

We could do that, but then we would build only half as many houses. The employees of Hamersley Iron Pty. Ltd. live in brick houses which are fully air-conditioned and which cost a great deal more than the houses the SHC built. In the early days of the development of the Pilbara, in order to keep up with the housing demand, the State had to build houses which were probably

not as good as it would have liked to build. However, if one looks around now, one sees that the Government Employees' Housing Authority, for example, is building houses equally as good as the houses in other areas.

The Hon. Peter Dowding: When were you last in Karratha?

The Hon. N. F. MOORE: I was there a few weeks ago.

The Hon. P. H. Lockyer: I met 150 people who had not even heard of the honourable member.

The Hon. N. F. MOORE: The honourable gentleman also referred to the question of interest rates. If he has not heard of the State Government's submission to the Commonwealth on the matter of housing interest rates, he has obviously not read many newspapers lately.

The Hon. Tom Stephens: Results are more important.

The Hon. Peter Dowding: It is the Liberal Party policy which is bringing the country to its knees.

The Hon. N. F. MOORE: The Hon. Tom Stephens spoke about preference to country contractors. The Leader of the Opposition was reported in the Press a few days ago as saying that a Labor Government would extend the minimum amount for preferences from \$25 000 to \$50 000. He failed to tell us that the State Government raised the amount to \$50 000 two years ago. Members of the Opposition are either slow learners, or do not know what is going on.

The honourable member talked about regional administration. This was a major initiative of the Court Government, as was the decentralisation of Government decision-making. The Leader of the Opposition is now saying that the Opposition intends to do what the Government has done already.

The Hon. Peter Dowding: You are killing it.

The Hon. Garry Kelly: Now you are undoing it.

The Hon. N. F. MOORE: The member said the Labor Party is committed to regional administration. I would like to know precisely what the honourable member means by that. Does he mean that the Labor Party would replace the existing regional administration with what the ALP has as its basic overall plan for the future of Australia; that is, to get rid of the State Governments and replace them with regional government? Or perhaps he means that the ALP will replace the system already operating under the guidelines of the present Government. He did not say what he meant. I notice that his Federal colleagues, at their last Federal conference, reiterated their de-

cision to have regional government in Australia and to abolish the States, and I guess the member is here to continue to expound that theory.

The honourable member mentioned defence. Is it not interesting that the Labor Party tried to use defence as an issue at the by-election?

The Hon. Peter Dowding: The Liberals raised it first.

The Hon. N. F. MOORE: The only party which has done anything about defence in the north is the Liberal Party. The Labor Party would close down Exmouth. Every time Bill Hayden visits Exmouth he tells us his party would close down the US base there.

The Hon. Peter Dowding: What protection is that offering?

The Hon. N. F. MOORE: The US installation at Exmouth epitomises the relationship between the USA and Australia.

The Hon. P. H. Lockyer: When you are next there I will take you over it.

The Hon. N. F. MOORE: The Labor Party seeks to close the base down.

The Hon. I. G. Pratt: There was an interesting debate on this subject in the Federal House the other day.

The Hon. N. F. MOORE: The honourable member said that this State should have a Minister for Defence. We have a most important man in charge of defence in this State, and that is the Premier.

The Hon. Peter Dowding: What did your Liberal conference say about that?

The Hon. P. G. Pental: The conference endorsed that very idea.

The Hon. Peter Dowding: There should be a Minister in charge of defence.

The Hon. N. F. MOORE: The Premier of this State is in charge of defence, and what better man could we have for the job?

Several members interjected.

The PRESIDENT: Order! I will not tolerate members carrying on with these interjections and private conversations across the Chamber. I ask the Hon. Norman Moore to direct his comments to the Chair.

The Hon. N. F. MOORE: Thank you, Mr President.

The honourable gentleman then talked about roads and he criticised the State Government for its attitude on this subject. I would like to tell the House the record of this Government on the development and maintenance of roads in the north.

Approximately \$24 million was spent on the Wittenoom-Nanutarra road. A great deal of work has been undertaken on this road since the period. I used it regularly. The Port Hedland-Broome road has been completed at a cost of \$60 million. I have driven on this road recently and it is really magnificent.

The Tom Price-Paraburdoo road has been sealed at a cost of \$16 million. I well remember that road when it was unsealed!

The Government has announced that it intends to commence sealing the Newman-Port Hedland road at a cost of \$120 million. That road will be completed by 1988. It took a long time to decide the course that the road would follow, but now that the design work has been completed, the work is about to commence. The Wickham bypass road is about to be completed.

The Hon. Peter Dowding: The by-pass has not been completed at all.

The Hon. N. F. MOORE: I drove over it.

The Hon. Peter Dowding: What rubbish! It will not be finished until the end of next year.

The Hon. A. A. Lewis: The honourable member admits he has been there!

Several members interjected.

The PRESIDENT: Order!

The Hon. N. F. MOORE: Work is being undertaken to bypass the town of Wickham, in view of the fact that the Wickham School—

The Hon. Peter Dowding: It is built over the road.

The Hon. N. F. MOORE: That is a very good idea—a sensible way to build roads.

The Fitzroy Crossing-Halls Creek road has been commenced, and \$12 million has been allocated this year for that. The Meekatharra-Newman road was built by this State Government. There is now a black top road from Perth to Newman—another magnificent road.

In recent times the State Government has been spending 25 per cent of its total road funds—contributed to by both the Federal and State Governments—in the north. If that is not a good record, I do not know what is. I lived in the north for five years, and I experienced the roads in the early days. The difference there now is absolutely amazing. In my opinion it is very foolish to criticise the Government on its road programme.

The Hon. Peter Dowding: The electors didn't think so.

The Hon. A. A. Lewis: When have you seen them? Have you been up there lately?

The Hon. N. F. MOORE: The honourable member said that Aborigines were doubly disadvantaged; he said they were disadvantaged because they were Aborigines. I know many Aborigines who are very proud of their race and they do not see it as a disadvantage. I become very distressed when I hear Labor Party members adopting this paternalistic attitude. They tell us that what happened in the past was paternalistic, but their attitude now is just as paternalistic. In fact, a Labor Government would replace mission paternalism with its own form of paternalism. I do not agree with that at all. Probably the honourable member read the report of the World Council of Churches, and no doubt he believed that was rubbish.

The Hon. Peter Dowding: He knows more about the area than you do.

The Hon. N. F. MOORE: I am talking about the Aborigines.

The Hon. Peter Dowding: He knows more about the Aboriginal problem in the area than you do.

The Hon. P. H. Lockyer: How do you know that? What do you base that on?

The Hon. N. F. MOORE: The question of taxation was raised also. I accept the fact that taxation is too high, and probably most members would agree with me on that. However, in regard to taxation in remote areas, the State Government undertook an in-depth survey into this problem and it put forward a comprehensive submission to the Federal Government.

The Hon. Peter Dowding: And what did the Federal Government do with it?

The Hon. N. F. MOORE: I am about to tell the honourable member that.

The Hon. I. G. Pratt: Impatient little soul, isn't he?

The Hon. N. F. MOORE: Unfortunately the State Government's submission was not accepted by the Commonwealth.

The Hon. Peter Dowding: By the Liberals!

The Hon. N. F. MOORE: I am the first to agree that the Federal Government should have accepted it. The submission put forward by our State Government was the best of any of the submissions made. The Federal Government, in its wisdom or otherwise, chose not to accept the recommendations contained in that report. The Federal Government was entitled to do that, and I am entitled to criticise the Federal Government. However, at least the people living in remote areas have been granted some relief and this financial year they will be better off than under

the previous system. It is not as good as it should be, but it is a step in the right direction.

The Hon. Peter Dowding: How many towns benefit?

The Hon. N. F. MOORE: I cannot tell the honourable member that off the top of my head. Quite a few towns in my electorate will benefit, but there are some anomalies in the system.

The Hon. Peter Dowding: We have only one town in our electorate that will benefit.

The Hon. P. H. Wells: That must reflect on the representation!

The Hon. P. H. Lockyer: You are taking a bit of a beating over there, Pete!

The PRESIDENT: Order!

The Hon. N. F. MOORE: The whole tenor of the honourable gentleman's argument was that the State Government has done nothing for the north. He referred to what he considered to be the present Government's neglect of the north. Probably the greatest achievements of this Government have been in the north. From time to time the State Government is criticised by the people in the south for spending too much money in the north. It is absolute nonsense for the honourable gentleman, in his maiden speech, to say that the Government has neglected the north.

The Hon. Garry Kelly: The electorate does not think so.

The Hon. N. F. MOORE: The previous Premier (Sir Charles Court) is renowned throughout the world for what he did for the north.

The Hon. V. J. Ferry: And roundly criticised by the Labor Party for it.

The Hon. N. F. MOORE: If Sir Charles Court were remembered for nothing else, he would be remembered for what he did for the north. The Hon. Ray O'Connor has been Premier of the State since January. He has not yet brought down a Budget, so for the honourable gentleman to criticise Mr O'Connor for not looking after the north is arrant nonsense. The Premier has not yet had the chance, in a Budget, to prove that he will ensure that monetary assistance to the north will continue as it has in the past. Certainly, in his performance so far as Premier, there has been no evidence of any neglect of the north. In fact, on the contrary, he has illustrated a continuation of the attitude that the Liberal Party has held towards the north.

Let us look at some of the other achievements of this Government. The Nickol Bay Hospital is a magnificent building.

The Hon. Peter Dowding: Paid for by whom?

The Hon. P. H. Lockyer: By you and me.

The Hon. N. F. MOORE: Additions have been made to practically every hospital in the North Province—Kununurra, Broome, and Roebourne.

The Hon. Peter Dowding: You said Roebourne, did you?

The Hon. N. F. MOORE: Yes, I said Roebourne.

The Hon. Peter Dowding: How that suffered at the hands of your party!

The Hon. N. F. MOORE: Fishing boat harbours have been established at Carnarvon—in my own electorate—and at John's Creek at Point Samson. We now have a magnificent tertiary institution—the Hedland College—which was built at a cost of \$5 million. There is another institution at Karratha.

The Hon. Peter Dowding: It is not a tertiary institution; it is a post-secondary institution.

The Hon. N. F. MOORE: Well, it is a technical and further education institution.

Various high schools throughout the electorate have been upgraded. Work is going on at Karratha Senior High School at the moment, although I do not know whether it is finished yet. The air-conditioning system at the Exmouth District High School has been updated, although I am aware that the Broome school needs some renovations.

In regard to water supplies, we saw the announcement in this morning's Press that the Government intends to go ahead with the damming of the Harding River at a cost of \$50 million. This will supplement the water supplies in the Pilbara. We all know about the pressures on Millstream and the Hon. Peter Dowding has presented petition after petition over a period of time complaining about this very thing. The Government has accepted there is pressure on Millstream and if the Karratha-Dampier-Wickham area is to progress, it must have a better water supply.

The Hon. Peter Dowding: Perhaps if you lose out in Lower North you can have a go for North Province.

The Hon. P. H. Lockyer: He will double his majority.

The PRESIDENT: Order!

The Hon. N. F. MOORE: Another area in which the State Government has been active is that of communications. Admittedly essentially communications are a Federal Government matter, but the State Government put forward a detailed submission on the satellite system. I re-

member speaking about the satellite in this House some years ago.

The Hon. Peter Dowding: It is not there yet.

The Hon. N. F. MOORE: But it will be there.

The Hon. Peter Dowding: As a result of your submission to the Legislative Council, is it?

The Hon. N. F. MOORE: The honourable member's union colleagues were opposed to it then, and probably they are still opposed to it. They did not want the satellite because they thought it would affect their jobs, or something like that.

The Hon. Peter Dowding: Rubbish!

The Hon. N. F. MOORE: It did not bother them that the people in the remote areas would benefit from a communications satellite.

The Hon. P. H. Lockyer: Do you support it, Mr Dowding?

The Hon. Peter Dowding: I do not support centralised media.

The Hon. N. F. MOORE: From the beginning the State Government has supported the concept of a telecommunications satellite for Australia because of the great benefits such a satellite would bring to remote areas. I would have thought the Opposition would support such a concept, and particularly the new member whose electors will be affected by it.

The State Government supported also the Federal Government's programme to provide television to remote country towns. All except two of the towns in my electorate now receive television programmes. I am still endeavouring to get television for these two towns—at the moment one will get it and one will not. Places such as Yalgoo, Mt. Magnet, Cue, and Meekatharra, have television which was provided by the Federal Government at the request of the State Government.

The real crux of the matter is the philosophical differences between the Opposition and the Liberal Party because the north was developed by private enterprise Governments—the Liberal-National Country Party Governments in the State and in the Commonwealth.

*Sitting suspended from 6.00 to 7.30 p.m.*

The Hon. N. F. MOORE: Prior to the dinner suspension I talked about the different attitudes towards development displayed by Liberal Governments as opposed to ALP Governments. I refer to the North-West Shelf gas project. If one looks at the history of that project, which was to do so much for Australia, and at what happened to the project when Rex Connor was the responsible Federal Minister in the Whitlam Govern-

ment, and the results his policies had on its development, one realises that those policies closed down the whole project. Had it not been for that disastrous period of the Whitlam Government we would now have the North-West Shelf gas project operating, exporting gas to other countries, and providing gas to the south-west of this State. The interesting thing was that the Whitlam Government dictated to the companies and said how they would invest their money. The companies were told by Rex Connor, "This is the Australian equity and I will tell you what the price will be when the gas gets to the well head. I will pipe it over to the Eastern States where my friends are."

The Hon. Peter Dowding: What is the price now at the well head?

The Hon. N. F. MOORE: With the present Federal Government we have a viable proposition; a start now has been made on the development of this major project, probably the biggest project in Australia's history.

The Hon. Peter Dowding interjected.

The Hon. N. F. MOORE: The member will have an opportunity in a moment, but now I am speaking.

The Hon. Peter Dowding interjected.

The Hon. N. F. MOORE: Associated with the project is the Dampier to Perth gas pipeline which will provide an enormous amount of work for many people in Western Australia. I am particularly pleased that many of the shires in my electorate are being involved in various works associated with the pipeline.

We will have also the Pilbara integrated power system which was an initiative of the Court Government and will be carried out by this Government. We have the Ord River scheme supported by previous Liberal Governments—

The Hon. Peter Dowding: It was opened during a State Labor Government.

The Hon. P. G. Pandal: That's significant!

The DEPUTY PRESIDENT (the Hon. V. J. Ferry): Order!

The Hon. N. F. MOORE: Liberal Governments of this State have continually supported the Ord River scheme. We have endeavoured to find crops that can be grown viably in the district, and currently the question of whether sugar cane will be viable is one that is being considered very closely.

Several members interjected.

The Hon. N. F. MOORE: Does anyone mind if I interject, Mr Deputy President? When the mover of the motion talked about the north, I

wondered what he meant. His motion referred to the north, but where is the north? Is it the area north of the 26th parallel?

The Hon. Garry Kelly interjected.

The Hon. N. F. MOORE: Some people who live in the city think Wanneroo is the north, and some people, like the Hon. Garry Kelly, who have not been past Midland Junction, think the hills are the north. I define the north as that area north of the 26th parallel.

Several members interjected.

The DEPUTY PRESIDENT: Order!

The Hon. N. F. MOORE: I would include—

Several members interjected.

The DEPUTY PRESIDENT: Order! I will not tolerate unruly interjections.

The Hon. N. F. MOORE: I would include parts of my electorate in the north, and I was attempting to make that point in order to make an electoral speech about Lower North Province, but I will leave those comments until another occasion. Such a debate should happen at some time because the Hon. Peter Dowding suggested that this session will be my last here.

The Hon. Peter Dowding: It certainly will be.

The Hon. N. F. MOORE: When we expose the activities of the Labor Party in Lower North Province, the Hon. Peter Dowding and his colleagues will be seen for exactly what they are.

Several members interjected.

The DEPUTY PRESIDENT: (the Hon. V. J. Ferry): Order! Will honourable members cease their interjections and private conversations.

The Hon. N. F. MOORE: I would like to conclude by saying simply that the new member for North Province has shown himself to be a member who puts the interests of the ALP ahead of the interests of his constituents.

The Hon. Fred McKenzie: What rubbish!

The Hon. N. F. MOORE: He has talked about electoral reform, but his reform would disadvantage his electors and mine, and that is why I argue—

Several members interjected.

The Hon. N. F. MOORE: They will be disadvantaged because they will receive no representation at all under the reform the Labor Party suggests should occur in this upper House.

The Hon. Fred McKenzie: Don't you think the lower House does anything?

The Hon. N. F. MOORE: He supports a party which throughout history has been a party to oppose development.

The Hon. Robert Hetherington: That's not true.

The Hon. Peter Dowding: Rubbish!

The Hon. N. F. MOORE: In the short periods his party has been in Government there has been disaster; he supports its philosophies towards development and has come to this House to tell us that the State Government now in power should be castigated—

The Hon. Fred McKenzie: So it should be.

The Hon. N. F. MOORE: —and criticised for what it has done. He has picked the wrong issue. If Liberal State Governments are given credit for anything, they should be given credit for developing the north, as this State Government is continuing to do.

I do not know what the shortest period of office for a member of the Legislative Council is, but the way the mover of the motion is going, six months will be all he will be here for.

I oppose the motion.

THE HON. N. E. BAXTER (Central) [7.37 p.m.]: I have been in this House for over 30 years—I have seen 30 sessions of this Parliament—and never have I seen the Standing Orders abused and ill-treated such as I have seen recently.

#### *Points of Order*

The Hon. PETER DOWDING: A point of order—

The Hon. N. E. Baxter: Never have I seen—

The Hon. PETER DOWDING: A point of order! The point of order is that this member is making a personal reflection either on the Chair or on the speaker, my brother member—

The Hon. P. H. Lockyer: Comrade!

The Hon. PETER DOWDING: —for North Province. Mr Deputy President, I ask you in your enthusiasm to uphold the Standing Orders to protect both the Chair and the other member for North Province.

#### *Withdrawal of Remark*

The DEPUTY PRESIDENT (the Hon. V. J. Ferry): I ask the Hon. Peter Dowding to retract that statement which is a reflection on the Chair.

The Hon. PETER DOWDING: I retract it if you regard it as a reflection.

#### *Points of Order Resumed*

The Hon. PETER DOWDING: The point of order—

The DEPUTY PRESIDENT: I have your point of order and I do not require any honourable member to reflect upon the Chair. As far as I understood the Hon. Norman Baxter he was half-way through a statement regarding the conduct of the House, but he had not completed his comments.

The Hon. PETER DOWDING: Mr Deputy President, a further point of order. The Hon. Mr Baxter said he had never seen such an abuse of the Standing Orders.

The Hon. Fred McKenzie: That's right.

The Hon. PETER DOWDING: That is either, with respect to you, Mr Deputy President, a reflection on your competency, the President's competency, or the honesty and integrity of a member for North Province (the Hon. Tom Stephens).

The DEPUTY PRESIDENT (the Hon. V. J. Ferry): Order! I would like the Hon. Peter Dowding to resume his seat. I thought I made my position clear. As far as I heard the Hon. Norman Baxter's contribution, he was referring to a situation to which he wished the attention of the House to be drawn, and as far as I understood he had not concluded his remarks in the proper context, and until I have heard his remarks in the proper context I will not alter my ruling.

#### *Debate (on motion) Resumed*

The Hon. N. E. BAXTER: There was no point of order. Having been a Deputy Chairman and Chairman of Committees in this House for 11 years I would be much more cognizant of the Standing Orders, and to my knowledge—

The Hon. Fred McKenzie: Repeat what you said earlier.

The Hon. Peter Dowding: Repeat it so that the Deputy President can hear it.

The Hon. N. E. BAXTER: I would be proud to repeat what I said. In my 30 years in this House I have never seen a member use the tactics which the mover of this motion used tonight to abuse Standing Orders.

#### *Points of Order*

The Hon. PETER DOWDING: Point of order! Several members interjected.

The DEPUTY PRESIDENT: Order!

The Hon. PETER DOWDING: A point of order! A point of order!

The DEPUTY PRESIDENT (the Hon. V. J. Ferry): Order! There is ample opportunity for members to draw the attention of the Chair with-

out shouting across the Chamber—I do not think it is really necessary. I have ruled on the previous point of order and I ask the Hon. Norman Baxter to continue.

The Hon. PETER DOWDING: Mr Deputy President—

The DEPUTY PRESIDENT: Order!

The Hon. PETER DOWDING: A point of order!

The Hon. N. E. Baxter: Under what Standing Order? He hasn't even got one.

Several members interjected.

The DEPUTY PRESIDENT: Order!

The Hon. PETER DOWDING: The speaker just said there had been an abuse of the Standing Orders. With respect, that is either a reflection on the Chair controlling the House, or on the conduct of a member.

The Hon. Robert Hetherington: That's right.

The Hon. PETER DOWDING: It was said in plain words that there had been an abuse of the Standing Orders such as the member had never seen. That, with respect, cannot be anything except one of those two things—either a reflection on the Chair or on the conduct of a member—and if it is either in my respectful submission it is out of order.

The DEPUTY PRESIDENT (the Hon. V. J. Ferry): I have listened to the Hon. Peter Dowding's point of order and I refer to my earlier comments when I indicated that the Hon. Norman Baxter was in the course of making a contribution in a context not complete when interrupted. I suggest to overcome this problem that the Hon. Norman Baxter make his intention clear.

Opposition members interjected.

The DEPUTY PRESIDENT: I ask the Hon. Norman Baxter what his intention was in regard to his contribution.

The Hon. N. E. BAXTER: My intention was to show that the tenor of the debate was not in accordance with the motion moved, and I believe for that reason it was an abuse of the Standing Orders. Let us look at the motion moved by the honourable member.

The Hon. PETER DOWDING: A point of order!

The Hon. N. E. Baxter: What about quoting the Standing Orders?

The Hon. PETER DOWDING: The Hon. Norman Baxter has just said the speech made by the Hon. Tom Stephens was an abuse of the Standing Orders.

The Hon. N. E. Baxter: So it was.

The Hon. PETER DOWDING: He has just reinforced his comment and that is a reflection on the Chair or the member to whom I referred.

*Withdrawal of Remark*

The DEPUTY PRESIDENT: I require the Hon. Norman Baxter to withdraw the reflection on the Chair in the context mentioned. I do not believe the member intended his comment to be taken in that way, but I ask him to withdraw it for the sake of the good order and conduct of the House.

The Hon. N. E. BAXTER: Mr Deputy President—

The DEPUTY PRESIDENT: I would ask the honourable member just to withdraw the reflection.

The Hon. N. E. BAXTER: What do I have to withdraw?

The DEPUTY PRESIDENT (the Hon. V. J. Ferry): You did state—

The Hon. N. E. BAXTER: It was an abuse of the Standing Orders. I used the words—

The Hon. Peter Dowding: He said it was the worst example of an abuse of the Standing Orders.

The DEPUTY PRESIDENT: Order! I will not have the Hon. Peter Dowding or any other member conduct the business of this House while I happen to be in the Chair. If he so wishes to continue his disruptive tactics, the House I am sure will deal with him. I ask him to be seated in silence. I request the Hon. Norman Baxter to withdraw the reflection regarding the use of Standing Order No. 63 as I understood him to make it.

The Hon. N. E. BAXTER: Mr Deputy President—

The DEPUTY PRESIDENT: I request that you withdraw the reflection.

The Hon. N. E. BAXTER: I refuse to withdraw it because what I am standing for is correct; in no way will I withdraw the remarks I have made, because Standing Orders have been abused.

The DEPUTY PRESIDENT: Order! That is a reflection on the Chair and I ask the honourable member again, in deference to the Chair, to withdraw his statement in that reflective context.

The Hon. N. E. BAXTER: I am sorry; I refuse to withdraw. I have been in this House a long time—

The Hon. P. H. Lockyer: Quite right.

The Hon. Fred McKenzie: Too long.

The DEPUTY PRESIDENT: Honourable members, I wish to report to the President that an offence has occurred under Standing Order No. 106. I will leave the Chair until the ringing of the bells.

*Sitting suspended from 7.45 to 8.43 p.m.*

*Debate (on withdrawal of remark) Resumed*

The DEPUTY PRESIDENT (the Hon. V. J. Ferry): Honourable members, I have had the opportunity of studying the *Hansard* transcript and reviewing the circumstances of the business of the House just prior to my leaving the Chair. I am satisfied that the Hon. N. E. Baxter has reflected on the Chair, and I call on him to withdraw his comment.

The Hon. N. E. BAXTER: Mr Deputy President, at this stage I am not prepared to withdraw, and I demand the right to make an explanation under Standing Order No. 108.

The DEPUTY PRESIDENT: I report the Hon. N. E. Baxter under Standing Order No. 106, and in accordance with the provisions of Standing Order No. 108, I call on him to make an explanation or apology.

The Hon. N. E. BAXTER: Mr Deputy President, Standing Order No. 108 reads—

When any Member has been reported as having committed an offence, he shall be called upon to stand up in his place and make any explanation or apology he may think fit . . .

When I rose to speak and made the statement that the Standing Orders had been abused, I did so because the urgency motion was used by a member to make a maiden speech. To my knowledge and experience, it has never been used for such a purpose in the 30 years of my connection with this Chamber, and the many years prior to that of which I have knowledge. I do not know of any case in which it has been used for that purpose. When the honourable member debated the motion, he did not speak to the motion at all. In his letter to the President, the Hon. Tom Stephens said—

In accordance with the provisions of Standing Order No. 63, I advise you of my desire to move for the adjournment of the House on Tuesday, 24 August for the purpose of discussing—

The crux of the situation is in the following words—

—the current Government's neglect of the north.

While I was in the Chamber, the honourable member did not discuss anything that could be regarded as "neglect of the north". He dealt with electoral matters and the Electoral Act. I fail to see how that constitutes neglect of the north.

I believe that when I rose and put this issue before you, the honourable member was breaching Standing Order No. 88 which reads—

*Point of Order*

The Hon. TOM STEPHENS: On a point of order—

The Hon. N. E. Baxter: May I request that when members rise on points of order, they quote the Standing Orders on which they are rising?

The DEPUTY PRESIDENT: Order! The honourable member wishes to raise a point of order.

The Hon. TOM STEPHENS: I rise under Standing Order No. 106 (c) — using objectionable words. I would have thought that it would be a point of order to be accused in this House of the abuse of Standing Orders, and that ongoing accusations of that would have been a breach of the Standing Orders. Under Standing Order No. 106 (c), the member is describing my maiden speech as a breach of Standing Orders.

The Hon. Peter Dowding: Hear, hear!

The Hon. P. H. Lockyer: What rubbish!

The DEPUTY PRESIDENT (the Hon. V. J. Ferry): I request the Hon. N. E. Baxter to continue with the explanation he was giving to the House as to the reason for his action. Then we will judge the content of his contribution.

*Debate (on withdrawal of remark) Resumed*

The Hon. N. E. BAXTER: I was dealing with Standing Order No. 88, which reads—

No Member shall digress from the subject matter of any Question under discussion; nor anticipate the discussion of any subject which appears on the Notice Paper.

I believe that, in dealing with this particular motion, the honourable member digressed from the subject matter of the question. That is why I made the statement that he had abused the Standing Orders of this House. Unfortunately, when I rose under Standing Order No. 88 and pointed this out to the President, the President merely said that he was getting perilously close, and let him continue in the same vein he had been using before. I believe that was wrong. It is not the first time it has happened in this Chamber in the last few years.

The Hon. Peter Dowding: Now you are reflecting on the President.

The Hon. N. E. BAXTER: Under this particular Standing Order, the same thing has happened. That is why, on principle, I refuse to withdraw the words I have used. It is time this whole situation came to a head in this Chamber, and Standing Orders were abided by. I have been here for a long time, and on previous occasions under the control of a President or Deputy President, the conduct that has gone on in this House would never have been permitted. I say that very strongly, Sir.

Those are the reasons I am not prepared to withdraw the words I have used, irrespective of what action this House takes.

The DEPUTY PRESIDENT (the Hon. V. J. Ferry): I regretfully report to the House that the Hon. N. E. Baxter has offended against Standing Order No. 106; I call upon the Leader of the House.

*Suspension of Member*

The Hon. I. G. MEDCALF: I move—

That the Hon. N. E. Baxter be suspended from the sitting of the Council.

Motion put and a division taken with the following result—

*Ayes 24*

Hon. J. M. Berinson	Hon. Fred McKenzie
Hon. J. M. Brown	Hon. Neil McNeill
Hon. Peter Dowding	Hon. I. G. Medcalf
Hon. Lyla Elliott	Hon. N. F. Moore
Hon. Robert Hetherington	Hon. Neil Oliver
Hon. Garry Kelly	Hon. P. G. Pandal
Hon. Tom Knight	Hon. R. G. Pike
Hon. R. T. Leeson	Hon. I. G. Pratt
Hon. A. A. Lewis	Hon. Tom Stephens
Hon. P. H. Lockyer	Hon. P. H. Wells
Hon. G. C. MacKinnon	Hon. D. J. Wordsworth
Hon. G. E. Masters	Hon. Margaret McAleer

(Teller)

*Noes 4*

Hon. N. E. Baxter	Hon. Tom McNeill
Hon. H. W. Gayfer	Hon. W. M. Piesse

(Teller)

Motion thus passed.

The DEPUTY PRESIDENT (the Hon. V. J. Ferry): I ask the Hon. N. E. Baxter to leave the Chamber.

[The Hon. N. E. Baxter left the Chamber.]

*Debate (on motion) Resumed*

Motion, by leave, withdrawn.

## THE COMMERCIAL BANK OF AUSTRALIA LIMITED (MERGER) BILL

### *Receipt and First Reading*

Bill received from the Assembly; and, on motion by the Hon. I. G. Medcalf (Leader of the House), read a first time.

### *Second Reading*

**THE HON. I. G. MEDCALF** (Metropolitan—Leader of the House) [8.57 p.m.]: I move—

That the Bill be now read a second time.

The purpose of this Bill is to facilitate the merger of the Commercial Bank of Australia Limited and its subsidiary, the Commercial Savings Bank of Australia Limited, with the Bank of New South Wales and its subsidiary, the Bank of New South Wales Savings Bank Limited.

This merger has been agreed to by the two banks for a variety of commercial reasons. As a result of take-over offers made in June 1981, the Commercial Bank of Australia becomes a wholly owned subsidiary of the Wales. As the Commercial Bank of Australia Savings Bank is a wholly owned subsidiary of the Commercial Bank of Australia, it also now becomes controlled by the Wales.

The banks intend that the business of the Commercial Bank of Australia should be conducted by the Wales, and that the business of the Commercial Bank of Australia Savings Bank should be conducted by the Wales Savings Bank. The merger has the approval of the Treasury of the Commonwealth of Australia.

The principal legislation connected with the merger has been enacted in New South Wales. To perfect the merger, legislation similar to this Bill is being sought by the Bank of New South Wales in each State. It is hoped that all necessary arrangements made will enable completion by 30 September 1982 so that the merger may become effective on 1 October 1982.

In practical terms, the merger of these banks would involve the transfer of many thousands of trading and savings accounts and the transfer of borrowing arrangements of many thousands of customers in Western Australia alone.

Every individual customer of the Commercial Bank of Australia and the Commercial Bank of Australia Savings Bank would be required to enter into a new banking relationship with the Wales or the Wales Savings Bank.

This would involve closing accounts and opening new accounts, the release of mortgages and securities and the resubmission of arrangements and the taking of fresh securities. The time and effort involved in carrying out the merger by means of separate transactions would be unduly onerous to customers, bank staff, Government officers, and others.

The purpose of the legislation is to avoid the very great inconvenience which would otherwise be suffered by the general public, by Government officials, and by staff of both banks in effecting the merger proposals. The saving in documentation which would be achieved by the proposed legislation is not intended to deprive the State of any revenue which might have been derived from the stamping of such documentation.

The Government has negotiated with the Bank of New South Wales for a payment in lieu of stamp duty and agreement has been reached on this aspect. This follows precedents set by legislation for the Australia and New Zealand Banking Group merger in 1970 and the Bank of Adelaide merger in 1980.

In considering the merger arrangements particular attention has been given to the rights of the staff involved. The impact of the merger on staff conditions has been examined, and the Government is satisfied that the employees will transfer with no break in service on identical terms and conditions, and with the preservation of their superannuation rights.

Members will note that instruments mentioned in the schedule, and any property rights and liabilities arising from or created by those instruments, are excluded from the operation of the Act.

A key provision is included in the Bill whereby the undertakings of the Commercial Bank of Australia and the Commercial Bank of Australia Savings Bank are to vest in the Wales and the Wales Savings Bank respectively. This simple enactment enables succession of the Wales to the whole of the property assets and liabilities of the Commercial Bank of Australia except excluded assets and liabilities relating to those assets. It allows also the names "Bank of New South Wales" and "Bank of New South Wales Savings Bank Limited" to be read in lieu of "Commercial Bank of Australia" and "Commercial Bank of Australia Savings Bank Limited" in relation to documents, places of business, proprietorship of any estate or interest in land, and enforcement of any rights or liabilities arising prior to the appointed day.

Other machinery clauses concern customer relationships, securities for debts, safe custody of documents, negotiable instruments, and preservation of legal proceedings.

The Bill ensures that the Wales or the Wales Savings Bank may exercise the rights of the Commercial Bank of Australia or the Commercial Bank of Australia Savings Bank in respect of any excluded assets without constituting a parting with possession by the Commercial Bank of Australia or the Commercial Bank of Australia Savings Bank.

Other provisions relate to the appointment of new trustees and the recording and registration of dealings to give effect to the purposes of the Bill.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. J. M. Berinson.

#### **THE COMMERCIAL BANKING COMPANY OF SYDNEY LIMITED (MERGER) BILL**

##### *Receipt and First Reading*

Bill received from the Assembly; and, on motion by the Hon. I. G. Medcalf (Leader of the House), read a first time.

##### *Second Reading*

**THE HON. I. G. MEDCALF** (Metropolitan—Leader of the House) [9.04 p.m.]: I move—

That the Bill be now read a second time.

This Bill aims to give effect to precisely the same arrangements as the previous Bill in respect of the merger of the Commercial Banking Company of Sydney Limited and its subsidiary the Commercial Banking Company of Sydney Savings Bank Limited with the National Bank of Australasia Limited and its subsidiary the National Bank Savings Bank Limited.

As a result of offers made by the National Bank in mid-1981, the Commercial Banking Company of Sydney has become a wholly owned subsidiary of the National Bank. This was the first step towards a total integration and merger of the operations of the two banks, their respective savings banks, and their respective nominee companies. Legislation is necessary to perfect the merger due to the need to amalgamate the assets, liabilities, and businesses of the two banking groups.

One respect in which this Bill differs from The Commercial Bank of Australia Limited (Merger) Bill 1982 is that no property, rights, or liabilities, the subject of separate instruments, are in exist-

ence. Consequently, the Bill does not contain a savings clause relating to such matters.

There is a further variation relating to the appointment of trustees. The corresponding clause in The Commercial Bank of Australia Limited (Merger) Bill 1982 provides that within three months after the appointed day, a corporation named in an instrument as a new trustee may be appointed in place of a corporation named in the instrument as a retiring trustee. Clause 12 of this Bill specifically vests property held immediately before the merger, by Commercial Nominees Pty. Ltd. as trustee, in National Nominees Limited as trustee.

Although this merger is scheduled to take effect from 1 January 1983, three months later than the Commercial Bank of Australia Limited merger, it is most important that the legislation required to be passed in all States is attended to as a matter of urgency. The passage of the two Bills simultaneously therefore is deemed to be expedient.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. J. M. Berinson.

#### **BILLS (3): RETURNED**

1. Administration Amendment Bill.
2. Supreme Court Amendment Bill (No. 2).
3. Workers' Compensation Supplementation Fund Amendment Bill.

Bills returned from the Assembly without amendment.

#### **LOTTERIES (CONTROL) AMENDMENT BILL (No. 2)**

##### *Second Reading*

**THE HON. R. G. PIKE** (North Metropolitan—Chief Secretary) [9.07 p.m.]: I move—

That the Bill be now read a second time.

The purpose of this Bill is to confer on the Lotteries Commission the power to conduct a new form of lottery in this State, known as an instant lottery. This type of lottery is conducted already with success in Victoria, South Australia, Tasmania, and the Northern Territory. The New South Wales Government intends to introduce instant lotteries in that State later this year. Instant lotteries have been a huge success in the United Kingdom and the United States of America.

It is expected that instant lotteries will have some effect on traditional lotteries, but this will be offset by additional revenue from the oper-

ations of lotto, which is still well below its potential.

It is emphasised that the introduction of instant lotteries should not in any way reduce the amount available for distribution by the Lotteries Commission to charitable organisations. To the contrary, it is expected that the amount available will increase. This is because the formula for distribution in regard to charitable organisations will not change.

After deducting 20 per cent for payment to either the hospital fund or the sports culture instant lottery account, and payment of administration costs, the balance of funds is available for distribution to charitable organisations.

Instant lotteries, as the name implies, will enable prize money to be paid immediately to successful ticket purchasers on the presentation of the ticket to a lottery agent or to the Lotteries Commission. The purchaser of a \$1 instant lottery ticket ascertains whether or not a ticket is a winning one by scratching over an opaque panel on the ticket. This panel reveals the amount of the prize if the ticket is a winner. Instant prizes will range from \$2 to \$10 000.

Instant winners will write their name and address on the reverse of a successful ticket and the lottery agent will return those tickets to the Lotteries Commission. When a specified number of winning tickets are returned to the commission, a super draw takes place for major prizes. Persons who win instant prizes have a further chance of winning these major prizes.

At present, the Lotteries Commission conducts lotteries and Lotto in Western Australia. The total amount available for distribution by the Lotteries Commission to charitable bodies and the hospital fund has continued to increase.

At present, 60 per cent of all sales from lotteries and Lotto is paid out in prize money. Twenty per cent of total sales is paid by the Lotteries Commission into the hospital fund at the Treasury Department. Eight per cent of sales is paid to lottery and Lotto agents as commission on sales. After deducting administration expenses, the remainder of the money received by the Lotteries Commission is paid as grants to charitable organisations.

The Bill now before the House amends the Lotteries (Control) Act to provide that the commission may conduct lotteries in order to raise money for charitable purposes or for the purposes of sport or cultural activities. The Bill defines an instant lottery and gives the Minister the right to grant the Lotteries Commission a permit to conduct instant lotteries. It provides that a percent-

age, to be prescribed by regulation, of the total sales of instant lottery tickets is to be divided equally for distribution to bodies and organisations engaged in sporting or cultural activities. Initially, 20 per cent will be prescribed.

Provision is made for the prescribed percentage of gross sales to be paid into an account at the Treasury called the sports culture instant lottery account. The Minister responsible for the administration of the Lotteries Commission shall cause the money in the sports culture instant lottery account to be divided equally and paid to the Minister for Recreation and the Minister for Cultural Affairs. Under the provisions of the Bill, those Ministers shall distribute the money in such proportions as they think fit among bodies engaged in the conduct of sport or cultural activities. For the purpose of deciding on the distribution of the money, the Ministers may consult such persons or bodies as they think fit.

The Bill enables the Lotteries Commission to draw up rules for the conduct of instant lotteries. Conduct of instant lotteries will be subject to the supervision and scrutiny of the Auditor General. The main advantage of instant lotteries will be that money will be channelled into sport and culture at no cost to the Government or the public by way of taxation or charges.

It is anticipated that in the first 12 months of operation of instant lotteries, \$2.5 million will be available for distribution to sport and culture.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. Fred McKenzie.

#### **CARNARVON BANANA INDUSTRY (COMPENSATION TRUST FUND) AMENDMENT BILL**

##### *Third Reading*

**THE HON. G. E. MASTERS** (West—Minister for Labour and Industry) [9.13 p.m.]: I move—

That the Bill be now read a third time.

During the second reading debate I gave an assurance to the Hon. David Wordsworth that I would, at this stage, make some reference to the way in which the trust fund is used. It is used purely to compensate for the loss of a banana crop, and that loss can be caused as a result of such things as cyclones, storms, floods, infestation by pests, and other natural causes. For instance, after the flood of 1980, compensation totalling \$36 000 was paid to 36 banana growers.

The member asked how compensation is paid for soil erosion damage. Such compensation is paid from a joint Commonwealth-State fund to

meet the needs of victims of civil disasters. As an example of that sort of compensation, \$150 000 was paid in June 1980 for severe erosion which occurred at Carnarvon. So, the compensation for the different forms of damage comes from two funds. The banana industry compensation trust fund is not used to compensate people other than banana growers, such as those growing vegetables or anything else. This trust fund is used for compensation for the loss of banana crops, and nothing else.

Question put and passed.

Bill read a third time and passed.

#### **WESTERN AUSTRALIAN MEAT INDUSTRY AUTHORITY AMENDMENT BILL (No. 2)**

##### *Third Reading*

**THE HON. G. E. MASTERS** (West—Minister for Labour and Industry) [9.16 p.m.]: I move—

That the Bill be now read a third time.

At the second reading stage I gave an assurance to the Hon. David Wordsworth that I would answer his question as to the progress that had been made toward the establishment of a single meat inspection service. At this time no great progress has been made. At the last meeting of the Australian Agricultural Council a proposal was discussed, a proposal from the Commonwealth Department of Primary Industry, for the establishment of a single meat inspection service, but that was all that happened. I understand the proposal was the subject of a seminar held on 5 August this year at which all States and the industry concerned were represented. It has been proposed that a special meeting of the Australian Agricultural Council be held in October or November this year to discuss the question further.

This State's position is clear, and always has been. Our preferred option is for the State to carry out all export meat inspections as an agent for the Commonwealth, but this is not readily acceptable to the Commonwealth and the matter still must be thrashed out. The short answer is that the Royal Commission is due to report in the near future and we expect a decision to be made when that report comes out.

Question put and passed.

Bill read a third time and passed.

#### **CONSUMER AFFAIRS AMENDMENT BILL (No. 2)**

##### *Third Reading*

Bill read a third time, on motion by the Hon. R. G. Pike (Chief Secretary), and passed.

#### **BAIL BILL**

##### *Second Reading*

Debate resumed from 10 August.

**THE HON. I. G. MEDCALF** (Metropolitan—Attorney General) [9.18 p.m.]: The Bill has received what I believe to be universal support. It is good to know the Opposition supports it, as does the Hon. Peter Wells—the Hon. Mr Berinson and the Hon. Mr Wells spoke at some length on it, and indicated their support in general terms. The Bill has been supported also by the Law Society, the Civil Liberties Council, certainly by the media, the Law Reform Commission, and most other people who have examined it. It is a Bill in which we as members of Parliament can take some pride; it is progressive and perhaps one of the most advanced pieces of legislation dealing with this subject to be found in Australia, certainly, and probably in other parts of the world. However, I will deal specifically with some of the comments made at the second reading stage because they deserve to be so dealt with.

The Hon. Mr Berinson criticised the time taken to prepare the Bill, but that criticism was unjustified, if not unjust. He overlooked the immensely detailed work required to get the Bill to the stage of being able to be presented to the Parliament with complete confidence. It answers the many questions, large and small, which faced us when we contemplated the question of bail.

The Law Reform Commission did a great deal of work in the preparation of the legislation, and requested that when the Bill was completed it be referred back to the commission because it wanted to give further views on the final draft—progress views, one might say—to ensure the Bill measured up to the general principles and standards the commission believes should be included in it.

A great deal of work was required to draft this legislation. It was a most complicated exercise and the draftsmen deserve credit for the work they have done. Then it had to be examined very carefully. The Bill's instructing officer was the Crown Counsel (Mr Murray), who instructed the Parliamentary Counsel. At that stage of the Bill it received the most careful attention. We cannot hurry some of these stages because the officers have many other duties to perform. It was not a case simply of their putting all else aside and sitting down to draft the Bail Bill. We must appreciate the pressing work that those officers, including those of the Law Reform Commission, have to do. We do not have available an unlimited number of officers with competence in this field, and, naturally, it is quite difficult to even find

people of the required competence; we are thus very fortunate to have the officers we do.

It is more than a little unfair to criticise the time which has been taken over this matter. Admittedly, one can criticise the Government; the Government must take ultimate responsibility for the Bill because we commissioned the work. If we had not done so, it would not have been drawn up. It was commissioned because of the problems mentioned by speakers particularly by the Hon. Mr Wells.

One of the problems is that of bail absconders. The issue of bail legislation was raised originally in about 1975-76 when there appeared to be a large number of bail absconders who received an extraordinary amount of newspaper publicity. Many people who were accused of offences and who had been granted bail failed to appear on the date fixed for their trials. Some of these people were quite celebrated persons. In Sydney, following the well-known robbery of the taxation office, the accused disappeared completely. That had nothing to do with this Government, but a number of similar incidents occurred here which caused the Government to decide to codify the law of bail and make it clear. There was a real responsibility on us to look at both sides of the question—the side of the prisoner who had not been convicted and who should be granted his freedom pending trial, and the side of the community which had an interest in not having to pay for the catching of offenders or alleged offenders twice or thrice. The general safety of the public was considered.

Those are the basic considerations which caused the Government to instruct the Law Reform Commission to do this work, and the result is the Bill which we have here today. In view of the complexity of the matter, it was decided that an explanatory booklet should be prepared and that, I am sure, has been of considerable assistance to members both here, and in the other place. Indeed, in due course, if and when Parliament passes this legislation, this booklet will be changed and published in the form of an explanatory booklet on the Act, with appropriate amendments to enable it to be readily understandable to the general public.

The Hon. Mr Berinson believed there ought to be a qualified right to bail, and this is approximately what the Law Reform Commission said in its report. Having weighed it all up, the Law Reform Commission came to the conclusion that it would like to see a qualified right to bail. The honourable member felt that would have been an improvement, albeit a slight one, because he readily admitted that there was very little differ-

ence between what is contained in the Bill and a qualified right to bail. The honourable member believed there should be a qualified right to bail for adults as the Bill expresses there is a qualified right to bail for children.

The Government was faced with the competing pressures of those people who wanted the bail laws tightened up and those who wanted the bail laws relaxed. It represents a very fine line of distinction and this was peculiarly the Government's problem because, although the question of granting bail is a problem for each magistrate or judge who must make the decision. Nevertheless, it was our problem to decide at the outset whether the law should be tightened up or relaxed.

We examined this matter very carefully and I must confess that we went to and fro in our thinking. The views that the honourable member expressed crossed my mind also and there were times during the drafting of the legislation when I suggested that perhaps we should come out with a qualified right to bail.

Boiling it all down, what exactly is a right to bail which comprises a right which can be refused? We are not dealing with an absolute right; indeed, as the Hon. Mr Wells pointed out, that was rejected by the New South Wales Attorney General (Mr Frank Walker); he decided that the community had an interest in rejecting that absolutely.

We are not dealing with that. We are talking about a right which may be refused; in other words, a qualified right. What is a right that may be refused, and how does a right to bail which may be refused differ from a right to have bail considered on certain terms which have been laid down? There is very little difference. I suppose it could be said to be a difference in semantics, although I do not like the word very much because it often hides a multitude of sins. It could more properly be said, I suppose, that it is a difference of slight emphasis, but it is so slight as to be almost indefinable.

In any event, the Government came to the conclusion that it should give an accused person a right to have his bail considered on every occasion when he appeared before a court—not only on the first occasion, but also on every subsequent occasion—except in certain fairly well-defined cases. The accused person should have a right to have bail considered throughout the entire series of proceedings and, indeed, this is enshrined in the Act.

There is a requirement for a judge or an authorised officer to consider bail at every stage of the proceedings and that bail should be considered in

accordance with a discretion which may be exercised within certain well defined guidelines. The court is required to give reasons if it refuses to grant bail. This is a very important safeguard and represents a significant change from the previous practice.

I do not think one could have more rights than a right to have bail considered at every stage of the proceedings at the complete discretion of the court according to the guidelines which are laid down, and with the court being required to give reasons, should it refuse bail, and for the accused to have a right of appeal.

There is very little to choose between the two, except perhaps to add that the Government felt if there were a qualified right to bail, as time went on what had started off as a qualified right by some change of thought process might be construed to be an absolute right. That was the reason it was felt it could not go as far as that, but on the other hand with every intention of giving the person who was arrested the opportunity to have his application for bail ventilated compulsorily on every occasion he came before the court—in fact, even before he came before the court, at the moment of his arrest by the authorised officer or, in the case of a child, a community welfare officer. I do not think we can complain about that.

I know the honourable member has not complained, but I do not believe the Government can be accused of not fully considering the rights of people who are simply accused of crimes or offences, but are not yet convicted.

The Hon. Joe Berinson referred to clauses 18 and 19 and five options which might be available. The honourable member asked me to explain the Government's intention. It was never intended that the third or fourth options which were described should have any application. These options were that cash would be forfeited if the case were adjourned. It was not intended that if the case were adjourned, the cash would be forfeited. For that reason and in order to clarify the matter, the Government has agreed to amend clause 19(2). The amendment will make it quite clear that clause 19(2) is subject to clause 19(3). That will clarify the issue to make it quite clear that there are only three out of the five options and not the third and fourth to which the honourable member referred.

In other words, the Government does not intend that there will be any forfeiture if there is an adjournment.

In regard to simple offences in clause 18, the honourable member suggested that the no-bail

provisions should be extended to offences carrying a penalty of up to \$250. The present proposal in this clause is that no bail need be granted for certain simple offences for which there is a punishment of less than \$100 or imprisonment for less than a month. The Hon. Joe Berinson suggested it should be increased to \$250. The problem of increasing the amount to \$250 would be that we would extend it much more widely than was intended. As we do not wish to undermine this new system by extending it too widely, we believe the provision should apply to only limited classes of fairly trivial offences. At this stage, the Government would not care to increase the scope of this provision to that extent, but I am prepared to recommend to the House that the other proposal of the honourable member should be accepted; namely, that we increase the amount so that it be no more than \$100 and no more than one month's imprisonment. An amendment will be moved to that effect.

When considering this, the Law Society suggested that all summary offences should be included. The problem with that proposal is that if we included all summary offences as being offences for which bail was not required, we would in fact include indictable offences triable summarily and also some serious offences which could be dealt with summarily, including white collar offences, which we do not believe should be included.

The honourable member referred to clause 33 which requires a person to have bail considered. A judicial officer may wish a defendant to enter into a bail undertaking; in other words, a person who may be reluctant to accept bail may be ordered to do so. This may seem to be a rather extraordinary proposal, but there is good reason for it.

The Law Reform Commission thought that in certain cases there should be no bail where the defendant sought to remain in custody for, say, publicity purposes. We have taken the view that it is desirable to have bail, not to create special classes of people for whom there is no bail in these circumstances. The view has been taken that such cases best could be dealt with by ensuring that whatever the defendant's desire, if he is qualified for bail he should be granted bail and should not remain in custody at the public expense. If he is qualified for liberty, he ought to be at liberty. We do not believe he should be kept in prison if he is eligible for bail; we cannot see any reason for it.

Perhaps it may be thought the accused should be kept in prison for his own protection. That is one of those factors which may be taken into account and which is laid down as one of the

guidelines and one of the reasons that bail should not be granted. We take the view that if the accused is required to be kept in prison for his own protection, that is something which must become apparent to the bail decision-maker and in such a case he would not be granted bail.

Some discussion was held about sureties as referred to in clause 38. This matter was raised by the Law Society which had suggested a surety—that is, a guarantor—should be disqualified if the defendant, who is the accused, provided the cash put up for the surety. If the surety were indemnified by the prisoner, that surety should be disqualified.

The Hon. J. M. Berinson: It is not indemnification when paying by cash.

The Hon. I. G. MEDCALF: It is in the way clause 50 is framed because that clause refers to money and makes it an offence. Clause 38 states—

(1) A person is not qualified to be approved as a surety if— . . .

(c) there are reasonable grounds for believing that he has been, or will be, indemnified by any person against any forfeiture referred to in paragraph (b).

Clause 50 which creates evidence reads as follows—

50. (1) If a person indemnifies, or agrees to indemnify, a surety or proposed surety against any liability which the surety or proposed surety may incur under this Act (including this section) he and the surety or proposed surety and any person with whom he agrees as aforesaid each commit an offence.

Penalty: \$1 000 or imprisonment for 12 months or both.

(2) An offence is committed under subsection (1)—

(a) whether the agreement is made before or after the surety undertaking is entered into and whether or not a proposed surety actually becomes a surety; and

(b) whether the compensation is to be in money or in money's worth.

I am advised that covers the objection and if the surety receives cash before or after he becomes a surety he would commit an offence under this clause.

The honourable member referred to clause 46, which provides that where the surety has reason to believe the accused may abscond, he may take

the accused to the police station and seek to withdraw from his surety undertaking. The problem is that before the surety can withdraw he must have reasonable grounds; the suggestion has been made that, at present, he does not need reasonable grounds. Why should he need them under this Bill? I am advised that at present some doubt exists as to whether the surety may withdraw without reasonable grounds. Indeed, he probably requires reasonable grounds now before he withdraws.

Clause 46 gives a statutory power of arrest to the surety. At present the surety has no authority to arrest a person and he must rely on an ordinary citizen's arrest.

The Hon. J. M. Berinson: That puts him at risk if he has made a bad judgment.

The Hon. I. G. MEDCALF: That is still the case. He must be careful that he does have some reason otherwise he might find he is at risk as far as the accused is concerned. I think the argument may be a little academic. Anyone who takes the trouble to arrest an accused and take him to the police station must have reasonable grounds for taking that action.

The Hon. J. M. Berinson: It could be that he becomes increasingly concerned about the financial risk he has taken.

The Hon. I. G. MEDCALF: Clause 46 merely provides the statutory power of arrest to the surety. Under clause 48, he may still apply for cancellation of the undertaking.

The Hon. J. M. Berinson: That is a slow process under clause 48.

The Hon. I. G. MEDCALF: He could invoke police assistance and the police could carry out the arrest themselves.

The Hon. J. M. Berinson: Is it correct that under clause 48 he can get assistance from the police to arrest? It seems that it provides only the process of summons.

The Hon. I. G. MEDCALF: He can cancel the undertaking under clause 48 and the police can arrest under clause 54.

The Hon. J. M. Berinson: We are confusing the two clauses. Clause 48 does not need reasonable grounds—it is under clause 54.

The Hon. G. E. MEDCALF: That is right, but the police can carry out the arrest. I believe reasonable grounds are necessary and are certainly desirable if the prisoner is arrested by either the surety or the police.

The Hon. Peter Wells also made a very valuable contribution to this debate. He obviously went to a great deal of trouble to collect information

from a number of sources, and I would like to deal with the matter he raised. He referred to the number of bail absconders and inquired as to the proportion. I am afraid I am unable to give him that information because I do not believe it is available. It may be known to the police, but it is not readily available. I doubt very much whether it is as high as 10 per cent; I think the honourable member quoted that figure from elsewhere. I agree there have been times when there has been a large number of bail absconders in the community at the one time. However, this question has been raised before and it was the original reason for the Government's inquiring into the need for legislation of this type.

The Hon. Peter Wells referred to the question of shopping around by an accused in an endeavour to find someone who would grant him bail. Of course, the honourable member knows one cannot shop around at the same level. The accused, who is arrested, is entitled to have his bail considered forthwith and that is considered by an authorised officer or justice who is in the police station. The authorised officer, who may be a police sergeant or, in the case of an infant, a community welfare officer, or justice of the peace may consider bail, but no other authorised officer or justice can give any consideration to that.

A court must hear that application, within seven days, and at that stage bail can be reconsidered by the particular court. No other court of the same jurisdiction—be it petty sessions, or any other—can entertain that original application for bail again, although it may come up from time to time. The matter is not considered *ab initio*—from the beginning—again. This applies to every level of jurisdiction. At the stage of the Supreme Court, once the judge has made the decision the same applies; the accused cannot shop around for another Supreme Court judge who could perhaps give a decision in his favour if has had one given against him.

Even at the level of the Supreme Court the rule against shopping around applies. There is, of course, a system where if bail is refused at one level an appeal can be made to a higher level. The appeal procedure is a review procedure and it is, so to speak, in the sense that the entire bail question—not just the question of a variation—can be looked at on appeal. As between one adjournment and another it is necessary to examine the question of bail only in relation to any variations that might have occurred between that occasion and the last time that bail was dealt with.

The Hon. Peter Wells: Do you mean evidence that has not been considered before?

The Hon. I. G. MEDCALF: The honourable member suggested there might be a substantial increase in the number of appeals, as has apparently occurred in New South Wales. We have looked at this and it is not anticipated that the number of appeals will clog the lists of the Supreme Court. We are merely codifying the existing powers of judges of the Supreme Court. In other words, the powers are there now; the power is there to review bail on appeal; we are merely codifying them.

We are putting them down in this particular legislation. We do not believe there will be a great increase in the number of appeals. If there were, we would have to take some action to assist the court.

The justice or the authorised officer must consider the question of bail immediately upon a person being arrested. The accused must then be brought before a court within seven days, so the original grant of bail cannot be for a period in excess of seven days. Within that period, the accused is brought before a court—assuming he is charged with a minor offence, it would be a Court of Petty Sessions—and the court then has to consider bail. It may then grant bail for a period of up to 30 days, but it may extend the period beyond 30 days with the consent of the accused.

The honourable member referred to the bail hostel and asked whether there was any likelihood of the Government proceeding with this idea. The Government promised in its 1980 election platform that a bail hostel would be set up, and that is still the Government's desire. We have been thwarted so far by lack of finance. Nevertheless, I hope we will be able to set one up pretty soon. As the honourable member mentioned, the North Fremantle Primary School has been made available by the Public Works Department. We need quite a bit of money to refurbish it and put it in decent condition, and this would include the provision of a kitchen and other facilities. I hope we will be able to do it but I cannot give any guarantee because it will depend on Treasury being able to find the money. It is extremely important to provide somewhere other than prison for people who have no local address, or who for some reason cannot be granted normal bail. It is a sort of halfway house between ordinary bail for people who live here and have a family, and going to the remand centre. For these reasons we are anxious it should be set up.

The honourable member asked whether steps had been taken to try to get a voluntary organisation to run the bail hostel. I assure him the Government tried to get voluntary organisations to run it. We inquired of the Salvation Army and

the Catholic welfare organisations to see whether either of those organisations would be prepared to run it, but it was beyond their resources and they were unable to contemplate taking it on. We will have to find other people to run it. At some future date we may be able to get a voluntary group to come in and assist, as happened in the United Kingdom. We would welcome any assistance we could get.

The honourable member referred to bail centres as distinct from bail hostels and asked whether the Government had contemplated them. At bail centres some guidance is provided for people on bail as distinct from a bail hostel which is a residential centre. We have not yet contemplated having a bail centre. We want to get a bail hostel first; we believe that is a more urgent requirement. When that is established we may be able to do something about a bail centre.

This Bill provides that information will be made available to all those people who are accused of offences. They will get written information advising them of their rights in regard to bail. Separate information will be provided for people who are proposed as sureties. There will be two lots of information sheets—one for the accused and another for the sureties. The court will be obliged to ensure that people understand the information with which they are supplied, and the court will have to make sure it is translated if necessary.

The honourable member also asked whether we could impose conditions in relation to bail other than cash payments, or provide for other ways to ensure that the person will appear in court. The answer is, "Yes". Provision exists in part D of the schedule for conditions to be imposed in relation to treatment. It may be made a condition of bail that people receive psychiatric treatment or treatment for alcohol problems.

Turning to the question of sureties, clause 37 ensures that a careful check will be made of a person's surety. A surety has to be examined in various ways to make sure he is capable of standing up to his obligations. He must complete certain forms and the court must be satisfied that he understands what it is all about. Information about his responsibilities must be given to the surety before he is approved.

It should not be possible in any future case for a surety to say he was not aware of what he had let himself in for. We hope that will be so, and we have taken every precaution to ensure that it will be so. On many occasions in the past complaints have been made to me that a surety did not understand his obligations. I have investigated

many of these cases, and frequently I have found the surety had an understanding or an explanation had been given to him. We want to make doubly and triply sure that a surety can never say in the future, in any language, that he did not understand. The surety system is only one option. It is one of a range of bail conditions set out in part D of the schedule. It is not necessary to have a surety unless the bail decision-maker decides that a surety is required.

The honourable member referred to the possible hardship of a surety who may be required to forfeit because the accused absconded. It could be a great hardship indeed for a surety to forfeit his property. At present, the only recourse for the surety is to write to the Attorney General and ask him to do something about it.

Clause 49 of the Bill is quite a merciful provision which enables the court to make that decision in the future. The court will be able to relieve a surety of forfeiture, including partial forfeiture. In other words, the surety may be relieved partially. Of course, the court will have to be satisfied that it is a proper thing to do, and conditions may be laid down. Nevertheless, the court will have that power.

In the final analysis, the power will still lie with the Royal prerogative. Sureties still will be able to come back and do what they did before, and ask the Attorney General to try to get hold of the proper Royal personage to exercise mercy.

In fact, the surety's position is improved vastly. He will understand fully what it is all about and, in the case of genuine hardship—and I emphasise that it must be genuine hardship—the surety can be relieved of his obligation in whole or in part. If the surety has been let down badly and he has real hardship, the situation, no doubt, will be looked upon mercifully.

The Hon. P. H. Wells: Is it only in hardship cases?

The Hon. I. G. MEDCALF: No. Clause 49 provides—

49. (1) Where a defendant has failed to comply with any requirement of his bail undertaking mentioned in section 28 (2) (a) or (b) (ii) the following provisions of this section apply . . .

It sets out the procedure; and then the following appears—

(c) on the hearing of the application and upon proof of the surety's liability in terms of his undertaking, the judicial officer shall order forfeiture of the full amount specified in the undertaking unless the surety attends at the hearing and shows to the satisfaction of the judicial officer that—

- (i) there was reasonable cause for the failure of the defendant to comply with the requirement to which the complaint relates; or
- (ii) the surety took all steps which were reasonably available to him to secure compliance by the defendant with such requirement;

It deals with hardship following that. Several grounds are provided on which the surety could be exempted.

The honourable member referred to regulations. Of course we will need quite detailed regulations which still have to be drawn. Naturally, regulations are not drawn until Parliament passes the legislation. The regulations require a great deal of work by the Parliamentary Counsel instructed by a Crown Law Department instructing officer to be appointed. The Crown Counsel will assist.

I cannot say exactly when the regulations will be ready. I can say only that they will be prepared as soon as we reasonably can get them together. They have to be drawn with care, and we have to allow time for the police, justices of the peace, officers of the Department for Community Welfare, and judges to look at them and become used to them. We will have some little delay before we can say that we have everything ready for the new procedures to be used. I am looking at it from a practical point of view; I would not like anybody to suggest that the delay is unnecessary. I am afraid it is very necessary, but we will do it as quickly as we can.

On the question of overnight releases, I refer the honourable member to part C of the schedule, clause 1 (a) (iv), 1 (b), and 1 (d). In appropriate cases, this will make bail during a trial more available.

The Law Society referred to the interrelationship between clauses 8 and 9 of the Bill, which suggested that the bail decision, which could be deferred for a period of 30 days under clause 9, should not be made until there was an assurance that the accused had been given full information, and had been given an opportunity to be heard on the question of bail. We do not consider it is necessary to make any amendment in relation to

those clauses. That is how the law will work, because the accused, on arrest, and then within seven days, must be given the opportunity of having a bail decision made. Therefore, the procedure for deferment is provided following the case coming up for consideration under clause 8. Under clause 9 (2) the accused has the right to be brought before the court, and that is a right which he may invoke to have his bail reconsidered, if necessary.

The Hon. Mr MacKinnon asked whether we were going too far. That really was the question he raised. He referred to a debate he had listened to in the Congress of the United States of America during his recent visit to that country. He mentioned the concern that some of the legislators there were expressing on the question of bail absconders. He wondered whether we were going too far. I gather that his question was, "Is the Bill too lenient?" I can give an emphatic "No" to that question. I can say quite clearly that the Bill is not too lenient.

The Bill is an attempt to reconcile the conflicting interests of a person who is accused of an offence, but has not been convicted, and is therefore entitled to his freedom, and the interests of the community which is entitled to protection against people who are suspected of committing crimes. These conflicting principles have been covered as adequately as possible in this Bill.

I do not believe we are going too far. I believe that the guided discretion which is laid down provides an opportunity for a bail decision-maker to consider all the factors in relation to the protection of the community. We have no cause for concern in relation to the question that the honourable member raised.

I commend the Bill to the House.

Question put and passed.

Bill read a second time.

#### *In Committee*

The Chairman of Committees (the Hon. V. J. Ferry) in the Chair; the Hon. I. G. Medcalf (Attorney General) in charge of the Bill.

Clauses 1 to 4 put and passed.

Clause 5: Right of defendant to have bail considered under this Act—

The Hon. I. G. MEDCALF: I move an amendment—

Page 6, line 30—Delete the passage "and 12", and substitute the passage "12 and 16 (2)".

I explain that this amendment and the next few succeeding amendments relate really to the

amendment to clause 16. It is necessary that I explain at this stage what the amendment to clause 16 is all about.

In substance, the amendment to clause 16 seeks to insert a subclause which, in effect, will restrict a bail absconder if again claiming bail. In other words, as a result of an oversight, someone who was arrested under warrant for absconding from bail was put in the same position as a person who had offended and was brought before the court for his first trial. It is felt that, when a bail absconder comes before the court, we should not have to go through all the bail processes, apart from the provision that bail may be granted to him if the court before which he previously failed to appear and which commands his presence grants him bail. However, it was felt we should not have to go through all the processes of insisting on consideration for bail in the case of a bail absconder.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 6: Duty imposed on arresting officer or person—

The Hon. I. G. MEDCALF: I move an amendment—

Page 8, line 13—Delete the passage “and 12” and substitute the passage “, 12 and 16 (2)”.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 7: Duty imposed on judicial officers in respect of unconvicted defendants—

The Hon. I. G. MEDCALF: I move an amendment—

Page 9, line 29—Delete the passage “and 12” and substitute the passage “, 12 and 16 (2)”.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 8 to 14 put and passed.

Clause 15: Exclusive jurisdiction of Supreme Court Judge for serious offences—

The Hon. I. G. MEDCALF: I move an amendment—

Page 14, line 11—Delete the passage “sections 16, 17” and substitute the passage “section 16”.

This amendment seeks simply to delete a reference to section 17 in the Offenders Probation and Parole Act which is not really relevant. The effect of this clause is that an offender under the Offenders Probation and Parole Act who is in cus-

tody for the purposes of sections 16 and 20H—they are the sections which deal with probation and community service orders—shall, for the purpose of determining whether the previous subsection applies, be deemed to be in custody for the offence for which the probation or community service order was made.

In other words, if a person was in custody for breaching a probation or community service order, the bail question would be decided in relation to the offence for which he was originally charged. Section 17 should not be referred to. This amendment deletes a section which should not apply.

The Hon. J. M. BERINSON: I do not object to the amendment and I do not propose to discuss it. I take the opportunity to raise the more substantial provision of the clause which appears in subclause (1) and provides that only a Supreme Court judge may grant bail where the penalty for the offence in question is imprisonment for life. That provision compares with the current provision of section 115 of the Justices Act to the effect that, “No person charged with a capital crime or the crime of murder shall be committed to bail except by order of the Supreme Court or a judge thereof.”

I note that the recommendation of the Law Reform Commission was that the existing narrower field of exclusive Supreme Court jurisdiction should be retained and it is not at all clear why that should not be the case.

Perhaps the Attorney General might direct our attention to any evidence which suggests the present system is not working satisfactorily. Failing that, I put it to the Attorney that there is no apparent reason for the more restrictive provision of the present Bill and consideration could well be given to maintaining the current position in line with the recommendation of the Law Reform Commission.

The Hon. I. G. MEDCALF: A great deal of consideration was given to this matter and it was discussed with some of the judges. It was felt to be desirable that bail should be granted only by a judge of the Supreme Court when dealing with offences punishable by life imprisonment. We adopted an approach slightly more cautious than that taken by the Law Reform Commission. Not many of these offences punishable by life imprisonment occur, but it was felt that they should be dealt with by a judge of the Supreme Court and no-one else. That attitude is approximately in line with existing practice as I understand it and I did not know we were making any great change to the

present procedure. In any event, that was the view that commended itself to us.

The Hon. J. M. BERINSON: I do not want to pursue this matter at any length, but I just ask the Attorney to respond to my more direct question as to whether there has been any actual experience of the current system which encourages the more restricted application proposed, or whether it is simply a matter of our applying greater caution. In other words, have judicial officers other than Supreme Court judges been excessively lenient in their approach to bail on the more serious charges?

The Hon. I. G. MEDCALF: I cannot answer the honourable member's question by quoting any examples. I understand a view exists that some leniency has been shown and that would be corrected if these cases were dealt with by judges of the Supreme Court. I cannot point to any specific case, but it was clearly the view of my advisers and also of some of the judges that this should be the case.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 16: Bail of person arrested on warrant—

The Hon. I. G. MEDCALF: I have explained the reason for this amendment and should any further explanation be required I will be glad to give it. I move an amendment—

Page 14, line 16—Delete the clause designation "16." and substitute the clause designation "16. (1)".

The Hon. P. H. WELLS: During my research of this Bill my attention was drawn to the case of a girl let out on bail on a surety of \$10, so it could not have been a major case. Somehow or other she did not get the message that she was supposed to appear in court that morning; there had been a communications problem. Apparently she went home after a late night, went to bed, and then to work the next day. The case came up in court and, when she did not appear, the magistrate issued a bench warrant.

Eventually a constable appeared at her home and said that she was wanted and was told that she was not at home. When she arrived home she showered and then dropped into the local police station. She was told that they had a warrant for her and she was taken into custody.

Her explanation appeared to satisfy the officer at the local station and he indicated later to the justice of the peace that she should be released on bail again. The JP said that he could not do that because of some section of the Act, although the officer showed him a section which indicated she

could be released. However, the JP rang around to find out the position.

So everything is not black and white and there can be communication breakdowns. I understand that with the present wording of the clause, if a person were seeking bail and it happened to be a Friday morning, he could remain in clink until the Monday morning.

The Hon. I. G. MEDCALF: Such a person could be granted bail provided it was given by the court which was commanded by the warrant. If a person went to that court—and it depends on what court it was—if that court is available, it could grant bail. That person could not be granted bail by the authorised officer.

It seems the honourable member has chosen an unfortunate case. The Bill is written to cover the average case and not the very bad one. I suppose we would have to try to make some special arrangements otherwise. But the case he mentions is a most unusual one and perhaps we can give some further attention to it.

Amendment put and passed.

The Hon. I. G. MEDCALF: I move a further amendment—

Page 14, after line 21—Insert after subclause (1) the following new subclause to stand as subclause (2)—

(2) Notwithstanding subsection (1) or any other provision of this Act, a defendant who has been arrested pursuant to a warrant—

(a) issued under section 56; or

(b) issued under the Justices Act 1902 for an offence against section 51(1) or (2),

shall not have a right to have his case for bail considered, and shall not be granted bail, before he is brought before the court as commanded by the warrant.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 17 put and passed.

Clause 18: Police officer may dispense with bail in certain cases upon deposit of cash—

The Hon. I. G. MEDCALF: I have explained the reason for these amendments; it is to adopt the second suggestion made by the Hon. J. M. Berinson. I move an amendment—

Page 15, line 2—Delete the word "less" and substitute the words "not more".

Amendment put and passed.

The Hon. I. G. MEDCALF: I move a further amendment—

Page 15, line 3—Delete the word “less” and substitute the words “not more”.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 19: Disposal of deposit where bail dispensed with—

The Hon. I. G. MEDCALF: I have referred also to these amendments which are to adopt the suggestion by the Hon. J. M. Berinson that there should be no doubt as to what is intended by this clause. I move an amendment—

Page 16, line 19—Insert after the paragraph designation “(b)” the passage “subject to subsection (3), ”.

Amendment put and passed.

The Hon. I. G. MEDCALF: I move a further amendment—

Page 16, line 29—Insert after the designation “18 (2) (c)” the passage “or subsection (2) (b) of this section”.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 20 to 45 put and passed.

Clause 46: Power of surety to apprehend defendant—

The Hon. J. M. BERINSON: The comments I will make on this clause relate also to later clauses, all of which raise the question of the procedure involved in a surety's withdrawing from his obligations. This clause is the first to require him to have reasonable grounds for seeking to withdraw. In the course of my second reading speech I referred to my adopting, in this respect, the views of the Law Society. The Attorney referred to those views in passing; I think they are worth quoting for the information of the House. The opinion of the Law Society was—

Section 46 provides that a surety may arrest a defendant if the surety has reasonable grounds to believe that the defendant is not likely to comply with the requirements of his bail undertaking.

The Committee thinks that a person who is a surety should be able to take the defendant along to a police station at any reasonable time and to withdraw as a surety without having to show “reasonable grounds”.

Alternatively, the Committee thinks that the surety ought to be able to apply to a police officer or a Judicial Officer for the cancellation of his surety without the pres-

ence of the defendant. In this case the surety would not be forfeited if the authorities had a reasonable opportunity thereafter to apprehend the defendant and take him into custody. The liability of the surety would remain until the defendant had been apprehended or a reasonable time had elapsed during which the authorities should have apprehended the defendant. This would be a question of fact for a Court to decide.

At present the surety does not have to show any “reasonable grounds” for withdrawing as a surety. He may just be “uncomfortable”.

The basic proposition is that difficulties should not be put in the way of a surety who wishes to withdraw. He is a volunteer; he puts himself at risk for no consideration, and indeed the legislation makes it an offence for him to look for or to accept a consideration. It is not difficult to imagine the circumstances of a surety called on at short notice and for reasons of family connections or friendship, or just the pressures of the moment, to accept an obligation which may well be beyond his capacity to meet. It may not even be so much a question of his not trusting the defendant that he seeks to withdraw; it may just be his realisation that he has taken on a commitment he would be unlikely to be able to meet if called upon to do so. In those circumstances I again put it to the Attorney that to require a surety to show reasonable grounds for withdrawing is requiring him to do too much.

As the Attorney pointed out, several clauses are available to the surety who wishes to withdraw. Clause 46 is the first; he may arrest the defendant for the purpose of taking him to a police station to be returned to custody, thereby releasing the surety from his obligation. In order for the surety to arrest the defendant, the surety must be able to satisfy the requirement of reasonable grounds in believing the defendant is not likely to conform with the requirements of the bail undertaking. The surety could well be in the position of not being able to establish objectively that his grounds are reasonable. He may simply be, as the Law Society suggests, uncomfortable. Whatever are the subjective reasons, they may be inadequate to meet the test of reasonable grounds. If that is the case, a man who, in the best of faith and friendship undertook the obligations of a surety, will find himself in all sorts of bother. If he is unable to satisfy the objective requirement, he has committed an offence; he has put himself in the position of making a false arrest.

A similar provision applies in clause 54 which brings in a police officer who may cause a defend-

ant released on bail to appear and show cause why his bail should not be varied or revoked. If the police officer has reasonable grounds to believe, or is notified in writing by a surety of the defendant that the surety has reasonable grounds to believe, that the defendant is not likely to comply with his bail undertakings, and so on, the police officer may cause the defendant to appear and show cause. Again there is this objective test. The surety may not be able to satisfy, and again we come back to the question: Should he have to satisfy an objective test like that, given his position as a volunteer?

It is true that under clause 48 a surety may apply to an appropriate judicial officer for a cancellation of his undertakings without giving reasons to justify his application. The problem with the procedure of clause 48 is that it is much less a summary procedure than those of clauses 46 and 54. It does necessarily give rise to certain delay while the summons or warrant is issued and served, during which time the surety is at risk. I think it is fair to show at least as much concern for the surety as for the person on bail. I do not believe the surety is put in a sufficiently reasonable position by the requirements in clauses 46 and 54 which call on him to demonstrate reasonable grounds for his belief.

The Hon. I. G. MEDCALF: I suppose this is a matter of opinion: We are not changing the existing law in relation to arrests. It is not possible now to arrest someone without reasonable grounds. If one citizen arrests another he must have proper grounds for doing so; he cannot just go up and arrest someone. We must not forget, in spite of our sympathy for a surety who, as the honourable member said, is a volunteer, that the accused is innocent until he is convicted. Indeed, the member suggested that point at the outset of his speech during the second reading stage.

Even more wrong than forgetting that an accused is innocent until proved guilty would be to allow a citizen to arrest another citizen without reasonable grounds. The object of clause 46 is to ensure reasonable grounds must be available. A surety at any time can get out of his undertaking without having reasonable grounds by invoking clause 48 which provides for him to be able to apply to a judicial officer to be released from his undertaking. Under clause 48 he would not have to establish anything other than that he is the surety and wants to be released. However, if a surety or a police officer is to arrest a defendant, reasonable grounds must be available. In terms of looking after the civil rights of an accused, it would not be adequate to allow someone to arrest

an accused without having reasonable grounds for doing so.

The Hon. J. M. BERINSON: He would be in no worse position than if the surety had not volunteered in the first place.

The Hon. I. G. MEDCALF: The surety is a volunteer, but as I went to great pains to explain, the surety's position would have been adequately explained to him at the time of entering into the undertaking. A surety's obligations are explained to him in the form of a written information sheet, and should be explained to him verbally in whatever language he requires, to cater for the sureties who later claim they did not understand. The responsibilities of the undertaking, as it is called, are to be suitably impressed upon the surety.

Admittedly, he is a volunteer who has come forward because he is a relative or a friend of the accused. I do not believe that, having had his duties explained to him, he should be able to arrest the accused without having the proper reasonable grounds, but simply because he may change his mind. He cannot do that now and I do not see why we should write that into the Bill. Clause 48 gives him the opportunity to have his undertaking cancelled without the necessity to provide reasonable grounds, which is something he cannot do now.

Clause put and passed.

Clauses 47 and 48 put and passed.

Clause 49: Forfeiture of money under surety's undertaking—

The Hon. J. M. BERINSON: I rise diffidently because I suspect the Attorney General is going to accuse me of never being satisfied.

The Hon. I. G. Medcalf: You are hard to please.

The Hon. J. M. BERINSON: The problem is that I have just spent a few minutes indicating that I think we are being too hard on sureties. I am now going to suggest that perhaps in this clause we are being too easy.

I direct the attention of the House to clause 49(1)(c). Omitting unnecessary words, it provides that—

... on the hearing of the application and upon proof of the surety's liability in terms of his undertaking, the judicial officer shall order forfeiture of the full amount specified in the undertaking unless the surety attends at the hearing and shows to the satisfaction of the judicial officer that . . . the surety took all steps which were reasonably available to him to secure compliance by the defendant with such requirement;

What are all the steps reasonably available to a surety? The days have long since passed when a surety was looked upon virtually to take the defendant into his personal custody.

It is reasonable enough to suggest that a surety could satisfy the provisions of this subclause by saying that he took every opportunity to stress to the defendant the importance of his appearing as required; that he told him daily that he was personally relying on him to meet that obligation; and that, for example, he checked every day to see that the defendant was still at his address.

The Hon. P. H. Wells: Just as I said in my speech!

The Hon. J. M. BERINSON: Nowadays, what else could we ask a surety to do? The test is set at a very low point and it seems to me that in nearly every case of an absconding defendant the surety would be entitled to be released from any obligation to pay money under this subclause. The unfortunate effect of that is that we would then lose whatever deterrent now is placed on a defendant by his obligation to the surety. I am not in a position to judge how much that would influence a defendant to turn up in court. A lot would depend on the nature of the offence with which he is charged and on his belief in regard to his prospects of getting off, and so on; still, if one has his poor old mother pledging her house to secure his freedom, in most cases there is a reasonable prospect that a defendant would be sufficiently impressed by the burden on her to add something to the likelihood of his turning up and meeting his obligations.

If we are to remove even that degree of deterrent from his interest in absconding, we are coming very close to saying that there is no point in our having sureties at all. Indeed, a serious school of thought says that there is no point in our continuing with the surety system, but I do not explore that point of view now. The Bill accepts the necessity or the usefulness of a surety system; I certainly am not disputing that, for present purposes. However, if we are to have a surety system it should be one that cannot be sidestepped as readily as this subclause appears to allow.

In the course of his reply the Attorney General referred to this as a merciful provision, and it certainly is that; but without ever wanting to put myself in a situation of suggesting that any degree of mercy is excessive, nonetheless, there are serious practical considerations which ought to be pursued further than does this subclause.

The Hon. I. G. MEDCALF: The point made by the Hon. Joe Berinson illustrates the problem of the Government in relation to this Bill. The

Hon. Peter Wells put forward a particular viewpoint which I deduced from the form of some of the questions he was asking me, together with his observations. He said we must relieve the surety from some of his obligations which might otherwise prove too harsh. He inquired about partial forfeiture and asked whether it would be possible to have other means by which a surety could be released from forfeiture. The honourable member inquired if there were other grounds.

This illustrates the two views. Whose side does one come down on? Does one come down on the side of absolute, strict liability, or on the side of a little bit of mercy, to cater for the difficult cases? The question of sureties is a difficult area. It is bad form for me to be continually quoting from cases I have experienced, but I believe the members will have encountered the same kinds of cases. Perhaps they may have read about them in the Press from time to time, where relatives have done all they could to try to get an accused person to court and he has absconded at the last possible moment. It is a very difficult situation indeed.

The rule that the police and the Crown Law Department follow in these cases is one of strict liability. A surety who undertakes to get somebody to a court at a certain time must produce that body at the court—alive and well, of course—at that time; if he does not, he is immediately hoisted, bail will be forfeited, and he will be charged with committing an offence. It is a very strict provision.

It is so strict that at the moment there is no way for any mercy other than the Royal prerogative; that is what it amounts to. We have made an attempt and now the court will have an opportunity to provide alleviation and to have some flexibility in this area.

How it is interpreted remains to be seen. Undoubtedly, there will be a few test cases on this. It will be interpreted in the light of the guidelines. The steps required still will be very strict ones. A surety must comply with his obligation and must bring that person to court. If a person gets the accused person to the door of the courtroom and he disappears from under his arm and gets away, I suggest the surety may have taken all reasonable steps to get the person to the court.

If someone simply rings up from the country and says, "Don't forget to go to the court next Tuesday", I cannot believe that could be taken to be all reasonable steps. I do not think it necessary to mention other cases; it is a question of opinion and it is not an easy one. I do not believe we are being too lenient; we are simply providing some degree of flexibility for genuine cases.

The Hon. J. M. BERINSON: Perhaps I could test the position in this way: I am sure the Attorney General would have received many applications for the exercise of his discretion. I ask him whether he believes that any of the cases which have been brought for his direct attention would have failed to succeed if they were required to meet no more than the test of this section.

The Hon. I. G. MEDCALF: I cannot recollect all such cases, but I can think of one I had the other day where a woman in Kalgoorlie acted as surety for her son who had to appear in Moora. She had undertaken the obligation—for which I had a lot of sympathy; she had done it out of loyalty to her son—but it was a case where she simply reminded him to appear and she trusted him to do so. He did not appear and in that case she had not taken all reasonable steps necessary. I do not know how many cases I have had where people in fact have taken all reasonable steps. In quite a few cases, mercy has been granted for no reason other than that the Governor has an overriding prerogative.

Clause put and passed.

Clauses 50 to 68 put and passed.

Schedule, parts A and B, put and passed.

Schedule, part C—

The Hon. J. M. BERINSON: The main point I want to raise on part C is embodied in the amendment which has been circulated in my name. The amendment will seek wholly to replace clause 1. Before I move to discuss that amendment, I refer to clause 2 of part C which, according to the marginal note, is meant to provide to children a qualified right to bail.

This again is a case where the Attorney General referred to a matter in the course of his reply. His explanation was that, as the marginal note suggests, clause 2 is intended to provide for children the sort of qualified right which the Law Reform Commission suggested for all affected persons. The question is whether clause 2 achieves this apparent aim.

Clause 2 (a) reads—

Subject to section 28 (2) of the Child Welfare Act 1947, a child defendant who is in custody awaiting an appearance in court before conviction for an offence has a right to be released on bail unless—

- (a) one or more of the questions set out in clause 1 (a), (b), and (d) must, in the opinion of the judicial officer or authorized officer, be answered in the affirmative;

Now to take clause 1 (a) of the cross reference, this poses the question whether if the defendant is not kept in custody he may fail to appear in court, in accordance with his bail undertaking.

Putting together those two propositions, what we have said is that there is a right to bail, unless the judicial officer must conclude that the defendant may fail to appear. That is a peculiar use of language. To say, "I must be certain that someone might do something" is to say no more than, "I think or believe something might be done." If that is right, as I believe it is, the child's position under clause 2 of part C is no better than that of the adult, and that is clearly contrary to the apparent intention of this clause.

I think the problem has arisen because of the absence of wording appropriate to a qualified right to bail in clause 1. One cannot sensibly talk in terms of being certain that something might happen. One needs to talk in terms of being reasonably certain that something will happen. Somewhere along the line the interconnection of a clause setting out to give a qualified right with another clause doing no more than providing an open discretion is leading to the opposite of what is obviously intended by this provision.

The Hon. I. G. MEDCALF: I appreciate the point the honourable member has made, but the basic point he is making—that it is not really a qualified right—comes right back to the argument I made earlier; namely, there is very little difference between a qualified right to bail and the right to have bail considered in the light of a discretion. It is such a narrow line on which I think we are arguing to the ninth part of a hair.

However, the honourable member made the other point that here we are providing that a child will have a qualified right to bail unless the judicial officer comes to the conclusion that he may fail to appear in court. I do not find anything wrong with that situation. It may be that it is a little illogical in the sense that we are saying he has a right when the right is conditional upon the affirmative answer to a likelihood or possibility. We are getting into a rather abstruse area. I believe we should try to extract the real reason for of the provision. From a practical point of view, if the child may fail to appear in court in accordance with his bail undertaking, there is good reason not to grant him bail.

That is a good qualification.

The Hon. J. M. Berinson: Would you like to expand on the difference between that position and the position applying to the adult? It is precisely the same.

The Hon. I. G. MEDCALF: There is very little difference. Here we come to this fine—

The Hon. J. M. BERINSON: What is the point of the separate discretions?

The Hon. I. G. MEDCALF: There is not very much difference between the right to bail with certain qualifications and a right to have bail considered subject to discretions. It is a matter of what are the qualifications and what are the discretions. In these circumstances, for various reasons we reach the conclusion that there should be a certain amount of strictness applying to the situation of a child because some of the worst offenders in the community are children—unfortunately they are no more than 16 years of age. Therefore, I believe we must take a fairly strict view.

The Hon. J. M. BERINSON: In spite of the Attorney General's stand that there is no real difference between us, I would like to test the case by moving the amendment which has been circulated in my name.

I will not speak at length to this amendment because my reasons were fully detailed in the course of my second reading speech. However, I would like to repeat the following: Firstly, the amendment is in line with the Law Reform Commission's recommendations and recent legislation in other jurisdictions.

Secondly, it provides adequate safeguards to the community and I do assure Mr MacKinnon, who asked whether or not we were going too far in the defendant's favour, that I would not be moving this amendment if I did not believe that it retained adequate safeguards.

Thirdly, it does affect the onus or presumption so as to require refusal of bail to be justified, but the onus is not difficult to satisfy and it is a proper placement of the onus in the circumstances of the initial presumption of innocence.

The problem of the wording of the Bill, as I tried to indicate at an earlier stage, is that it may not make clear enough the intention to liberalise the approach to bail. Some well-established practices may require this to be made more clear, and because of the Attorney General's constant emphasis on the suggestion that we really may be engaging in an exercise in semantics, I illustrate the point I am trying to make with reference to the widespread judicial reluctance to allow bail in the course of trial. In this respect I draw the attention of the Chamber to separate comments from the Law Reform Commission's report. The first appears on page 21 of the report in the following terms—

The period during trial raises more difficult questions relating to the defendant's rights in relation to bail. However, because the defendant has not been convicted, the Commission takes the view that a qualified right to bail should continue. In *R. v Cutler* it was held that, to preserve the integrity of the trial, bail should be refused once the defendant is in the charge of a jury unless there are exceptional circumstances personal to the defendant's case. The Commission agrees that the integrity of the trial should be a relevant consideration regarding bail, and it recommends a special ground for refusing bail under this head.

That provision is included in the amendment I am moving. The report continues—

However, it does not share the view that a grant of bail during trial, particularly where the defendant has previously been granted bail, should be exceptional. A defendant with a qualified right to bail should be granted bail unless there are grounds for refusing it, and having regard to the possibility of removing the problems referred to in *Cutler's* case by administrative measures, or by imposing special conditions, bail during trial should be viewed more favourably.

In summary, therefore, the Commission recommends that a defendant in Western Australia should have a qualified right to bail at all stages of the criminal justice procedure prior to conviction.

On page 33 of the report the following comment is made—

... the Chief Justice, both in *R. v Cutler* and in a submission on the Working Paper, has expressed the view that there are special reasons for refusing bail during the course of a trial. In essence these reasons are that—

- (a) a jury could associate the decision to grant or refuse bail during a trial with the trial judge's view, at that stage of the proceedings, of the guilt or innocence of the defendant;
- (b) a failure to appear by the defendant, even if temporary, could abort a half completed trial with great inconvenience to the judge and jury and cost to the public;

- (c) particularly in country areas where accommodation is limited, the community could consider the integrity of the trial process to be in doubt if the defendant were able to mix with witnesses and jurors during the course of the trial.

The Commission agrees that these are relevant factors which should be taken into account by the bail-decision-maker when considering bail during the course of a trial. Consequently, it recommends that a bail-decision-maker should be able to refuse bail for a defendant during trial if he considers that there would otherwise be a substantial risk that the fairness and integrity of the trial would be prejudiced.

A provision to that effect is found in the proposed amendment. The report continues—

It also recommends, however, that administrative arrangements should be implemented in court, wherever practicable, to ensure that the jury are not made aware of whether the defendant has or has not been granted bail.

I have quoted at length to illustrate the point that judicial reluctance to grant bail during trial could well remain totally unaffected without the clearest guidelines to that effect being included in this legislation.

With the greatest respect to the Chief Justice, I indicate there must be many cases where it would be perfectly safe to grant the defendant bail in the course of trial. Each case should be decided on its merits; this would be proper and on the experience of similar jurisdictions would be perfectly safe. For the reasons I have outlined I move an amendment—

Page 50—Delete clause 1 of part C of the schedule and substitute the following—

“1. A defendant, other than a child, who is in custody awaiting an appearance in court before conviction for an offence shall be granted bail unless the judicial officer or authorised officer in whom jurisdiction is vested is satisfied that, having regard to the conditions he could reasonably impose, there remains—

- (a) substantial grounds for belief that the defendant, if released on bail will—
  - (i) fail to appear in court in accordance with his bail undertaking;

- (ii) commit an offence;
- (iii) endanger the safety, welfare or property of any person; or
- (iv) interfere with witnesses or otherwise obstruct the course of justice, whether in relation to himself or any other person;

- (b) a need for the defendant to remain in custody for his own protection;
- (c) as regards the period when the defendant is on trial, a substantial risk that the fairness or integrity of the trial process will be prejudiced.”

The Hon. I. G. MEDCALF: The Cutler decision will be changed as a result of the proposals in part C. Although that decision is observed generally, I am informed that it is often honoured in the breach. In fact, in many cases, defendants are granted bail during trial now on what Mr Wells referred to as “overnight bail”. This is catered for in part C. The amendment which the honourable member proposes is not necessary in order to secure a change in the law in relation to bail during trial.

Bail during trial can be granted under part C. Under the provisions of clause 1(a) (iv), the court must consider certain factors; whether, for example, the defendant might interfere with witnesses or otherwise obstruct the course of justice, whether in relation to himself or any other person; under clause 1(b), whether the defendant needs to be held in custody for his own protection; and under 1 (d), whether, as regards the period when the defendant is on trial, there are grounds for believing that, if he is not kept in custody, the proper conduct of the trial may be prejudiced. These are all very relevant considerations. They cannot be ignored or set aside. They have to be considered by the court in the interests of the community, public safety, and the administration of justice.

The situation under part C, clause 1, is nowhere near as strict as the present law might indicate. Indeed, it will make bail during trial more generally available in appropriate cases, without increasing the risk of prejudice to the trial process. It is not necessary to say any more on that point.

On the general point that the honourable member’s amendment would enable a right to bail of one kind or another—that is, a qualified right to a grant of bail—I have indicated already that this has been given very careful consideration. I do not propose to go over all the arguments again, but, as I say, a great deal of thought has gone into whether we should have a qualified right to bail.

In the long run, I suppose, the final decision turned on the point that if we gave a qualified right to bail, in the fullness of time and with the interpretation put upon it, it might turn out to be a more absolute right which would create more problems than it would solve.

For those reasons, I could not accept the amendment put forward by the honourable member.

Amendment put and negatived.

Schedule, part C, put and passed.

Schedule, part D—

The Hon. J. M. BERINSON: The Attorney General will be aware that the Law Society, among its other recommendations, suggested that the provisions of clause 1(2) of part D could be extended usefully to specify the ability to call upon the defendant to surrender his passport. I have not drafted an amendment to this effect; but I ask the Attorney to comment on the suggestion. Does he feel that that possibility is covered already by part D in its present form? I cannot see that it is covered. I think a new paragraph (f) would be in order. Before moving anything formally, I invite his comment on that proposal.

The Hon. I. G. MEDCALF: The paragraph in relation to passbooks covers the situation adequately. In part D, clause 1(2)(a) empowers the imposition of conditions to be complied with before the defendant is released on bail.

The Hon. J. M. Berinson: I am talking about clause 1(2) and suggesting a new paragraph (f).

The Hon. I. G. MEDCALF: The Law Society has referred to the conditions which may be imposed on a grant of bail. It has pointed to the conditions which require persons to deposit passbooks and documents of title, enter into mortgages, and give other securities. The society believes that those conditions are unnecessary.

The thrust of the provisions is to ensure the right to enforce the bail or surety undertaking. That seems to be a very important condition, and it should remain.

The Hon. J. M. BERINSON: I will simplify procedures by moving an amendment—

Page 53—Add after paragraph (e), the following new paragraph to stand as paragraph (f)—

(f) that the defendant surrender his passport.

I am suggesting that to clarify matters. I make it clear that nothing in what I am saying supports the Law Society view that these documents required to be deposited should not be deposited. In

other words, I accept what the Attorney says about the desirability of keeping the provisions of clause 1 (2) (d). I am not disputing that.

I am referring to a quite separate proposition of the Law Society, which is in line with the problem I had earlier tonight, of saying that the provision goes too far in one respect, and not far enough in another. Having said that the other documents should not be required, as I understand it, the Law Society suggests that the passport should be mentioned. It seems that the passport would not be covered by the existing reference to "passbooks or documents" because the reference to "documents" is qualified by the phrase "relating to the title to or ownership of any account or other asset".

I commend this amendment to the Chamber on the basis that it would implement existing policy and provide one additional and desirable safeguard.

The Hon. I. G. MEDCALF: It is considered that the surrender of passports is covered already in the general conditions. I refer to the wording of clause 2 (1) (a) and indicate it is considered adequate power exists under that provision to require the surrender of passports.

The Hon. J. M. BERINSON: This leads to a quite amazing situation. Clause 1 indicates that a judicial officer may impose conditions and subclause (2) says that if a judicial officer considers it desirable as mentioned in subclause (1), he may "impose any one or more of the following conditions" which are then listed from (a) to (e).

If indeed it is not necessary to add a specific reference to the surrendering of passports because clause 2 permits the judicial officer, on the grant of bail, to impose conditions at large, what on earth are we doing specifying clause 1 (2) of part D? It seems to have no purpose at all.

This matter ought to be resolved. I would have thought clause 2 is to be read in light of the specified conditions listed in clause 1 (2) or, alternatively, that clause 1 (2) would just disappear.

It really does not seem to make sense to have it both ways and I suggest seriously to the Attorney General that this is a matter which ought to be clarified in the interests of efficiency and good sense.

The Hon. I. G. MEDCALF: Ample power exists in clause 2 to require any conditions which are considered desirable in relation to subclause (2), (3), or (4). A very general power exists there to impose other conditions. A judicial officer, on the grant of bail, may impose conditions to be complied with for the purposes mentioned in the succeeding clauses; the succeeding clauses include

a multitude of matters and I believe the surrender of passports would be one.

The Hon. J. M. BERINSON: In line with that explanation, I invite the Attorney General to indicate what purpose is served by clause 1 (2).

The Hon. I. G. MEDCALF: Clause 2 (2) says, "Any condition may be imposed under subclause (1) to ensure that a defendant appears in court in accordance with his bail undertaking".

The Hon. J. M. BERINSON: My question was directed to obtaining an understanding of the purpose of clause 1 (2). If, as the Attorney now suggests, clause 2 (1) really gives an open and unlimited discretion to a judicial officer to impose any condition that meets these very broad aims in subclause (2), (3), or (4) of clause 2, what is the purported function of clause 1 (2) where particular forms of conditions are set out at such substantial length?

The Hon. I. G. MEDCALF: There is no reason that the clauses should not be set out as they are to give an indication of particular matters which might be included, and then a further general clause included to add anything else which may affect a person's appearance in court in accordance with his undertaking.

The Hon. J. M. BERINSON: I indicate in advance that, if my amendment is defeated, it might be appropriate to move for the insertion of another clause which simply says, "or any other condition" and then delete clause 2. We seem to have reached a very strange position. Nonetheless, my amendment certainly cannot do any harm. It is not inconsistent with the present pattern of clause 1 (2) which sets out five conditions which the judicial officer may impose and, in those circumstances, and to avoid reliance on a "catch all" provision as appearing in clause 2, the amendment ought to be accepted.

The Hon. I. G. MEDCALF: Clause 1 deals only with monetary conditions and clause 2 deals with other conditions. Little benefit will be gained by continuing this discussion. I shall examine the points made by the honourable member—I did not receive notice that he intended to put forward these proposals—and, if it appears necessary to tighten up the provisions, I certainly shall ensure an appropriate amendment is moved in the Legislative Assembly.

Amendment put and negatived.

Schedule, part D put and passed.

Title put and passed.

Bill reported with amendments.

## ADJOURNMENT OF THE HOUSE

**THE HON. I. G. MEDCALF** (Metropolitan—Leader of the House) [11.29 p.m.]: I move—

That the House do now adjourn.

### *Electoral: Labor Party Proposals*

**THE HON. PETER DOWDING** (North) [11.30 p.m.]: It would be very bad and wrong of this House to adjourn having heard the remarks of the Hon. Norman Moore during an earlier debate. The member, like Mr Bill Withers, is one of those members on the opposite side of the House who really has been rejected by his own party. It is interesting to note that he still stands up as an apologist for his party from time to time.

The Hon. N. F. Moore: Are you talking about me?

The Hon. PETER DOWDING: Yes.

The PRESIDENT: Order! I ask the Hon. Peter Dowding to direct his comments to the Chair if he wishes to proceed.

The Hon. PETER DOWDING: The Hon. Norman Moore, like Mr Bill Withers, is rejected by his own party for some of his views but, nevertheless, he committed a major error in both judgment and fact in suggesting that it was the platform of the Australian Labor Party to require without any changes at all certain provisions for the Legislative Council.

I make the point that a Labor Government will introduce a one-person-one-vote-one-value principle to determine quotas for all parliamentary and local government elections with a maximum permissible fluctuation of 10 per cent above or below the quota. A Labor Government will provide members representing country electorates with the following assistance to overcome their special problems: An electoral allowance commensurate with the difficulties and disabilities involved in representing their electorate; appropriate additional staff to help with visits, contacts and the running of a country electorate; free transport for electoral purposes; free telephones with the right of electors to reverse charges when contacting their members; and certain other benefits to ensure that members representing large electorates are able adequately to represent their members. Furthermore, Legislative Councillors shall be elected by a State-wide proportional list system for a term equal to two Assembly terms with half the Council retiring at each Assembly election.

The Hon. N. F. Moore: That is this year; what about last year?

The Hon. PETER DOWDING: Despite his relative youth, I know the Hon. Norman Moore feels more at home in a sort of cobwebby environment such as our founding fathers might have found attractive in 1850. Nevertheless, the Australian Labor Party seeks to move with the times. No doubt the honourable member is one of those people who object to women having the vote for Legislative Council elections. It is remarkable that the Liberal Party was able to bridge the generation gap, although its members resisted that move in the 1960s. Even some of the younger faces on the other side—except perhaps the Hon. Norman Moore who would think it was something of a socialist tendency—no doubt would support the universal women's franchise for this place.

The Hon. N. F. Moore: Don't be stupid.

The Hon. PETER DOWDING: The Hon. Norman Moore is a little out of date. The policy from which I quote has been effective since 27 August 1980 which is but a short, fleeting time in the history of this place but long enough for the Press and most members of the public to keep up with the movements in the ALP's view on the matter.

The second point I make is that there were so many gross inaccuracies in the honourable member's speech—

The Hon. P. H. Lockyer: Did he get up your nose?

The Hon. PETER DOWDING:—such as his claim that he drove along the Wickham by-pass recently. He must have been suffering from some aberration, because the Wickham by-pass has not been completed. The short history of it is that this Liberal Government built a school on the other side of the road from the whole Wickham township and omitted to move the main regional highway between Wickham and the Great Northern Highway a few hundred metres away, so that school children did not have to cross this busy road twice a day, until towards the end of the 1982 school year. No doubt when he drove along what he thought was the Wickham by-pass he was ignorant of the facts.

A further major matter to which he adverted was grossly inaccurate. He said that under a Labor Government, adhering to whatever policies he understood it might have about the upper House, my electorate would be disadvantaged. In fact, as he should well know if he kept up with current information, the most recent census statistical information indicates in excess of 40 000 adults live in my electorate and that is precisely the number of people, according to his story, who

ought to be in an upper House electorate if all electorates were equally divided.

How on earth he can say that my electorate, which is the most remote in the State, should have something in the region of seven times more adults eligible to vote in it than his electorate reveals how ignorant and unsatisfactory is his analysis of a democratic system.

There is no excuse for the Hon. Norman Moore and the Hon. Phil Lockyer to represent 6 000 people in this House when the Hon. Tom Stephens and I represent a province far more remote from Perth, even though Mr Lockyer likes to tell us that his province is 200 square kilometres larger than mine.

The Hon. P. H. Lockyer: Three hundred.

The Hon. PETER DOWDING: The point is that neither he nor Mr Moore has to travel throughout his province whereas the population in our province is spread throughout the whole area.

The Hon. P. H. Lockyer: The whole lot.

The Hon. PETER DOWDING: If the Hon. Phil Lockyer were rolled from one side of his province to the other his presence would not be noticed.

It is ludicrous to suggest on any rational basis that the Hon. Norman Moore and the Hon. Phil Lockyer should have 6 000 people to represent when the Hon. Tom Stephens and I, according to census figures, have in excess of 40 000 adults in our province. For them to be participating in some sort of attempt to justify that situation on democratic principles reveals not only that they are ignorant of Labor Party policies, that they are supporting propositions that have long since disappeared, and that they are grossly inaccurate in reporting facts, but also that they are out of touch with the feelings of a democratic community.

THE HON. P. G. PENDAL (South-East Metropolitan) [11.37 p.m.]: I will reject the Hon. Peter Dowding's comments to the extent of taking up only a couple of minutes. It is remarkable that the honourable member has the capacity so freely to hand out insults to members of this House, particularly members of the Government, in respect of electoral laws, using such terms as "cobwebby attitudes" when referring to the Hon. Norman Moore, in the light of the fact that senior members of his own party do not subscribe to the so-called democratic notions he advances.

It is only a matter of weeks since the ALP national conference, the supreme policy-making body of the ALP, saw the spectacle of the Western Australian State President of the ALP arguing against the principle of proportional represen-

tation in direct conflict to what Mr Dowding and his colleagues argue in this House, and he knows this to be true.

The Hon. Peter Dowding: Rubbish.

The Hon. P. G. PENDAL: Members of the Labor Party in this House know it and they know the hypocrisy of the Hon. Peter Dowding in attacking people like the Hon. Norman Moore and the Hon. Phil Lockyer who are prepared to support anything other than proportional representation for this Parliament.

In case members opposite have forgotten, and so that other people will not be inclined to accept the sort of drivel we heard from Mr Dowding, and for the purpose of the record, I remind Mr Dowding that on 6 July this year his own State secretary, speaking at his own party's national conference—

The Hon. Peter Dowding: You said it was the State president.

The Hon. P. G. PENDAL: Mr Beahan, the senior bureaucrat of the Western Australian Labor Party, told the Labor Party national conference he had to protest about the effect proportional representation would have on the ALP traditions in this State.

The Hon. Fred McKenzie interjected.

The Hon. Peter Dowding interjected.

The Hon. P. H. Lockyer: Listen to the rabbits. Come on rabbits.

The Hon. P. G. PENDAL: These Labor Party members who would have us introduce proportional representation because they say it is fair for the electors of this State do not say it is important to have proportional representation in the ALP; they do not say it is important to the rank and file membership of the ALP to have proportional representation. They are hoist on their own petard; they are full of hypocrisy.

Opposition members interjected.

The Hon. P. G. PENDAL: They might take a leaf out of the book of the Leader of the Australian Democrats in the New South Wales Parliament when she referred to the distortions in the so-called electoral democracy of New South Wales. She said that since the Wran Government had been in office the ALP Government of that State—

#### *Point of Order*

The Hon. PETER DOWDING: Members should speak from their own chairs.

The Hon. P. H. Lockyer: Sit down you mug. Chuck him out, the frivolous fool.

The PRESIDENT: There is no point of order.

#### *Debate Resumed*

The Hon. P. G. PENDAL: That point of order indicates the childishness of the Opposition's interjections. It really irritates me that we must be subjected to double standards; Labor Party members wish to impose proportional representation on the electors of this State, but do not want it in their political party.

The Hon. Peter Dowding: Rubbish!

The Hon. Fred McKenzie: That's rubbish!

The Hon. Garry Kelly: Do you have PR in the Liberal Party?

The Hon. P. G. PENDAL: That is the type of interjection—

#### *Point of Order*

The Hon. A. A. LEWIS: Was the member for South Metropolitan right to interject from a chair not his own?

The PRESIDENT: Members are not allowed to interject at all. Certainly a member is not to comment from a seat other than his own. I ask the Hon. Phillip Pendal to direct his comments to the Chair.

#### *Debate Resumed*

The Hon. P. G. PENDAL: I have attempted to direct my remarks to the Chair. Finally on this point—

The Hon. Peter Dowding: Do you have PR?

The Hon. P. G. PENDAL: —of double standards—

Opposition members interjected.

The Hon. P. G. PENDAL: I will not answer the interjections.

The Hon. Garry Kelly: What about PR for the Liberal Party?

The Hon. P. G. PENDAL: To indicate the double standards to which we are so often subjected in this House, the Australian Democrats in New South Wales have gone on public record as saying that the Wran Government has been responsible for the creation of the most distorted lower House of any political system in Australia. The Labor Party is in no position to deny that statement.

The Hon. Peter Dowding: Oh, come on!

The Hon. P. G. PENDAL: When that point was made at last Saturday's conference to which the perennial interjector in this place referred, the

response from Labor Party representatives was one of resounding silence.

The Hon. Peter Dowding: Come on!

The Hon. P. G. PENDAL: They could resort to nothing but silence because they knew the statement to be fact.

The Hon. Peter Dowding: You talk rubbish!

The Hon. P. G. PENDAL: During any future discussion we have in this House I ask the member who just resumed his seat to stick to the facts, and if he does not wish to stick to the facts he should acknowledge that his people in other parts of Australia are guilty of the crimes of which he accuses people in this place.

**THE HON. N. F. MOORE** (Lower North) [11.45 p.m.]: I regret that the speech I made earlier tonight caused the House to be held up. I have never made a speech on the adjournment before tonight, which indicates my lack of enthusiasm for sitting here late at night to listen to what are often frivolous comments. But tonight I must respond to the remarks of the Hon. Peter Dowding. He made some comment about the Liberal Party rejecting me. I do not know what he was talking about.

The Hon. P. H. Lockyer: He didn't know himself.

The Hon. N. F. MOORE: May I finish?

The Hon. Robert Hetherington: He doesn't like any help.

The Hon. N. F. MOORE: The Hon. Peter Dowding made some remark about my standing in the Liberal Party and went on to say something else.

The Hon. Peter Dowding: It was as to your position in the Cabinet.

The Hon. N. F. MOORE: I accept as fair and reasonable in the circumstances the decision by Mr O'Connor not to appoint me as Secretary to the Cabinet, which does not mean I cannot represent my electorate as I should, or that I am not looked upon favourably by the Liberal Party.

The Hon. Peter Dowding interjected.

The PRESIDENT: Order! I ask the Hon. Peter Dowding to cease his interjections in defiance of the Chair.

The Hon. N. F. MOORE: I was pleased the Hon. Peter Dowding explained the policy of the Labor Party towards the Legislative Council; a policy to abolish the Council eventually, but at the moment a policy to institute proportional representation.

The Hon. Robert Hetherington: That's not true.

The Hon. N. F. MOORE: It is in the Federal platform of the Australian Labor Party. I still stand by the remarks I made about proportional representation and remind the Opposition that proportional representation will be to the disadvantage of those people the Labor Party seeks to represent. I have said that many times in this House and will continue to abide by that view.

I express my disgust at the part played by the Hon. Peter Dowding in the events earlier this evening.

### *Point of Order*

The Hon. PETER DOWDING: I object to the comment of the Hon. Norman Moore.

The PRESIDENT: What are the words to which the member objects?

The Hon. PETER DOWDING: The point of order is that I object to the comment.

The PRESIDENT: I am asking the honourable member what are the words to which he objects.

The Hon. PETER DOWDING: The words to which I object are to the effect that the Hon. Norman Moore said he was disgusted at the part I played in the events earlier this evening. The point of order is that the events earlier this evening were the product of the ruling of the Acting President. I object to the suggestion—

The PRESIDENT: Order! I rule that there is no point of order.

### *Debate Resumed*

**THE HON. ROBERT HETHERINGTON** (East Metropolitan) [11.48 p.m.]: I was sorry to realise the Hon. Phil Pendal decided he would try to outdo the Chief Secretary by taking over his role as the purveyor of nonsense.

The Hon. P. G. Pendal: You are embarrassed.

The Hon. ROBERT HETHERINGTON: I am not embarrassed by anything, and I am certainly not embarrassed by anything the Hon. Phil Pendal might say. It is interesting that in his remarks he likened the behaviour at the conference we attended the other day to the behaviour we witness in this House because the conference was held in the other Chamber. Most remarks at that conference were greeted with silence. The remark made about the Wran Government I discussed with an academic from New South Wales, who regarded it as inappropriate. I was not in a position to check the facts and certainly did not intend to make rude noises at the conference. I was in no position to consider the figures.

The point I make, and it becomes wearisome to have to make this point continually, is that it does

not follow that if a person advocates a form of election in a democratic system of government, or if a person tries to get a democratic system of government—as I have pointed out a number of times, we do not have a democratic system of Government in this State; we have a system of parliamentary representation—

The Hon. P. G. Pental: Oh, come on!

The Hon. Fred McKenzie: You don't like it, but it is the truth.

The Hon. P. G. Pental: You wouldn't know, Fred.

The Hon. ROBERT HETHERINGTON: The honourable gentleman who is interjecting behind me would not know either, but if he thinks this Government is democratic, I would be glad if he gets up in this House or anywhere else sometime and explains to me what democracy is. Certainly, the other day he said that he believed in the principle of one-vote-one-value, but not for Western Australia.

The Hon. Peter Dowding: Is that Mr Pental, is it?

The Hon. ROBERT HETHERINGTON: That is the Hon. Mr Pental, yes.

The Hon. Peter Dowding: Oh, really?

The PRESIDENT: Order!

The Hon. ROBERT HETHERINGTON: The point I am trying to make is that one may or may not advocate proportional representation for internal party elections without that making any difference to what one may or may not advocate for the electorate at large. In fact, if Mr Pental would look at the Labor Party platform he will notice that the Labor Party does not advocate blanket proportional representation. The platform as it stands at the moment suggests we have single member electorates in the Legislative Assembly and proportional representation for the Legislative Council as an appropriate democratic system for elections in this State. The honourable member can quote until he is blue in the face what Michael Beahan may or may not have said at the national conference in regard to how the Labor Party in Western Australia should or should not elect its delegates, and it is quite irrelevant to the argument about electing Governments.

The Hon. P. G. Pental: Double standards!

The Hon. G. E. Masters: Two bob each way!

The PRESIDENT: Order!

The Hon. ROBERT HETHERINGTON: If the honourable gentleman could cast his mind back far enough, and if he sat through that lecture, he would realise that what applies to a vol-

untary organisation does not necessarily apply to a system of government where we are not under a voluntary system, in that we all live in Western Australia, and while we sit here we have to be governed by the Government of the day.

The Hon. P. G. Pental: Double standards! You can't dispute that.

The Hon. Peter Dowding: Don't you know what democracy is?

The Hon. ROBERT HETHERINGTON: We might look towards a democratic system of government with such a governmental system. I am one of those persons within the Labor Party who has continuously and persistently advocated proportional representation in our internal elections. I have advocated it ever since I have been in this State and I have been defeated in various debates by various general secretaries of the Labor Party, but that is neither here nor there. That is my own opinion.

Certainly, I am not going to say that the Labor Party is or is not a democratic organisation because it may or may not at any given time use a particular system of election when I prefer another one. I think it does have an internally democratic organisation. It is a matter of preference and choice, but what the Labor Party is advocating is that we try to get in each House systems of election which will ensure that if 50 per cent of the populace vote for one party, that party is likely to form the Government, and if 50 per cent of the people vote for one party in a House such as this, that party is likely to get half the numbers.

The Hon. P. G. Pental: And this does not apply in this State, not within your own party.

The Hon. Peter Dowding: And not with Mr Pental!

The Hon. ROBERT HETHERINGTON: Despite being heavily tempted by the inane bleatings of the gentleman behind me, I will not continue with this.

The Hon. P. H. Lockyer: He is a very intelligent fellow. He has got up your nostril!

The Hon. ROBERT HETHERINGTON: To preach to some people is like preaching to the invincibly ignorant; I am sure Mr Pental understands that doctrine in this regard, and he is one of those.

The Hon. P. G. Pental: You didn't do well on Saturday!

The Hon. Peter Dowding: I just wanted to hear—

The PRESIDENT: Order!

The Hon. ROBERT HETHERINGTON: If the Hon. Mr Pandal would like a lengthy comment on his contribution on Saturday, perhaps I could give it.

The Hon. P. H. Lockyer: He did a very good job.

The Hon. Peter Dowding: Not from you.

The Hon. ROBERT HETHERINGTON: I will not be tempted. As soon as the honourable gentleman has kept quiet for about 30 seconds, I will finish what I have to say and sit down.

The Hon. P. G. Pandal: I will stick to my bargain if you stick to yours.

The Hon. ROBERT HETHERINGTON: I hope this situation in regard to electoral matters improves in the future. That is all I want to say.

The Hon. P. G. Pandal: Who's that leaving? He can't stick it out. He should hang his head in shame!

The PRESIDENT: Order!

THE HON. A. A. LEWIS (Lower Central) [11.56 p.m.]: To listen to the comments of the Hon. Robert Hetherington made me doubt whether I was at the same conference. The sort of nonsense he aired in this House tonight—

The Hon. Fred McKenzie: What nonsense?

The Hon. A. A. LEWIS: Would the member like to make this speech?

The Hon. Fred McKenzie: It was common sense. You did not like it, that's all.

The Hon. A. A. LEWIS: I was not asked to like it. I had to sit here and suffer it. It may be a good idea if the Deputy Leader of the Labor Party does with Mr McKenzie what the former leader did with other members, and moves him out in case he prolongs my speech and it hurts the ALP even more.

The Hon. Robert Hetherington: Nothing the honourable member says could hurt anybody. It might bore, but it won't hurt.

The Hon. A. A. LEWIS: The inane bleatings and the stunts that they try to pull by moving members out of their seats because they are frightened they will get a hiding if I get on with things, is absurd.

The Hon. J. M. Berinson: That is your interpretation.

The Hon. A. A. LEWIS: Mr President, you and I have seen them move and we have seen the instruction come from the front bench; we saw the Whip run around behind the benches and pull the members out so they did not interject on Mr Lewis because they would not do very well. If the

Hon. Fred McKenzie wants to go on with his inane bleating, he can.

The Hon. Tom Stephens: You have used that term twice now.

The Hon. A. A. LEWIS: And I will use it again, if I am required to use it.

The PRESIDENT: Order!

The Hon. A. A. LEWIS: All it is is abuse.

The Hon. Robert Hetherington: What a lot of nonsense!

The Hon. A. A. LEWIS: That is about all the Labor Party has to use at this stage. From Saturday's exercise, it was apparent that it was a question of abolishing Parliament rather than one or other House.

The Hon. Garry Kelly: What rubbish!

The Hon. A. A. LEWIS: We hear in the background "Little Sir Echo" who was not even at the conference! He says, "What rubbish!" That is the sort of tactic the Labor Party uses. The gentleman was not even there, but he can say, "What rubbish!"

The Hon. Robert Hetherington: What rubbish!

The PRESIDENT: Order!

The Hon. A. A. LEWIS: Another "Little Sir Echo"!

The Hon. Tom Stephens: He was there though.

The Hon. Robert Hetherington: I at least was there and I know you are talking rubbish.

The Hon. A. A. LEWIS: I expect that from the Hon. Robert Hetherington. I do not accept a lot of his speech.

The Hon. Robert Hetherington: That does not upset me. You said I was bleating a while ago when I interjected.

The Hon. A. A. LEWIS: If the Hon. Robert Hetherington thinks I am on my feet to upset him, my answer is that I would not waste my time dealing with him.

The Hon. Robert Hetherington: Oh, dear; I am cut to the quick.

The Hon. A. A. LEWIS: It is interesting to hear that because that makes it two or three times the member has been cut to the quick this evening. Maybe he will learn something now.

The Hon. Robert Hetherington: Perhaps I will just get a thicker quick.

The Hon. A. A. LEWIS: I think the honourable member is getting thicker.

The Hon. Robert Hetherington: You are not very quick.

The PRESIDENT: Order!

The Hon. A. A. LEWIS: We hear from the Hon. Robert Hetherington about a democratic system of government and we hear about the responsibility of Government; yet a number of us in this House have seen what the ALP call the democratic system of Government. We sit here and debate Bills while they race off to the north. Admittedly they won the election, and as the Hon. Tom Stephens has said, by a great majority.

The Hon. Tom Stephens: Yes indeed.

The Hon. A. A. LEWIS: Yes indeed, but the responsible members who took off when the House was sitting and went north—they were “Caucused” to go; they were instructed to go north—now talk about democracy. The honourable member has a hide to talk about democracy. He is prepared to let things go through this Parliament without his knowledge because he has been “Caucused” to disappear up north and work for a candidate. I am not saying the candidate is good or bad; that is not my job. The electors will find out, and very quickly. I think the Hon. Tom Stephens’ speech was very well read. I happen to think speeches ought not to be read in this place.

The Hon. Garry Kelly: Are you reading yours?

The Hon. A. A. LEWIS: If the Hon. Garry Kelly can read my notes he is a lot better than I.

The PRESIDENT: Order!

The Hon. A. A. LEWIS: The honourable member is acting as a school teacher as well as an idiot.

The PRESIDENT: Order!

The Hon. A. A. LEWIS: The ALP does not believe in our democratic system of Government. It is a long bow they draw when they talk about internal and external matters.

The Hon. Garry Kelly: You have a rigged balance in the law.

The Hon. A. A. LEWIS: The democracy talks back. I do not know about the Labor Party; the honourable member can be talking only about the polls that get rid of the gentleman who sits next to him. I cannot answer all the interjections. The President will show his wrath in a few moments if I answer many more. The Labor Party wishes to draw the difference between internal and external party matters. They want to talk about proportional representation but they have no backing at any level from within their party, or from the public.

The Hon. Tom Stephens: Sixty-five per cent is a fairly good backing.

The Hon. A. A. LEWIS: From a lot of other things that came out of his speech tonight, it is obvious the Hon. Tom Stephens has a lot to learn.

The Hon. P. H. Lockyer: If we wait until next year we will see if you have 65 per cent.

The Hon. N. F. Moore: We will see if he has a seat with proportional representation.

The PRESIDENT: Order!

The Hon. A. A. LEWIS: Would you like me to sit down, Sir, and let the ebb and flow continue?

The Hon. Robert Hetherington: What a good idea.

The PRESIDENT: Order!

The Hon. A. A. LEWIS: I will not do so, Sir, until you tell me. We have heard from the ALP the excuses, year after year after year, that “Everything is stacked against us. We in the ALP have wanted a change from three members to a province to two members”. They wanted adult franchise, and now proportional representation. What the blazes do they want? They think that every time they ask for something they should get it!

The Hon. Garry Kelly: A fair electoral system is what we want—just that.

The Hon. A. A. LEWIS: Those words have been spoken over a number of years.

The Hon. Tom Stephens: Even by your own colleagues.

The Hon. A. A. LEWIS: That is interesting. I cannot remember a colleague of mine having made that statement.

The Hon. J. M. Berinson: You mean your colleagues don’t want a fair electoral system?

The Hon. A. A. LEWIS: I see that the Hon. Joe Berinson has had too much bail tonight because that was not one of his better interjections. The honourable gentleman bails out any time that the running gets tough.

The PRESIDENT: Order! Will the honourable member get on with it.

The Hon. A. A. LEWIS: With due deference, Sir, I am trying. Members of the Labor Party have had many schemes which they have put before this House and the other place *ad nauseam*. All of these new schemes have been put forward because they think they will win them a majority in this House. However, they have failed miserably every time.

The Hon. P. H. Lockyer: They have not convinced the people.

The Hon. Garry Kelly: People do not get a chance to look at them.

The PRESIDENT: Order!

The Hon. A. A. LEWIS: They have failed miserably every time. They have yelled and

screamed in the electorates but they have not shown to the electors why they want change. The electors have not accepted their arguments. Their argument for democracy has not been accepted internally or outside, yet they go on and on. Now they talk about 50 per cent of the vote.

The Hon. Phil Pandal mentioned New South Wales. There is no way that with 50 per cent of the vote in New South Wales the Liberal-Country Party could win.

The Hon. J. M. Berinson: In the Legislative Council?

The Hon. A. A. LEWIS: If the Hon. Joe Berinson follows through—

The Hon. J. M. Berinson: How can they, if they have proportional representation? Fifty per cent with two parties?

The Hon. A. A. LEWIS: If the Hon. Joe Berinson just follows through and the chief adviser will help him, he will know. We on this side of the House are accused of ignorance—

The Hon. J. M. Berinson: Still, explain to me how.

The Hon. A. A. LEWIS: I will not at this hour because if the honourable member cannot make that calculation—

The PRESIDENT: Order!

The Hon. Garry Kelly: Fifty per cent plus one?

The Hon. A. A. LEWIS: That is interesting. The Hon. Robert Hetherington mentioned it was 50 per cent. I am debating only what the learned gentlemen of the Labor Party have given to this House and this is where some people in this place shoot off their mouths. I think the Hon. Garry Kelly probably is right; it should be 50 per cent plus one. The Hon. Robert Hetherington did not say that. He demands accuracy in everything else and democracy in everything else because he wants democracy—as long as it does not affect him. He wants everything to go his way, and the ALP's way, without any fair, logical reasoning.

The Hon. Garry Kelly: What rot!

The Hon. Robert Hetherington: That is an insulting misstatement.

The PRESIDENT: Order!

The Hon. A. A. LEWIS: I am told it is rot and it is an insulting misstatement. We will check *Hansard* to see whether the Hon. Robert Hetherington said "50 per cent" or "50 per cent plus one". As for the other gentleman, I need not worry.

The Hon. Robert Hetherington: That is what you are mistaking; you would not know. What a disgraceful speech!

The Hon. A. A. LEWIS: It is obvious, Sir, I will not continue this speech for much longer. However, I suggest to the Hon. Tom Stephens that if he continues to put challenges to me I will continue for a lot longer!

The Hon. Robert Hetherington: Threats!

The Hon. A. A. LEWIS: I thought the threats came from someone else and not me. I ask the Hon. Robert Hetherington whether he would like to finish his second reading speech.

The Hon. Robert Hetherington: Don't be so fatuous.

The PRESIDENT: Order! I ask the honourable member to proceed.

The Hon. A. A. LEWIS: I wish I could. We hear this continually from the ALP and I guess we will until the end of this year. There is no doubt in my mind that the ALP will be defeated, and soundly defeated, at the next election.

The Hon. Tom Stephens: We will see—it is not long off now.

The Hon. A. A. LEWIS: As I said, there is no doubt in my mind it will be defeated. I could not get into their minds because they are so small; but we have this argument put up in a different form when there is no more logic. Week after week we hear the cry for democracy; however, the ALP is not prepared to implement it within its party and it is not prepared to sit in this place and do its job because the constant wear and tear of electioneering must get to them. They are "Caucused" to the north and they talk about democracy!

The Hon. Tom Stephens: We were flying then.

The Hon. A. A. LEWIS: This party which was once great has stooped—

The Hon. Peter Dowding: Had a 14 per cent swing last month.

Several members interjected.

The Hon. A. A. LEWIS: I would think that the honourable gentleman would only need a five inch drop for his swing. We should really look at all the words spoken by the ALP and the excuses made over the years for its performance in this place.

The Hon. Peter Dowding: The same one—you fellows have rigged it.

The Hon. A. A. LEWIS: I could take great exception to being accused of "rigging it", but I will not because over the years I have heard numerous accusations. I will not repeat the times the ALP has asked for new things—many of which have been implemented—within this Council and it has been soundly defeated. It is still continuing and will certainly continue until the end of this year.

*The Hon. Peter Dowding: Attack*

**THE HON. I. G. PRATT** (Lower West) [12.14 a.m.]: Before the House adjourns I wish to express my disgust at the personal and vicious attack Mr Dowding made on the Hon. Norman Moore tonight. No-one should adopt such a vindictive approach. The Hon. Peter Dowding suggested that my colleague, the Hon. Norman Moore, had no substance or credibility because once he was the Cabinet secretary and he no longer holds that position.

Let us look at Mr Dowding's party, because if he stays in this House for any length of time he will find that in all parties people come in and go out of favour. If he stays long enough he will find he may come into favour and then go out of favour.

The Hon. Peter Dowding: That happened to Bill Withers.

The Hon. I. G. PRATT: Let us look at what has happened to people like Colin Jamieson and Ron Davies. Are these people no longer worthy of any credibility because of what has happened to them? Let us look at this particular House and at a person whom I consider did a good job as Deputy Leader of the Opposition—Mr Hetherington. Is Mr Dowding saying that Mr Hetherington is being rejected by his party? As soon as Mr Hetherington stood up he started defending him!

It is the same with Mr Moore. The Hon. Peter Dowding has pointed out exactly how two-faced he, himself, is tonight. I am disgusted at the way he reacted to the Hon. Norman Moore and I believe his action to be of no credit to himself or this House.

*Electoral: Proportional Representation*

**THE HON. P. H. WELLS** (North Metropolitan) [12.15 a.m.]: It is a joy to see the enthusiasm which greeted my standing to speak on this occasion. It is the sort of enthusiasm to which I look forward.

Two points to which I wish to refer concern the gerrymandering and lack of ability of the ALP to obtain enough members in this House and the suggestion of proportional representation. In relation to the first point I make reference to a comment made by John Wheeldon, formerly a Labor Party senator. It reads as follows—

I think that the first thing that one has to realise about the Australian Labor Party is that despite a number of factors operating in its favour it has been a remarkably unsuccessful party.

In terms of this particular House and the proposition that has been put forward I suggest that the ALP always turns around and blames the system. Further on Mr Wheeldon says—

.... I don't think that it is so grossly gerrymandered as to offer an explanation for Labor's repeatedly losing elections.

Several members interjected.

The PRESIDENT: Order!

The Hon. P. H. WELLS: I remind members of a speech made in this House by none other than a kind gentleman—the Hon. Fred McKenzie—who said that he did not want to come here, but there was nowhere else to go. How does one convince people in the electorate to give their support if it is said, "I do not really want to go there, but there is nowhere else to go"? It is really a laugh and I suggest it is somewhat of a problem to a party which is screaming, "Let's get rid of it; it is not acceptable; revise that particular policy". People hardly could be expected to support a party that does not seek to represent what they want.

I am reminded of a very good example in relation to this sort of thing. It concerned the Leader of the Opposition's electorate. Eight per cent of the voters voted for the Labor Party, but they decided it was no good voting for the upper House member because he did not want to be there. Therefore, that eight per cent decided to vote for me.

I was very happy. Mind you, it was interesting to find that 1 600 people changed. In that election I won by only 3 000 votes; if those 1 600 people had been true to the Assembly vote, I would have lost by 200.

In making a judgment, the people decide that some ALP members do not particularly want to come here, and therefore they are not convinced by the arguments put forward.

The Hon. Peter Dowding: They probably will not make the same mistake twice.

The Hon. P. H. WELLS: One member suggested a proportional representation list system. If I understand that system, the parties are able to group names on the ballot paper; one then goes down the list for the party selection, and the people on the top of the list are the first ones selected. That transfers the voting power from the people to the parties, and the parties have the onus of selecting the people who will enter the Parliament. It could be argued that, in any case, a person must receive party selection.

I suggest that the people who subscribe to this system and who want to have the whole State as one electorate are the people who tend to want to

be lost in a great sea of people and to be anonymous in our great State because they are frightened to work. They are frightened to move out into the electorate and let the people see that they are not willing to work. They want a system in which they can hide rather than be responsible to a group of people.

The proposal for having the State as a total electorate with a list system is put up by the people who are frightened to do any work. That is evident when they come into this place and do nothing in terms of representing the people by whom they were elected. They are proposing a system of proportional representation because they are afraid to do the job for which they were elected.

Question put and passed.

*House adjourned at 12.22 a.m. (Wednesday)*

## QUESTIONS ON NOTICE

### FUEL AND ENERGY: STATE ENERGY COMMISSION

#### *Contingent Liabilities*

401. The Hon. FRED MCKENZIE, to the Leader of the House representing the Minister for Fuel and Energy:

With reference to the State Energy Commission of Western Australia's Annual Report 1981—financial report contents, page 2, wherein it states: "Contingent Liabilities. The Commission has contingent liabilities in the form of long term contracts relating to capital works and energy purchases. These contingent liabilities have not been incorporated in the accounts of the Commission."—will the Minister advise—

- (1) What is the total amount of the liabilities involved—
  - (a) for capital works; and
  - (b) for energy purchases?
- (2) In each of the next 20 years, what are the expected charges associated with these liabilities under the following headings—
  - (a) interest;
  - (b) depreciation; and
  - (c) energy purchases?

The Hon. I. G. MEDCALF replied:

- (1) Commitments arising from contracts entered into by the State Energy Commission and which were not provided for in the accounts for the 12-month period ending 30 June, 1981 were as follows—

July, 1982

\$M

- |   |          |
|---|----------|
| (a) Capital purchase/<br>construction commitments | 170.00   |
| (b) Energy purchase commitments                   | 9 190.70 |

- (2) The purport of the question is not known or understood, and if the member will please clarify the information he is seeking, I will provide the relevant details.

### RAILWAYS: FREIGHT

#### *Joint Venture: Wages and Salaries*

402. The Hon. FRED MCKENZIE, to the Minister for Labour and Industry representing the Minister for Transport:

With reference to the Minister for Transport's pledge on Westrail jobs—*The West Australian*, 14 August 1982, page 5—and the statement, "it was less expensive for the public to bear the wages of the extra employees than the deficit of the Westrail freight service", will the Minister advise—

- (1) What is the amount of the deficit referred to?
- (2) What part and quantity of the freight service does it cover?
- (3) Of the 780 Westrail employees originally affected by the "Total West" venture—
  - (a) how many were initially employed with "Total West"; and
  - (b) how many remained with Westrail?
- (4) In each of the next three years, what will be the total wages and salaries paid to those affected who remained with Westrail?
- (5) What is the nature of the deficit referred to apart from wages and salaries?

The Hon. G. E. MASTERS replied:

- (1) The Minister's statement was made in the context that Westrail's finances will improve by \$7 million yearly from 1984-85 as a result of the joint venture arrangement.

- (2) The parcels and general type goods traffic which required consolidation and which would be available to the joint venture company and other transport organisations. In 1980-81 the quantity was 325 000 tonnes.
- (3) (a) 114;  
(b) the balance, excepting retirements.
- (4) This will depend on the rate of staff attrition through natural wastage but Westrail anticipate normal staff turnover will eliminate any surplus numbers within three years.
- (5) As in (1) above the Minister was not referring to any deficit but rather the net improvement in Westrail's finances. Therefore, the question is not relevant.

## HEALTH

### *Midwives*

406. The Hon. LYLA ELLIOTT, to the Chief Secretary representing the Minister for Health:

- (1) Is it a fact that the regulations under the Health Act governing midwives require only that a midwife, before commencing private practice, shall notify the commissioner on the prescribed form of her intention to do so?
- (2) If so, why is his department—
  - (a) insisting that such people provide more detailed information than that required in form 1 as set out in the schedule; and
  - (b) giving the impression that the commissioner can withhold permission from a registered midwife to practice privately?

The Hon. R. G. PIKE replied:

- (1) Yes.
- (2) (a) and (b) This is incorrect.

## SHOPPING: CENTRES

### *Lease Agreements*

407. The Hon. TOM McNEIL, to the Chief Secretary representing the Minister for Urban Development and Town Planning:

- (1) What has prompted the State Government to consider controlling shopping centre lease agreements?

- (2) As this move by the Government is a complete rejection of the findings of the Trethowan report, would the Minister advise whether she will consider reviewing the report's other recommendations—

- (a) that no general moratorium on shopping centre developments be implemented; and
- (b) that the MRPA's lower limit on development be reduced to 3 000 sq.m. g.l.a. for the next two years?

The Hon. R. G. PIKE replied:

- (1) The Government is not considering the control of shopping centre lease agreements. The matter is being handled within the industry by a committee comprising the Small Business Advisory Service Ltd; Building Owners' and Managers' Association; Retail Traders Association; the Independent Retailers Association; the Law Society of WA; and the Chamber of Commerce. Approaches have been made to the Law Society and Building Owners' and Managers' Association to provide suggested general conditions of lease and/or an acceptable model lease.
- (2) The above action by Government is not a rejection of the findings of the Trethowan report. All recommendations of that report have received careful consideration and have been acted upon.

## HOUSING: RENTAL

### *Improvements to Properties*

408. The Hon. PETER DOWDING, to the Chief Secretary representing the Minister for Housing:

- (1) Under what circumstances will the State Housing Commission provide reimbursement for improvements to a State Housing Commission rental property?
- (2) On what basis is the cost of improvements reimbursed to a tenant who leaves a State Housing Commission home?

The Hon. R. G. PIKE replied:

- (1) A tenant on vacating a commission rental property is reimbursed with the cost of those improvements that would be provided in a commission upgrading programme.
- (2) Assessment is made by a supervisor in negotiation with the tenant.

## CO-OPERATIVE BULK HANDLING LTD.

*Shares*

409. The Hon. TOM McNEIL, to the Minister for Labour and Industry representing the Minister for Primary Industry:

Why is it necessary for Co-operative Bulk Handling Ltd. to be limited to hold not more than 40 per cent of the total number of shares issued to growers?

The Hon. G. E. MASTERS replied:

Co-operative Bulk Handling Ltd. is established as a co-operative under the Companies (Co-operative) Act. A share grants the holder a right to vote. It cannot be bought or sold by outside parties, is not transferable between growers and its monetary value is constant at \$2. Each shareholder has only one vote and the shares held by the company become non-voting shares.

CBH buys back growers' shares as they leave the industry. Because of the continuing trend for growers to leave the industry it has become necessary to increase the limit set in the Bulk Handling Act from 20 per cent to 40 per cent. But, it is considered desirable for CBH not to move any further away from the concept of a co-operative as defined in the Companies (Co-operative) Act than is necessary.

## HEALTH

*Isolated Patients' Travel and Accommodation Assistance Scheme*

410. The Hon. PETER DOWDING, to the Chief Secretary representing the Minister for Health:

- (1) Is the Minister aware that there are many people in the north-west who cannot avail themselves of the isolated patients' travel and accommodation assistance scheme because they do not have the funds with which to pay the fares in the first place for travel from the north to the south for treatment?

- (2) Is the Minister aware that people suffering from alcoholism and seeking treatment in Perth or in other areas in the south do not qualify for assistance under the isolated patients' travel and accommodation assistance scheme?
- (3) Will the State give assistance to people in the north suffering from alcoholism to travel to treatment centres in the south, and if not, why not?

The Hon. R. G. PIKE replied:

- (1) People who are eligible for assistance under the Commonwealth Government's isolated patients' travel and accommodation assistance scheme, but who do not have the available resources to pay for their fares in advance of obtaining reimbursement under the scheme, can seek assistance from the Department for Community Welfare. Assistance available from that department is limited to the maximum entitlement under the Commonwealth scheme, with the patient assigning his benefit entitlement to the Department for Community Welfare for the amount of the advance. A news release concerning this assistance was issued by the Premier on 15 September 1981.
- (2) People suffering from alcoholism should qualify for assistance under the Commonwealth scheme if they are referred for specialist treatment which is not available locally. If an individual has any complaint about the administration of the scheme, there is recourse to the Commonwealth Ombudsman.
- (3) The State does provide assistance with hospital to hospital transfer where there exists complications of alcoholism which require hospital management. Some treatment programmes are available in the Kimberley and Pilbara.