Legislative Council

Tuesday, 18 September 1984

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

PARLIAMENT WEEK

Statement by President

THE PRESIDENT: Last Sunday, His Excellency the Governor launched Parliament Week. Members will be aware that a wide range of activities has been planned for the people's benefit and participation.

The Speaker and I, with the assistance of officers from both Houses, have tried to ensure that this week will reflect the value and continued relevance of Parliament to our system of Government.

It is to the people of the State that my remarks and the week's activities are primarily directed. The worth of Parliament is very much their concern, and the way in which it functions, now and in the future, depends in large measure on the value that they see in maintaining democratic ideals and principles.

Comparatively few countries in today's world acknowledge realistically the right of their people to govern themselves, let alone provide them with the power so to do.

Parliamentary democracy belongs to the people. Its retention depends upon public awareness of its value and public respect for its principle. Parliament Week is directed to this end. In order to retain confidence and respect for this institution, I invite everyone to take this opportunity to participate and ensure its success.

BILLS (10): ASSENT

Message from the Governor, received and read notifying assent to the following Bills—

1. Justices Amendment Bill.
2. Parole Orders (Transfer) Bill.
3. Public Trustee Amendment Bill.
4. Legal Practitioners Amendment Bill.
5. Legal Aid Commission Amendment Bill.
6. Audit Amendment Bill.
7. Stock Diseases (Regulations) Amendment Bill.
8. Plant Diseases Amendment Bill.
9. Acts Amendment (Abolition of Capital Punishment) Bill.
10. Rural Housing (Assistance) Amendment Bill.

HEALTH: DENTAL

Technicians: Petition

On motions by Hon. P. H. Wells, the following petition bearing the signatures of 4 628 persons was received, read, and ordered to lie upon the Table of the House—

> Petition to: The Honorable the President and Honorable Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.
>
> 1. We the undersigned are opposed to the lowering of the standard of Dental Care in this State and call upon the Parliament to ensure that it does not pass laws that will erode those standards.
>
> 2. We believe W.A. is best served by a system of family dental Care provided by professionally trained personnel.
>
> 3. We believe no member of the public should be exposed to Dental Technicians who have not undergone additional tertiary training in Biological and clinical sciences.

(See paper No. 140.)

ABORIGINAL AFFAIRS: LAND RIGHTS

Uniform Legislation: Tabling of Federal Government Response

THE PRESIDENT (Hon. Clive Griffiths): I table the following paper—

> Aboriginal Heritage Act—Harding River Dam—Response from Hon. C. Holding to the Legislative Council's resolution of 6 August 1984.

The following letter from Mr Holding was addressed to the Clerk of the Legislative Council—

> Dear Mr Marquet
>
> I refer to your letter of 9 August conveying the resolution passed by the Legislative Council of Western Australia in regard to the Aboriginal and Torres Strait Islander Heritage (Interim Protection) Act.
>
> I have noted the terms of the resolution and, in particular, the concern expressed in regard to the implications of the Act for the Harding River Dam project. I attach a copy of the news release announcing the decision by Senator Ryan, as Acting Minister for Aboriginal Affairs, on 6 August 1984 refusing the Western Australian Aboriginal Legal Service's application for a declaration under the Act in respect of that project.
>
> Senator Ryan's statement outlines the basis on which she reached her decision. You will

note that it also indicates support for the project on the part of the Commonwealth Government by referring to the benefits which are expected from it.

The Commonwealth would not be prepared to agree to the request that this important legislation be repealed. As Senator Ryan indicated in her statement, however, the Commonwealth Government is willing to have further discussions with the States regarding the operation of the legislation. I hope that I will shortly be able to meet with the Western Australian Minister with Special Responsibility for Aboriginal Affairs, the Hon. Keith Wilson MLA to discuss the matter.

Yours sincerely
Clyde Holding.

The document was tabled (see paper No. 112).

QUESTIONS

Questions were taken at this stage.

NOTICE OF QUESTIONS AND MOTIONS

Notice of questions and motions were taken at this stage, during which Hon. H. W. Gayfer gave notice that, at the next sitting of the House, he would seek leave to move the following motion—

That the Regulations made pursuant to the Albany Port Authority Act 1926, Bunbury Port Authority Act 1909, Esperance Port Authority Act 1968, Fremantle Port Authority Act 1902, Geraldton Port Authority Act 1968, and the Port Hedland Port Authority Act 1970, published in the *Government Gazette* of 29 June 1984, and laid on the Table of the House on Tuesday, 31 July 1984, be and are hereby disallowed.

HON. H. W. GAYFER (Central) [5.28 p.m.]: I seek leave to withdraw the notice of motion I moved previously with a view to substituting an amended notice of motion.

HON. D. K. DANS (South Metropolitan—Leader of the House) [5.29 p.m.]: I would like to have a look at the first notice of motion and give my decision at a later stage.

The PRESIDENT: That is denying leave. I take that as a "No" response.

Hon. D. K. DANS: That is right, until I have a look at it.

The PRESIDENT: The question is, is leave granted? It is up to the House to grant leave.

Hon. D. K. DANS: No, for now.

Leave denied.

WESTERN AUSTRALIAN DEVELOPMENT CORPORATION ACT: REGULATIONS

Disallowance: Motion

Debate resumed from 21 August.

HON. J. M. BERINSON (North Central Metropolitan—Attorney General) [5.30 p.m.]: I doubt that when the Leader of the Opposition writes his memoirs, he will recall this motion as being among his more distinguished efforts.

In principle, the motion is misconceived. In practice, it will come remarkably close to achieving precisely the opposite to his expressed intention

Mr Masters has two arguments—

(i) That in drafting the regulations without consultation with the Opposition and other parties, the Premier breached an undertaking to engage in such consultation;

(ii) that the regulations place the WADC in some position of unfair advantage.

I will deal with each of these in turn.

Mr Masters is quite right when he says that the Premier undertook to consult the Opposition and the chamber of commerce when drafting regulations for the WADC Act. He is right again when he says that the Premier did not consult those parties when drafting the regulations which Mr Masters is now attacking.

Where Mr Masters goes hopelessly wrong is in his failure or refusal to recognise that the regulations which the Premier was referring to when he gave his undertaking, have nothing to do with the regulations with which we are dealing now. More than that, the regulations to which his undertaking referred will never be drafted, because the Opposition in this House amended away any basis on which such regulations could function.

To explain the position clearly requires some attention to the details of the legislation.

Clause 29 of the Bill—it is now section 28 of the Act—as presented to the Parliament and as passed through the Legislative Assembly, reads as follows—

(1) The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed for giving effect to the purposes of this Act.

(2) Without limiting the generality of subsection (1) regulations may make provision for—

(a) the application to the Corporation, the directors, or the employees of the Corporation, either with or without modification or variation, of any written law which would not otherwise be binding on the Corporation, the directors, or the employees of the Corporation; and

(b) the requirements and procedures which are to be observed or followed in, or in relation to, borrowing by the Corporation and the issue and recording of debt paper.

Clause 4 of the Bill as amended by the Government constitutes what is now section 4(1) to section 4(4) of the Act, and reads as follows—

> 4. (1) There is hereby estabilised a body to be called the Western Australian Development Corporation.
>
> (2) The Corporation is a body corporate with perpetual succession and a common seal and is capable of—
>
> (a) acquiring, holding and disposing of real and personal property;
>
> (b) suing and being sued; and
>
> (c) doing and suffering all such acts and things as bodies corporate may lawfully do and suffer.
>
> (3) The Corporation is an agent of the Crown in right of the State and enjoys the status, immunities and privileges of the Crown except as otherwise provided by this Act or regulations made under section 28.
>
> (4) Notwithstanding subsection (3), the Corporation shall not be subject to direction by the Minister except as otherwise provided by this Act.

At that stage—if nothing further had happened—the extent to which the WADC would have been required to comply with the provisions of the Companies Code would have had to be specified by regulation pursuant to clause 29. It was in relation to regulations under those conditions that the Premier's letter of 16 December 1983 to the chamber of commerce was written and my own comments of 20 December and the Premier's of the following day were made. However, the whole context of the discussion was changed on 20 December when Hon. A. A. Lewis moved what is now section 4(5) of the Act in the following terms—

> (5) The Corporation shall in all respects comply with the provisions of the Companies Act 1961, and the *Companies (Western Australia) Code*, as if it was a public company incorporated under the Companies Act 1961, and the *Companies (Western Australia) Code*.

In an attempt to prevent a quite undesirable result, I moved to amend Mr Lewis' amendment so as to delete the words "in all respects" and to substitute the words "in such respect as may be prescribed". My amendment was defeated, and Mr Lewis' carried.

That made irrelevant and, indeed, ineffective, any regulations in respect of the compliance by the corporation with the provisions of the code. By the provisions of the Act itself, the corporation had to comply with them all.

When the amended Bill was in the Legislative Assembly on 21 December 1983, the Premier at first argued against adopting Mr Lewis' amendment, and it was in the course of that approach that the Premier gave the assurances which Mr Masters quoted and which appears on pages 6421 and 6422 of *Hansard*.

The Premier said this—

> What I have said publicly is that we will not proclaim this legislation until regulations are promulgated which give effect to those parts of the code that the Opposition says should apply to the corporation.

Further on he said—

> What I am saying is that I will deliver a copy to the Leader of the Opposition and implicit—now explicit as a result of this statement—is my intention to allow the Leader of the Opposition to ascertain that the regulations are those which we would consider to be appropriate.

That was the undertaking if Mr Lewis' amendment had been defeated, but in the end, it was not defeated, the result of which is that the undertaking had nothing on which to operate.

It is as simple as that, and before the Leader of the Opposition gets so free in his allegations of bad faith, he might try a little harder to get his facts correct.

For completeness, I add some detail of the action taken by the WADC when it took the initiative to formulate the present regulations. Although the context of the Government's undertakings was no longer relevant, the corporation did provide copies of the draft regulations to both the Perth Chamber of Commerce and the Confederation of Western Australian Industry. The corporation invited consideration and comment by those bodies prior to recommending that the Government promulgate the regulations.

Whereas the confederation approved the regulations as drafted by the corporation's solicitors,

the Perth Chamber of Commerce provided written advice which, on subsequent examination by the WADC solicitors, was found to raise matters already covered by the proposed draft.

On this basis, and following verification by the Crown Law Department, the Government accepted the recommendations as drafted and recommended by the WADC.

Mr Masters' next line of attack is that the regulations as proclaimed give the corporation some unfair advantage. With due respect, I say that his reasoning is remarkably difficult to discern. As I have already indicated, section 4(5) requires the corporation to comply with all code provisions applying to public companies. A gap remains, but that is in respect of code provisions applying not to companies, but to directors.

It should be noted that without these regulations, none of the code provisions in respect of directors would apply.

I invite the House to note as well that that will be the effect if these regulations are disallowed. I emphasise that if these regulations are disallowed, none of the code provisions in respect of directors will apply.

Is that what Mr Masters is after? I do not believe it is. That result, as I understand it, would be inconsistent with everything he had to say when moving his motion, yet that indeed would be the result of the disallowance of these regulations. The directors of the WA Development Corporation would be subject to none of the code provisions applying to directors.

What is Mr Masters' complaint about the application of the code provisions in respect of directors as provided in the existing regulations? In general, his objection, as I understand it, comes down to the proviso in regulation 4(2) which excludes the application of sections 222, 223, and 225 of the code.

Again it pays us to look at these provisions in detail. Section 222(1)(a) provides that a director's office is vacated if, where applicable, he has not obtained his qualification. This provision is irrelevant for the WADC because there is no qualification, nor can any apply.

The remainder of section 222 relates to other grounds on which the office of director is automatically vacated, and deals with such problems as the director's going bankrupt, and things of that nature. The difficulty experienced in including these requirements is that they would cut across the discretion of the Governor to produce the same result as provided by clause 2(2) of the schedule to the Bill.

Clause 2 of the schedule reads as follows—

> (1) An appointed director may resign his office by notice in writing delivered to the Minister.
>
> (2) An appointed director may be removed from office at any time by the Governor—
>
> (a) for mental or physical disability, incompetence, neglect of duty or misconduct proved to the satisfaction of the Governor;
>
> (b) if he is an undischarged bankrupt or a person whose property is subject to an order or arrangement under the laws relating to bankruptcy; or
>
> (c) if he is absent without leave of the Board from 3 consecutive meetings of the Board of which he has had notice.

So the Bill itself provides the means by which a director who runs foul of the circumstances described in section 222 of the code can be dealt with. The Bill provides—

Hon. A. A. Lewis: Do you have your amateur fisherman's licence? The red herrings you are drawing across this are absolutely fascinating.

Hon. J. M. BERINSON: If the honourable member is saying that he would not accept the relevance of the statutory provisions for the removal of directors which place that power in the hands of the Governor, we do indeed have a problem.

Hon. A. A. Lewis: I accepted your word. That was far more important when the debate was on. I just do not think you have honoured it.

Hon. J. M. BERINSON: I am referring to the relevance of the statutory provision.

Hon. A. A. Lewis: You are drawing every red herring you can.

Hon. J. M. BERINSON: When the honourable member enters into this debate, it will be open to him to indicate—

Hon. A. A. Lewis: I will.

Hon. J. M. BERINSON: —how it might constitute a red herring to draw attention to the fact that the Bill itself provides for the dismissal of directors in a way which would be inconsistent with the application of section 222 of the code. If that is a red herring, I stand to be corrected. I believe that the honourable member will have very great difficulty in attempting to make a case of that sort.

My comments so far relate to the exclusion of section 222 of the code. The regulations also seek to exclude sections 223 and 225 of the code. Let us

look at them. Those sections of the code deal with the appointment and the removal of directors, and these sections are excluded from the regulations as their inclusion would be inconsistent with the Bill and therefore would be ineffective. I refer to clause 6 of the Bill which vests the question of appointment in the Governor, on the nomination of the Minister. The removal of directors is also by the Governor as provided by the schedule.

I suggest to the Leader of the Opposition that his motion is so contrary to his own expressed aims that he should not pursue it. Certainly if he does pursue it, the House should leave him to pursue it alone.

HON. A. A. LEWIS (Lower Central) [5.47 p.m.]: It is strange to hear the Attorney trying to get off the hook regarding what I am sure both he and the Premier had done in good faith. It was a long and active debate which the Government would not adjourn so that the Opposition or the Government could really go into the matters brought up in the Committee stage. The Government forced matters to come to a head. It may be remembered that we had to arrange meetings between the Opposition and the Government to try to fix certain areas in Committee. We had 20 minutes in which to do it.

This Government is becoming more like an Arthur Murray dance studio, because it dances around at every opportunity, trying to undo the promises and assurances it has given. There is no doubt that, as the Opposition spokesman on the WADC Bill, the Attorney both said and implied that the WADC was to be run as a private-enterprise type of company.

We discussed directors and the "onerous provisions", as the Attorney General called them, under which they would work. He tried to get away from the fact that the Companies Code would apply. And just to show how good the Premier is, we found that he wanted to knock out our amendment in the first place, but then did a back flip and accepted it.

Hon. J. M. Berinson: Which means the code does apply, in full.

Hon. A. A. LEWIS: Now we are getting it—the code does apply. What the Attorney is implying now is that all the restrictions and laws applying to directors of private companies should apply to these directors.

Hon. J. M. Berinson: All applying to companies must apply; not should, but must. But as related to companies, not directors.

Hon. A. A. LEWIS: I will accept that the Attorney is saying that because private enterprise has so little involvement in the WADC, the shareholders cannot have a say—the public of Western Australia cannot have a say in who are the directors of the WADC. I accept that the Government appoints the directors. I think that is covered by sections 222 and 225 of the Companies Code.

The directors—not the Government—should be responsible in regard to the trust's buying a portion of Argyle. The directors should be responsible for the 6c or 8c a share. From what the Attorney implied to me when we were in the Committee stage of the WADC Bill, it was clear that the WADC directors would be responsible financially for the decisions they made. I do not believe they should be committing the State to find the money that will guarantee an income from the trust. The directors should be put out on the nails if they have made that decision. If they have not made that decision, the Government ought to keep its fingers out because it assured us that the WADC would be a private enterprise-type organisation.

The Government can have it whichever way it likes: It can say that it is a socialistic body which the Government will run, or it can say that it will run as a private enterprise organisation where the directors are responsible; but the Government cannot have it each way.

Hon. J. M. Berinson: If you look at an analogous position you will see that the directors of the Queensland coal trust are not personally liable for the results.

Hon. A. A. LEWIS: Unfortunately I have nothing to do with the Queensland coal trust, but I do have something to do with the WADC.

Hon. J. M. Berinson: But we are talking about the respective position of directors. That is what the motion is about.

Hon. A. A. LEWIS: Sometimes Sir Johannes does things that even I have nothing to do with.

Hon. J. M. Berinson: It has nothing to do with him; it is a private enterprise trust. Our own trust is run along similar lines and the directors have similar responsibilities.

Hon. A. A. LEWIS: A few weeks ago the Attorney introduced a Bill which indicated that what was recorded in *Hansard* should be taken into consideration when dealing with other matters. Here we see the Attorney and the Premier trying to get off the hook following commitments made in this place. The Attorney made commitments to me, some of which have been honoured and others of which have not. How am I to trust the Attorney when he makes commitments and then breaks them. How am I to trust his word as I always did.

Hon. J. M. Berinson: Don't take my word; look at the evidence in *Hansard* and you will find the commitment.

Hon. A. A. LEWIS: I have looked at the evidence and it damns the Minister completely out of hand, and he knows it.

Hon. J. M. Berinson: Explain how.

Hon. A. A. LEWIS: I am trying to explain.

Hon. J. M. Berinson: I will listen.

Hon. A. A. LEWIS: It will be the first time. The Attorney needs some instruction. We tried to give him instruction when the Bill was being debated here, but he would not listen. He raced off to his advisers—it is a wonder that numbers of advisers are not sitting in the corner now. They are not there because they have lost their credibility; and they have dropped the Minister in the mire. When we were debating that Bill we were trying to do the right thing with a bad Bill. The Government took its stand and said that the WADC would be a private enterprise body and that the directors of it, apart from their appointment and dismissal, would be responsible for their decisions in the same way as are other directors in private enterprise.

Hon. J. M. Berinson: In what way are they not responsible as a result of the regulations we are discussing? What would you do to these regulations to meet your position?

Hon. G. E. Masters: I will tell you.

The DEPUTY PRESIDENT (Hon. John Williams): Order!

Hon. A. A. LEWIS: I believe that the regulations dealing with sections 222 on, probably cover all that the Minister wants to cover. I think it is regulation 2—section 45—to which I am objecting. I am speaking now only because the Attorney made a comment about me when I was at the back of the Chamber. It was that comment that made me come back. Perhaps in the future he will not make such comments. Following this decision by the directors with respect to the 8c share, are we to have the same thing with Boans Ltd. or BHP? Is the Government to guarantee the returns on trusts established by other people? It would seem the Attorney's idea of private enterprise is very different from mine.

The Attorney implied before that the WADC was to be a dinkum private enterprise-type corporation. The Attorney has failed and the Government has failed. The entire Government stands condemned for pulling the wool over the eyes of the public. This Minister for Budget Management especially stands condemned for probably causing a great deal of hardship to this State with the diamond market and the guarantees the Government has to provide to back up this company. The Attorney has mislead the House and he has to wear the fact that he alone is the person responsible for having told the House how the corporation was to be run. By implication the Attorney gave the House a false impression about the corporation's responsibilities.

Personal Explanation

HON. J. M. BERINSON (North Central Metropolitan—Attorney General) [5.59 p.m.]: I claim to have been misrepresented and I seek leave to make a personal explanation.

Leave granted.

Hon. J. M. BERINSON: It was claimed in the course of the speech just concluded by Hon. A. A. Lewis that at some stage I misled the House about the powers of directors, and in particular their capacity to ensure that the WADC should be supported by a Government guarantee.

Nothing I said could have misled the House. The Government guarantee applicable to WADC activity is provided in section 21 of the Act, and there is nothing I could have said either explicitly or implicitly that could have made the position clearer than does the Act itself.

Sitting suspended from 6.02 to 7.30 p.m.

Debate (on motion) Resumed

HON. G. E. MASTERS (West—Leader of the Opposition) [7.30 p.m.]: I listened to the Attorney General trying to defend his position. He began in what was an unusually aggressive manner for him. I suppose that, in taking the offensive as he did, he was trying to justify his position and to get out of the serious predicament in which he found himself. He said that the speech that I made did me no credit and was one of my poorer efforts. I am sure that I do not make many.

Hon. J. M. Berinson: I said that it would not be highlighted in your memoirs.

Hon. G. E. MASTERS: All right. Whether it was a good speech or not, the Minister was not able, before the dinner suspension, to come forward and make something of the proposal to disallow the regulations. It has taken him four weeks to do that. I would have thought, if there was little substance to my speech, that the matter could be dealt with before the break. Obviously the Minister was busy and not able to do that.

What we have been treated to is a learned snow job. The Minister went all around the bush and talked about statements that were made in this place and another place and what they meant and did not mean. We can all read English.

Hon. J. M. Berinson: You find the facts confusing.

Hon. G. E. MASTERS: I find the Minister's remarks confusing; that is what he intended. The interpretation that the Opposition has placed on the regulations and the interpretation that I reflected in my speech were the same interpretations placed on the regulations, and on the breach of faith on the part of the Government, by the Confederation of Western Australian Industry, by the chamber of commerce, and by lawyers, all of whom have a different opinion from that of Mr Berinson. They are of the opinion that the Minister's actions, in making such promises in this House, had been scandalous.

The Premier acted in a most disgraceful way, and he should be ashamed of his actions. I am sure that the Attorney General has not agreed to withdraw the regulations. We did not press too hard prior to the suspension because we thought that the Minister and the Government might have the commonsense to withdraw the regulations and save themselves an embarrassment. That is what they said they would do. They said that they would hold consultations and obtain advice.

Hon. J. M. Berinson: Did you not listen?

Hon. G. E. MASTERS: I am saying that the member did not convince me. I am surprised that he put on such a snow job. I have a few things to say which will be very interesting and which will change his mind.

The Attorney General has quoted from legal advice. We expected that. Obviously he has got the best advice that he could obtain. The chamber of commerce has received advice, and the Opposition has been advised. During the debate the Opposition held consultations with the Government, in good faith, sometimes into the early hours of the morning, and we have had interpretations placed on these difficult sections. We thought we understood what was going on. However, this has been a lesson that we should never forget.

We reached an understanding in this Chamber during the Committee debate—we thought in good faith. The other place did all sorts of things to the legislation and refused to return it to this House because it knew it would be amended if it was returned. I think the Premier really showed his true colours in the debate in the Legislative Assembly. Mr Berinson quoted the Premier clearly time and time again. However, one cannot place any other interpretation on the statement made by the Premier than the interpretation we put on it; he made a firm commitment and reneged on his promise.

Hon J. M. Berinson: I agree with your interpretation.

Hon. G. E. MASTERS: The Attorney General has quoted the Premier's speech which appears on page 6421 of *Hansard*. He said—

> What I have said publicly is that we will not proclaim this legislation until regulations are promulgated which give effect to those parts of the code that the Opposition says should apply to the corporation.

That was said on the assumption that section 4(5) did not appear in the Act.

Hon. J. M. Berinson: But it does.

Hon. G. E. MASTERS: I am sorry. If that were the case, that matter should have been clarified when the Bill was recommitted. Everyone in this House and everyone in the Assembly would have believed the Government when the Premier gave an absolute undertaking that any regulations dealing with this Act would be referred to those people as was promised.

Hon. J. M. Berinson: On the understanding that section 4(5) did not appear in the Act.

Hon. G. E. MASTERS: That may be your interpretation.

Hon. J. M. Berinson: It is a fact.

Hon. G. E. MASTERS: It is not everyone's interpretation. For heavens' sake, has the Minister not read my speech when I moved for the disallowance of the regulations? How can he sit there with a straight face? I will read a letter dated 16 December from Hon. Brian Burke, and I will carry on from there.

Hon. J. M. Berinson: That is four days before clause 4(5) was passed.

Hon. G. E. MASTERS: Sure, it was four days before this Bill went through Parliament.

Hon. J. M. Berinson: It was four days before it was amended.

Hon. G. E. MASTERS: There are letters that were not answered by the Premier. On page 2 of the letter of 16 December, the Premier says—

> In addition, I would also draw your attention to substantive amendments arising from new proposals introduced during the course of the drafting conferences. These include provisions which require the Corporation to:
>
> (3) be subject to the provision of the *Companies (Western Australia) Code* in relation to the making of regulations governing its operations so that it is established on the same basis as completely private corporations.

Whatever else happened, everyone on this side of the Parliament thought that the Western Australian Development Corporation would be operating in exactly the same way as private corporations do. One cannot blame us for that; it was a fairly firm commitment made by the Government. So the Minister is absolutely right.

On 20 January, a letter was written by Brian Kusel, the Executive Officer of the Perth Chamber of Commerce. The Premier did not reply to that letter. He did not have the courtesy to say that the circumstances had changed and that the Government was not going to negotiate.

On 1 May, the chamber again wrote to the Premier asking for clarification and requesting some involvement in the regulations. Again the courtesy of a reply was not forthcoming. So Mr Berinson is stretching a long bow because there was another letter on 22 June which was written in the same vein.

What I am saying to the members of this House and to the Attorney General is that the Government, under no circumstances, had any intention whatsoever of referring regulations of whatever kind to the Opposition or to anybody else. It went about its own business.

The Attorney General has made all sorts of comments. He has made comments and quoted legal opinions and said that the chamber of commerce had based its opinions on a letter dated 16 December, four days before the Bill passed through Parliament. The Government bases its assumptions on that letter.

Hon. J. M. Berinson: To be fair, I did not refer to what the chamber of commerce had said. I was referring to your statements.

Hon. G. E. MASTERS: A lot of it is based on comments made by the chamber of commerce. Does Mr Berinson believe that its opinions are wrong?

I would like to read some comments from a legal opinion which I am happy to show to the Government. These notes to me were written by legal men. Section 4(5) states that the corporation shall, in all respects, comply with the provision of the Companies Act and the Companies Code. The legal opinion states—

> The sub-section imposes a duty on the Corporation to comply with the Companies Act and the Companies (Western Australia) Code (hereinafter together called "the Code"). Compliance is required "in all respects".
>
> However, the sub-section does not address the rights and duties of, inter alia, directors of the Corporation (as to which refer below), other officers of the Corporation, shareholders of the Corporation, auditors of the Corporation (as to which also refer below), any receivers and managers of the Corporation or a liquidator of the Corporation etc.
>
> Further, the above provision does not say that the Corporation shall be deemed to be a public company under the Code but rather that the Corporation shall comply in all respects with requirements of the Code as if it were a public company incorporated thereunder.

Hon. J. M. Berinson: Correct.

Hon. G. E. MASTERS: Right. The legal opinion continues—

> . . . the distinction is significant since if the former position were to prevail the provisions of the Code in toto . . . would apply whereas the latter position merely requires the Corporation to comply with obligations imposed by the Code on public companies. The power to make regulations under the Act appears in section 28 of the Act.

The Attorney General has quoted those references so I will not go through them.

Hon. J. M. Berinson: I find myself agreeing with the opinion; I do not agree with you.

Hon. G. E. MASTERS: That is all right. The Minister will change his mind. He will get enthusiastic and he will change his mind. I can snow him, too. Mr President, we are taking this lightly, but it is a very serious matter. I want to deal with it as quickly as possible.

The legal opinion continues—

> This sub-section specifically empowers the Governor to make regulations concerning the rights and duties of directors of the Corporation and the audit of the Corporation's accounts but remains silent on the power to make regulations with respect to, inter alia, rights and duties of other officers of the Corporation and shareholders of the Corporation. Nevertheless, an ability to make regulations on such matters appears clearly within the broader power to make regulations contained within sub-sections (1) and (2) of section 28 of the Act.

Hon. J. M. Berinson: Correct.

Hon. G. E. MASTERS: Terrific. To continue—

> What does appear necessary is that, if the Corporation is in all respect to operate akin to a public company, regulations be made which regulate the conduct of other persons or corporations dealing with the Corporation in

much the same way as those persons would be affected if they were dealing with an actual public company. Sub-section (5) of section 4 of the Act only regulates the conduct of the Corporation and without more would not apply the provisions of the Code to other persons or corporations when those other persons or corporations are dealing with, or on behalf of, the Corporation.

It is this latter aspect which needs to be the subject of regulations under the Act—regulations which appear capable of being made under the broad terms of subsection (1) of section 28 of the Act as being, "necessary or convenient to be prescribed for giving effect to the purposes of (the) Act". While the matters in the draft regulations appear appropriate they are not, by any means, exhaustive in addressing all the rights—

Hon. J. M. Berinson: In other words, there is nothing wrong with them so far as they go.

Hon. G. E. MASTERS: I will repeat; while the matters of the draft regulations appear appropriate they are not.

Hon. J. M. Berinson: In other words, they are good as far as they go and you are now saying we should disallow them. This is incredible.

Hon. G. E. MASTERS: It is incredible. I am sure the Attorney General is embarrassed. I can understand his getting upset.

Hon. J. M. Berinson: I am bemused, not upset.

Hon. G. E. MASTERS: The Minister should be ashamed. In this House the Minister made statements which he has not backed up. He has been disgraceful. To continue—

> The draft regulations are not exhaustive in addressing all the rights and duties that persons dealing with public companies might either enjoy or be required to comply with. The service of documents on the corporation is but one example of the need to amplify the existing draft regulations to encompass the provisions of the code which would usually regulate the conduct of persons or corporations in their dealings with a public company.
>
> Further examples are the provisions of Division 4 of Part IV (substantial shareholdings), Division 5 of Part IV (debentures), Division 7 of Part IV (title to and transfer of securities), Part VII (special investigations), Part VIII (arrangement and reconstruction), Part IX (conduct of affairs of company in oppressive or unjust manner), Part X (receivers and managers), Part XI (official management), Part XII (winding up)—

Hon. J. M. Berinson: How can we wind up a corporation that is guaranteed by the State Government? How can that possibility ever arise?

Hon. G. E. MASTERS: The Minister intervened at precisely this stage last time we discussed this matter. One of the statements he made at exactly the same point in the debate was whether we really need to apply this provision because there is no public participation.

Hon. J. M. Berinson: That was another example.

Hon. G. E. MASTERS: No, it was not. The Minister asked why these matters should apply when there will be no public participation.

Hon. J. M. Berinson: These are separate provisions; one relates to public participation and one relates to winding up.

Hon. G. E. MASTERS: I am quoting from legal opinions given to professional groups by qualified legal practitioners. They are very upset at what the Government has done and the promises it has broken. I very much doubt whether they will trust Mr Berinson or any of those people who made promises ever again.

If the Minister wanted to change the words he could have at least made some effort to do so by withdrawing the regulations. He should have consulted with people such as representatives of the chamber of commerce. That is an example of what could have been done. The opinion goes on—

> Accordingly, it is proposed that the existing draft regulations 4-6 (inclusive) be replaced with the following:-
>
> 4 (1) Subject to sub-regulation (2) of this regulation and unless the provisions of the Act otherwise so require,
>
> (2) Sections 222, 223 and 225 of the Code shall not apply to directors of the Corporation."

The Minister made that point and gave the reasons that they should not apply.

Hon. J. M. Berinson: You agreed with that.

Hon. G. E. MASTERS: Yes, I did. In my earlier speech I referred to these matters, and having listened to the Minister's speech, I received advice. I have learned that the Attorney is correct in that respect. However, the first part of the regulations should have been considered and that would probably have satisfied most people concerned. In the five weeks that the Government has had to reflect upon this disallowance motion we

asked for that consideration. We thought the Attorney would simply study and sort them out in the time available. There was a firm understanding on the part of the people involved—the representatives of the confederation, the chamber of commerce, and the Opposition—that this would be done.

It was our belief that these regulations would be discussed with the people involved and sorted out. The Attorney has not done that.

Hon. J. M. Berinson: It is not necessary.

Hon. G. E. MASTERS: It may not be necessary as far as the Attorney General is concerned, but it is necessary as far as those people who have given us advice are concerned. There is a legal argument. We asked that the regulations be taken away. We did not want to disallow them, we wanted to be reasonable; we asked for their withdrawal. The Attorney gave an absolute commitment that we would be consulted on the regulations where technical questions were concerned.

Hon. J. M. Berinson: That is not a technical question, it is a very basic question.

Hon. G. E. MASTERS: It may be basic to the Attorney General, but it is not basic to industry groups and certainly not to people on this side of the House. We have lawyers on this side who fully believed we would be consulted before the regulations came forward. The regulations do not fit the Bill or cover all the necessary areas. There has been a gross breach of confidence as far as we are concerned by the Attorney General—a Minister of the Crown. He has taken an oath; he has given a firm commitment. The Attorney has a legal background and he is responsible for taking certain steps and upholding the rights and privileges of the legal profession. The Attorney General made a promise and gave an undertaking.

Hon. J. M. Berinson: The undertaking was given in a different set of circumstances from that which now applies.

Hon. G. E. MASTERS: I do not accept that. It was a snow job; the Attorney knows it was a snow job; I know it was a snow job; and all the people involved know it was a snow job. The legal advisers say that the regulations are not good enough and if the Government cannot disallow them or advise the House to do so, the Opposition should support the motion to disallow the regulations for the reasons given by me.

It is very sad that the Attorney has put us in this position.

Question put and a division taken with the following result—

Ayes 15

Hon. C. J. Bell	Hon. P. G. Pendal
Hon. V. J. Ferry	Hon. I. G. Pratt
Hon. H. W. Gayfer	Hon. W. N. Stretch
Hon. Tom Knight	Hon. P. H. Wells
Hon. A. A. Lewis	Hon. John Williams
Hon. P. H. Lockyer	Hon. D. J. Wordsworth
Hon. G. E. Masters	Hon. Margaret McAleer
Hon. N. F. Moore	*(Teller)*

Noes 10

Hon. J. M. Berinson	Hon. Gary Kelly
Hon. J. M. Brown	Hon. Mark Nevill
Hon. D. K. Dans	Hon. S. M. Piantadosi
Hon. Peter Dowding	Hon. Fred McKenzie
Hon. Lyla Elliott	*(Teller)*
Hon. Robert Hetherington	

Pairs

Ayes	Noes
Hon. G. C. MacKinnon	Hon. Tom Stephens
Hon. I. G. Medcalf	Hon. Kay Hallahan
Hon. Neil Oliver	Hon. Graham Edwards

Question thus passed.

HERD IMPROVEMENT SERVICE BILL

Second Reading

Debate resumed from 23 August.

HON. FRED McKENZIE (North-East Metropolitan [7.57 p.m.]: This Bill has been before the House for some time now and there has been ample time to consider it.

Hon. G. E. Masters: I have forgotten, could you explain it again?

Hon. FRED McKENZIE: I have had sufficient time in which to read the Bill and give considerable attention to it. It is a very good measure and, therefore, it is with much pleasure that I support its second reading.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (Hon. Robert Hetherington) in the Chair; Hon. D. K. Dans (Leader of the House) in charge of the Bill.

Clause 1: Short title—

Hon. C. J. BELL: When speaking to this Bill previously several issues were raised, issues to which the Minister has not responded. Some areas require clarification and they have not as yet received attention. I seek further information from the responsible Minister. Firstly, the legislation does not contain a sunset clause. I believe this to

be appropriate legislation in which to include a sunset clause.

It would be valuable to include a sunset clause to ensure the Bill is reviewed at an appropriate time rather than have it coast along until someone becomes disgruntled with it and seeks to have something done about it.

Secondly, in my second reading speech I raised an area of concern about the definition of "pecuniary interests" in clause 9(4) as it affects the users of this service. The clause defines clearly one aspect of pecuniary interest, but fails to address the other; that is, the producer representative on the board of the corporation who sits in judgment on scales of fees for herd recording. My reading of the Bill raises some question about whether the producer representative would be entitled to vote in that situation.

Another matter I raised was addressed by the Leader of the House in his amendment to the schedule, and I seek no further action on it.

A further area in which I have some concern relates to the appointment of the current General Manager of the Artificial Breeding Board as the general manager of the new corporation. While this aspect is not related directly to the legislation, it seems to me the position should have been advertised to ensure that the best possible person was found for the job.

Hon. D. K. Dans: If you outline the clauses on which you would like clarification, I will deal with them at the appropriate time.

Hon. C. J. BELL: The first matter relates to the disclosure of pecuniary interests, a provision which appears in clause 9. The second relates to clause 14, and the problem I saw there concerns the fact that the general manager was appointed to the board prior to its being set up and without due care being taken to ensure that the best possible person was appointed.

The third matter relates to clause 16(1)(c) under which moneys will be received from time to time from the Dairy Industry Authority. Although I did not raise this matter during the second reading debate, it is of considerable concern in the industry that money from the dairy assistance fund will be used for this purpose. I know that, with some reluctance, the industry agreed to allow some money to be transferred from the dairy assistance fund to the Herd Improvement Service. However, concern exists that, as time goes by, if the herd improvement service falls on hard times as a result of maladministration or for whatever reason, it is likely that once again money may be sought from the dairy assistance fund. The industry would like an assurance that, should any further moneys be allocated from that fund, it would occur only after detailed discussion with the industry to ensure the whole industry agreed that such a course was desirable. It should not be accepted as a matter of course that agreement has been reached on this matter.

I agree with the point made in respect of the schedule as to the calling of special meetings and I am happy with the amendment as it appears on the Notice Paper.

Hon. D. K. DANS: It would be more appropriate for me to answer those queries to the best of my ability when we deal with the respective clauses. It should be borne in mind that I thought there were to be a number of other speakers on the Bill, so, to some extent, I got off on the wrong foot accidentally.

Hon. C. J. BELL: Another matter which I raised and which is not in the Bill, related to the desirability of including a sunset clause, and I would like the Minister to comment on that.

Hon. D. K. DANS: A sunset clause does not appear in the Bill; therefore, it would have been more appropriate had the member moved an amendment or given me some prior knowledge of what was required, although I admit I have been away.

I can only give an assurance that I am not opposed to sunset clauses as they exist in a whole range of legislation. However, I shall take up the matter with the Minister for Agriculture.

Hon. C. J. BELL: I accept the Minister's explanation. I just make the point that this matter was raised during the second reading debate and someone has slipped up by not drawing it to the Minister's attention. Had I known the Minister was not aware of what was said in second reading speeches, I might have proposed an appropriate amendment.

Clause put and passed.

Clauses 2 to 8 put and passed.

Clause 9: Disclosure of pecuniary interests—

Hon. D. K. DANS: This clause contains a standard provision requiring board members to disclose any pecuniary interests during the board's deliberations. That is a standard clause which appears not only in this Bill, but also in almost any other Bill which deals with similar types of boards. I do not know how one would vary that provision. It simply says that one must disclose any pecuniary interests during the board's deliberations. That is the meaning of it and I cannot go beyond that.

Hon. C. J. BELL: The point I make is quite specific, and refers to subclause (4), the wording of which I draw to the attention of members.

The Herd Improvement Service has two aspects; one is the breeding of stock and the other is the recording of the production of livestock. The point I make in respect of the clause is that it should have been expanded to include such aspects as the use of the recording service and the setting of a fee for that service which is used by board members in common with all other persons who record production. That is distinct from their having a direct interest in an animal which is being used for breeding.

Hon. D. K. Dans: A direct or indirect interest is referred to.

Hon. C. J. BELL: I understand from the interjection by the Leader of the House that a member of the board of the corporation who records his livestock with the herd recording section of the Herd Improvement Service would not be permitted to sit on the board or to enter into board discussions with regard to the setting of fees, unless the Minister agreed or the board itself determined otherwise.

Hon. D. K. DANS: The provision says that a member must declare his pecuniary interest. Once the member has declared it, it would be up to the board to determine whether he should take part in those discussions or deliberations. That is a standard clause which appears in all kinds of legislation. The board member would simply have to say, "That is my direct or indirect interest". He should not hide it. It is then up to the board to decide what he must do. The member may disqualify himself, or the board may say, "It is in the best interests of everyone if you do not take part in any further discussions on this matter". That would be up to the board to decide. However, the first requirement is for the member to disclose to the board his direct or indirect interests. It goes no further than that.

Hon. C. J. BELL: I accept the assurance given by the Leader of the House and I will bring that interpretation of the provision to the attention of the primary producers' organisation to ensure that the nervousness expressed to me is allayed and to indicate that producers will not be inhibited in their dealings with the board on that matter.

Hon. D. K. DANS: I shall ask the Minister for Agriculture to write to the member direct on that matter, but the clause is explicit and calls only for a disclosure.

Clause put and passed.

Clauses 10 to 13 put and passed.

Clause 14: Position where public service officer seconded—

Hon. D. K. DANS: This clause looks complicated, but it deals with the case of a person employed under the Public Service Act 1978 subsequently being employed by the herd improvement scheme, and it will ensure that the accrued seniority and superannuation of such an employee are protected.

In other words, the fact that he was employed under the conditions of the Public Service means that he carries those seniority and superannuation rights over with him when he commences to work for the Herd Improvement Service. Again, that is a fairly common condition; otherwise no-one would move over.

Clause put and passed.

Clause 15 put and passed.

Clause 16: Funds—

Hon. D. K. DANS: The Hon. Colin Bell raised a query about clause 16 which defines the source of funds available to the corporation. Such moneys will be paid into either a trust, a Government account, or a bank account approved by the Treasurer. The clause provides also for the corporation to expand its funds in carrying out its functions. In other words, it allows it to spend money in carrying out its functions and I presume from that it would not allow it to spend its funds on having parties.

Reference is made to the Dairy Industry Authority to enable that body to make a payment out of the dairy assistance fund. It is intended that this should be a once only payment to meet transition costs and provide working capital. I did not move the second reading of the Bill; that was one of the areas I picked up myself. I do not know if that explanation meets the member's requirements. If it does not do so I will try to expand on it.

Hon. C. J. BELL: It agrees with my understanding of it; I just wanted it spelt out. In fact I was involved on the other side of the fence in negotiating that very point when it first came up for consideration between the producers and the Government approximately two years ago. Paragraph (a) provides, "Moneys from time to time appropriated by Parliament for the purpose". Of course, over the years the herd improvement scheme has always received some support from the Government in the financial sense and in my second reading speech I drew attention to the fact that all States provided some support for herd improvement, either through artificial breeding boards, organisations which might be set up, or a herd improvement scheme. I know that it is intended or desired that the Herd Improvement

Service will in fact be self-supporting. However, naturally, there was some concern to ensure that it is not just a matter, of keeping the peace, but to make sure we have total regard for the effect the utilisation of the Herd Improvement Service will have on producers; also the additional charges if they become usurious, of course, can place the producers of this State in a disadvantaged position in the domestic market milk system that operates within this nation, I seek from the Minister an assurance that in fact the Government will at all times consider sympathetically the requirements of the industry bearing in mind the practices adopted by other States in regard to it.

Hon. D. K. DANS: I reply by simply saying I cannot imagine any Government of any political colour not reacting to any part of the rural industry that happened to be in trouble at any time, and there has been a long history of support for all sections of the industry. It goes without saying that the Government would assist the industry if necessary.

Clause put and passed.

Clauses 17 to 30 put and passed.

Schedule—

Hon. D. K. DANS: I move an amendment—

Page 21, line 41—Add after the word "chairman" the words "or a majority of members".

Amendment put and passed.

Schedule, as amended, put and passed.

Title put and passed.

Bill reported with an amendment.

PAWNBROKERS AMENDMENT BILL

Second Reading

Debate resumed from 22 August.

HON. D. J. WORDSWORTH (South) [8.23 p.m.]: It was with great interest that I listened to the Hon. Peter Wells when he pleaded the case of the pawnbroker. So good indeed were his arguments that I requested the adjournment so I could undertake a little further study of this Bill. One certainly must admire the Hon. Peter Wells for his tenacity and the research which he puts into his speeches. Obviously he looked at all the Bills or Acts concerning pawnbrokers in other States and gave us good reason to question what is going on in this State. It soon became evident that Hon. Peter Wells knew more about pawnbroking than did the Minister. I have to admit that I am not very knowledgeable on the subject of pawnbroking.

I recall as a child being most interested in what pawnbrokers displayed in their shop windows. Indeed, I have a vivid memory of a mongoose with a cobra wound around it. I do not know how many of these things were stuffed in the Middle East, but they always seemed to be found in pawnbrokers' windows.

Hon. Peter Dowding: Which pawnbroker?

Hon. D. J. WORDSWORTH: I will leave that to the imagination of members. These articles were never for sale, but I never quite realised that they were not for sale and that there was not a price on them until I looked at the Bill and realised that pawnbrokers are not allowed to sell the articles that they have pawned—

Hon. Peter Dowding: Yes, they are.

Hon. D. J. WORDSWORTH: They must follow a certain procedure. After three months they must advertise and then auction the articles. The admirer who walks in off the street and sees an article on which a pawnbroker has lent money is not allowed to purchase it.

Hon. Peter Dowding: Not if the articles in the window are for sale, which presumably they are.

Hon. G. E. Masters: The stuffed cobra?

Hon. P. H. Wells: That is not one that has been pawned.

Hon. D. J. WORDSWORTH: That is an interesting statement because the Minister has offered the suggestion that those articles in the window are for sale. I understand the particular incidents with which this legislation is to deal and I understand only one or two pawnbrokers are also second-hand dealers. These people when purchasing an article from a person entering their premises, offer to repurchase that article at a higher price. Such traders are thus not working under the Pawnbroker's Act, but under the Second-Hand Dealers Act and I think that is something that has to be looked at more closely.

It seems to me that the Minister thought this was a great way for him to become popular. Pawnbroking seems to be a pretty unpopular occupation, and bashing a pawnbroker permits one to be popular with the mob.

Hon. Peter Dowding: With the other 18 pawnbrokers!

Hon. G. E. Masters: You would agree to let another one in?

Hon. D. J. WORDSWORTH: I recall reading a book written by a Sydney University sociologist on the subject of status in the work force and the various occupations were graded from one to seven. Members will be surprised that while a judge was given a 1.2 grading, Cabinet Ministers

together with medical practitioners were given a 1.5. A member of Parliament was given 2.1 and at the bottom of the scale the massage proprietor, the garbage collector, and the prostitute were given a grading of seven. I did not ever discover where on the scale fell the pawnbroker, but he would have been somewhere down with the debt collectors, I think. The Minister implied that Hon. Peter Wells was lowering himself by arguing on behalf of the pawnbrokers.

Hon. P. H. Wells: They are small businessmen.

Hon. D. J. WORDSWORTH: Hon. Peter Wells would walk across the street, I think, to argue a case for anyone, and very well he does it. Pawnbroking is really only a small business, albeit at the bottom end of the social scale, and the Act is really pretty difficult to work under. The Act was assented to on 28 November 1860. I quote from it as follows—

> Whereas it is necessary and expedient to regulate the trade of Pawnbrokers in the Colony of Western Australia: Be it therefore enacted by His Excellency the Governor of Western Australia and its Dependencies, by and with the advice and consent of the Legislative Council thereof:—

So there we are. It is about the colony of Western Australia and there was not a House of Assembly in those days. That is how ancient the Act is. To my knowledge it had been amended only on one occasion and in a very minor way; that was in 1944. Because it has not been updated, the pawn amount at which auction and advertising is necessary is five shillings; five shillings in 1860 was a lot of money. Convicts were not paid and a free man was worth about one pound a week in those times, so let us say five shillings is worth $50—not 50c—today.

Hon. Peter Dowding: If the particular scheme had been introduced because of problems with the Act, would you not think that the pawnbrokers would have asked for amendments to it? Is it not relevant that they have not done so by statutory amendment?

Hon. D. J. WORDSWORTH: I would have thought it was very necessary to study the Act and rewrite it. I am rather surprised that the member just came here with this very minor amendment instead of rewriting the Bill and doing it properly.

Hon. Peter Dowding: I will. I have told you we will come back.

Hon. D. J. WORDSWORTH: This amendment is quite unfair. Perhaps I should point out the difficulties it will introduce. I gather that the offender was selling the items as a second-hand dealer and not as a pawnbroker.

Hon. Peter Dowding: They are much quicker: it is four days.

Hon. D. J. WORDSWORTH: If it is a cheap article, it is the only way to do it. Unfortunately, the Act specifies that if the article is worth anything over 50c, it must be held for three months, advertised, then auctioned. This procedure is expensive.

Hon. Peter Dowding: Rubbish!

Hon. D. J. WORDSWORTH: If it is taken to an auctioneer, and he is asked what it will cost to advertise and auction—

Hon. Peter Dowding: They auction 1 000 items in two hours.

Hon. D. J. WORDSWORTH:—It will be found that it costs 20 per cent of the value of cheap items to auction and advertise, according to the requirements of this legislation. It usually ends up costing a person a lot of money to hold that article and to carry out the procedures specified in the Act.

The Minister says that the person who walks into the store is not intending to sell the article. I do not think that is necessarily so. To quote his words—

> . . . certainly did not intend to sell the goods to the pawnbroker.

However, when one looks at the form used by offending pawnbrokers, one finds that there is no doubt that it is a sale; it is written on that form that they are required to sell. I do not think there is any credence to the statement that they did not go into the store intending to sell.

Hon. Peter Dowding: They went in to pawn. Pawning is an old tradition.

Hon. D. J. WORDSWORTH: They may not have. These people carry two licences; that is how I read it.

Hon. Peter Dowding: They do not; that is the whole point.

Hon. D. J. WORDSWORTH: The Minister quoted the effective interest rates as being 80 per cent, 66.6 per cent, 100 per cent and 56 per cent. I would say these are quite common mark-ups in some of the clothing shops around Perth. I will not defend that sort of mark-up for second-hand goods, but I think that if many of the types of goods they sell were compared with those in other areas in the same trade, it would be obvious that that sort of mark-up would be quite acceptable. It would appear now with this Bill that a pawnbroker will have to have two prices on every article.

Hon. Peter Dowding: No he does not. He can buy an item, end of story, and if he wants to buy it

that is fine, but he cannot buy it and give an option to sell back at a higher price.

Hon. D. J. WORDSWORTH: A person can go in with his wife and she could be given an option to buy it back at a higher price.

Hon. Peter Dowding: I will deal with that in Committee. They have the alternative of doing one or the other. They cannot buy it as an artifice to avoid the Act.

Hon. D. J. WORDSWORTH: The Bill states that a pawnbroker licensed under this Ordinance shall not buy an article from another person at a certain price, and, having so bought the article, grant to the seller an option to purchase the article within a particular period at a price higher than the first price.

Can I assume he can offer a right to buy back at the same price? He has two prices. If I go into the store, he can offer it to me at a higher price.

Hon. Peter Dowding: That is the whole point. The difference between the purchase price and the sale price is the pawnbroker's interest.

Hon. D. J. WORDSWORTH: Is that correct? The Minister is saying he is not allowed to put a higher price on it, if a person wishes to have an option to buy it back.

Hon. Peter Dowding: He can create an option, with a higher price.

The DEPUTY PRESIDENT (Hon. John Williams): Order! This is developing into a discussion.

Hon. D. J. WORDSWORTH: I repeat that the Bill states that a pawnbroker licensed under this Ordinance shall not, having bought an article from another person at a certain price, grant to the seller an option to purchase the article within a period at a price higher than the first price.

Hon. Peter Dowding: Of course you can!

The DEPUTY PRESIDENT: Order! The Minister has said he will explain in Committee.

Hon. D. J. WORDSWORTH: The Minister said, "Of course you can!" There are two prices: one for the person who sold the article and one for the person who walks into the shop. I wonder whether that would be acceptable under the Trade Practices Act. I would have thought that there could not be two prices on the one article.

I think this will disadvantage the person who seeks to raise money, be it through a pawnbroker or a second-hand dealer. That person will be more inconvenienced than will be the pawnbroker. I would like the Minister to tell us, when he sums up, whether it will be acceptable for a man to hold two licences.

Hon. Peter Dowding: Yes.

Hon. D. J. WORDSWORTH: Also, how does he carry on a sale under his second-hand dealer's licence when this Bill is passed?

Hon. Peter Dowding: By not creating an option.

Hon. D. J. WORDSWORTH: In other words, he will be prevented from carrying out a normal business under the Second-hand Dealers Act. I will be interested to hear the Minister's reply.

HON. PETER DOWDING (North—Minister for Consumer Affairs) [8.37 p.m.]: I would like to say something about this legislation. The Hon. Gordon Masters suggested we might have had the review by the time the legislation gets through; and there is probably some truth in that statement. I simply cannot understand how we can talk about something which does not concern the Bill.

This Bill is not about our stopping people being second-hand dealers; it is not about our stopping people being pawnbrokers. It is an attempt to have some control over a practice which has grown up among a few pawnbrokers in Australia. In this State, only one pawnbroker continues to run this scheme and that is the gravamen of the problem. It does not give the public, who go to the pawnbrokers, the minimal protection for their goods and chattels which exists under the pawnbrokers legislation. In other words, people go in to pawn goods, they sign a piece of paper—about which they may not have legal advice, they may not be able to fully understand its implications, just as some members have difficulty understanding the implication of some simple pieces of legislation, may I suggest—they may not understand the piece of paper or its implication, which is that there is no obligation on the pawnbroker to retain the goods for the period that is traditional for the retention of goods under the pawnbrokers' legislation.

There is no obligation on the pawnbroker to make that option available for anything like the period during which people expect the goods to be available and redeemable. A fair proportion of pawnbrokers' trade, I am instructed, is about short-term borrowings by people who need accommodation in the short term and who pledge their goods for that accommodation.

Under the scheme which has emerged over the last few months, the fact which has been identified in my department—it is hardly a matter of great political debate between us Mr Wordsworth, I would think—is that people pledge their goods and sign a piece of paper, but when they go back a week later, the goods have gone.

A person has been prosecuted for this, and it has been discovered that he has a defence in that he is not acting as a pawnbroker at all. It is the basis of his advertising and presentation and the basis of the understanding of the transaction.

Pawnbrokers in Western Australia have agreed that until this Act is revised, they will no longer proceed with this course of action, because of the potential to give the public a misapprehension about their rights.

Hon. D. J. Wordsworth: Could not the same person walk into the second-hand dealer's shop and say that the pawnbrokers had the same deal?

Hon. PETER DOWDING: No, absolutely not, because when he walks into the second-hand dealer's place, his understanding is that he is selling the goods, not pledging them.

Hon. D. J. Wordsworth: That is the reason I asked whether a man could have two licences.

Hon. PETER DOWDING: A man can walk into a second-hand dealer's shop and say, "I want to sell this; I want to transfer the title of it; I do not want to ask for it back; it is something I want to dispose of". He walks into the pawn shop and says, "I want to pawn my goods". The pawnbroker says, "Sign here", and the customer may discover he is not able to return to pick up the goods. That is the problem. In the short term, the solution seems to be the one about which the pawnbrokers' group, by and large, have agreed—

Hon. D. J. Wordsworth: What group is that?

Hon. PETER DOWDING: The Western Australian pawnbrokers to whom I have written and from whom I have had replies, have, by and large, agreed that when someone goes in to pawn goods they can be pawned under the Pawnbrokers' Act. If a person goes in to sell, he can sell under the second-hand dealers' legislation, but he does not sign a form of agreement. It is effectively a sale with an option to buy back; it is a disguised pawn.

If members opposite want to leave the situation as it is, I warn them that the public are being deceived by this practice. By and large, we are talking about people in financial difficulties. Who else would be prepared to go along and borrow money at 80 or 90 per cent per annum? In fact, we have cases where the percentage was 240 on small items. That might be relatively meaningless, but there is no restriction on the 240 per cent for small items.

Hon. D. J. Wordsworth: You are stopping people from pawning.

Hon. PETER DOWDING: We are not stopping anybody doing any pawning. We are not stopping the people from selling. We are simply saying, "If you sell, you sell; if you pawn, you pawn, but there is no halfway house. There is no sale with an option".

Hon. D. J. Wordsworth: You are saying that two businesses can be carried out on the same premises?

Hon. PETER DOWDING: If a person comes in and says, "I want to sell this", that is the end of it. When a person goes in to pawn, he pledges his goods, and when he returns, the goods will be there.

Hon. D. J. Wordsworth: The pawnbroker may say that an item is too small to pawn, so the person can go to another counter and it can be bought as a second-hand article.

Hon. PETER DOWDING: That is not prohibited by this legislation, but the man in the shop is not allowed to give an option. The option is that the customer understands he is not transferring permanently the title to the goods. He believes that he is merely pawning them. He believes he is giving them to the pawnbroker, under a bailment; that is, in a situation where their title can be recovered.

That is not the position with a sale. I do not want to delay the House. I think the position is clear. That is my view and it is based on departmental advice. I have told Mr Wells we will expedite a complete review of the Act; clearly, it needs it, and I look forward to members opposite participating in that review.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (Hon. Robert Hetherington) in the Chair; Hon. Peter Dowding (Minister for Consumer Affairs) in charge of the Bill.

Clause 1: Short title and principal Act—

Hon. P. H. WELLS: I express some disappointment that despite the long delay from the time the Bill was introduced, and having raised certain points which I thought were important, the Government did not see that some areas needed urgent attention.

Hon. Peter Dowding: We do, Mr Wells.

Hon. P. H. WELLS: The Government might have been able to amend the legislation to deal with some of the urgent matters this session. I refer to the five shilling aspect which I believe created the buy-back method because of the cost of having to resell items. I refer also to the need for a better deregistration procedure so that the

Minister does not need to come to Parliament to make accusations against pawnbrokers. The Act should contain an adequate method of dealing with these types of objections and one which enables a person to defend himself. I do not believe those two areas need to wait 12 months for review. They could have been accommodated if the Minister and the department had reviewed the legislation.

That would have given immediate relief; pawnbrokers would have been able to offer more money for a given article because the cost of reselling the article would have been cheaper. In opting not to cover this area, the Government has left the industry with the buy-back method which has been changed in a number of States. In Queensland, for instance, pawns which are for $10 or less and which are not reclaimed immediately become the property of the pawnbroker.

It is disappointing the Government has not seen the need to act more urgently, although I accept and thank the Minister for his undertaking that there will be a speedy review of this ancient Act.

Hon. PETER DOWDING: This is a bit like a Clayton's debate—the debate one has when one is not having a debate.

Hon. D. J. Wordsworth: You might be wishing you were not having a debate.

Hon. PETER DOWDING: With respect to Hon. Peter Wells, we are tilting at windmills. No-one obliges the pawnbroker to accept a pledge on something worth five shillings, or 50c. No-one obliges him to take on an article for $2 or $10.

Hon. D. J. Wordsworth: It might be his business.

Hon. PETER DOWDING: If someone comes in with an item worth 50c, what does that person get for his pledge? Do members opposite think that if an item is worth 50c the pawnbroker lends him 50c at 240 per cent per annum? That is absolute poppycock. The five shilling limitation is clearly irrelevant and will be one of the aspects tackled in a review of the law. The pawnbroker is running a business and makes a judgment about what amount he will allow on a pledge, bearing in mind the risks and the costs involved.

I assume a pawnbroker who is a good businessman says to the five shilling chap, "I do not want to take your money; I do not want your pledge on the Sopwith with two holes in it. Give me your motor car and I will give you $10."

Hon. D. J. Wordsworth: That poor man wants the money.

Hon. PETER DOWDING: The pawnbroker is not under an obligation. The member is talking about the "poor old pawnbroker".

Hon. D. J. Wordsworth: I am not saying that.

Hon. PETER DOWDING: Who is the member saying is a "poor old" person in relation to five shillings?

Hon. D. J. Wordsworth: The person who wants to do business. This is not the Act under which to do it.

Hon. PETER DOWDING: What does it matter if the figure is raised from five shillings to $500?

Hon. D. J. Wordsworth: Why don't you raise it?

Hon. PETER DOWDING: If it is changed and the law provides for $500, what happens if a bloke walks in with dirty socks and says, "I want five shillings" and the pawnbroker says, "No thank you"?

Hon. D. J. Wordsworth: Then the man does not have to auction them or sell them.

Hon. G. E. Masters: Do you remember the debate about the Brownie camera?

Hon. PETER DOWDING: That was a far more intellectually erudite debate than the one currently under discussion.

The simple response to Mr Wordsworth's comment is that the pawnbroker adjusts his pledge price to meet the conditions. If Mr Wordsworth looks at the advertising for pawnbrokers' pledges he will find 70, 80 or 90 descriptions of all sorts of goods by generic terms. That is, watches, dirty socks, motor cars, etc. he does not have to say "a pair of dirty socks brought in by Hon. David Wordsworth". His advertising obligations are minimal. The member should look at the public notices in *The West Australian*. It says "redeemed pledges", and lists by generic description 70 or 80 different types of articles. What does it matter if some are worth five shillings? Members opposite are missing the point of this.

Hon. P. H. Wells: The Minister is.

Hon. PETER DOWDING: If I am missing it, then so is my department, and with respect I do not think that is the case.

The next point in the Clayton's debate related to deregistration. I agree that by the time this piece of legislation has gone through, we could have amended the odd clause also. I had intended not to have a piecemeal approach, but to deal with that which was identified as a problem and to have an additional review.

I regret it is going to take that period of time. Members will see from the notices I gave today for

leave to introduce Bills that my department has been working exceedingly hard on legislation. If my department's work could be measured by avoirdupois, members would see that it has done an exceedingly large amount of work, and I would not impose on it even a modest review of the pawnbrokers' legislation.

The Bill is before the Chamber and I hope members accept that the criticisms they have levelled are not real and that we are dealing with a problem of consumers' being misled. I am critical of the business practices which have led to this misapprehension, and I urge members to protect consumers and the reputation of that section of the industry which overwhelmingly has abandoned this scheme.

Hon. D. J. WORDSWORTH: I am not defending the dishonest pawnbroker; never let that be said. I am defending the person who wishes to carry out an honest business. If we are to amend the Act it should be done correctly. The Minister has not studied the Bill.

Hon. Peter Dowding: You would not have to be Einstein to be able to read it in 30 seconds.

Hon. D. J. WORDSWORTH: I am sorry, I meant the Act. The Minister said the auctioneer lists holus bolus the dirty socks and so on.

Hon. Peter Dowding: I said the advertising office did that.

Hon. D. J. WORDSWORTH: Right. In case the Minister has not read the Act, I refer him to that part which deals with the five shilling aspect. The Minister will see that it is not a holus bolus list. The pawnbrokers have to itemise the goods in the order that they came into the shop and state that a pawn took place on a certain day. The Minister obviously is not aware of the conditions of the Act.

Hon. P. H. WELLS: The Minister obviously was misled in connection with my reference to five shillings. A big difference exists between five shillings and $500, and if he moves an amendment to that effect it will have the blessing of the industry because I think $500 is over generous. If the figure is below $500, the pawnbroker can immediately put the article in the window for sale. A problem arises if the figure is $10 because that is more than five shillings and the pawnbroker has to go through this process before the article can be sold. If that five shillings is changed to a more realistic figure—and I am disappointed that has not been done—the pawnbroker will review the cost of operation and I would have thought that was something the Minister wanted.

If the cost of the operation is reduced, people who are desperate for money can be offered more money over the same period because the pawnbroker does not have to bear the cost of going through the system of selling.

Hon. Peter Dowding: Rubbish!

Hon. P. H. WELLS: That is what the Act says. It says if it is more than five shillings—

Hon. Peter Dowding: If what is more than five shillings?

Hon. P. H. WELLS: If the article is more than five shillings—

Hon. Peter Dowding: It does not say that.

Hon. P. H. WELLS: Section 14 says in part that all articles forfeited on which in the whole any sum above five shillings shall be sold by public auction—

Hon. Peter Dowding: Can't you read? It says all articles forfeited on which in the whole any sum above five shillings shall have been lent.

Hon. P. H. WELLS: Right!

Hon. Peter Dowding: It could be a diamond ring.

Hon. P. H. WELLS: I agree that I did not read the word "lent". Let us say the article was bought for $20 and the pawnbroker lends $10, because 50 per cent is often the second-hand value—

Hon. Peter Dowding: He would not lend 50 per cent of the value.

Hon. P. H. WELLS: Let us say he lends $5, 25 per cent of the value. The fact is he has lent more than five shillings. If he does that, in order to sell the article—and let us assume it is a camera which is worth $20—he has to advertise twice, pay the cost of advertising, put it up for public auction, and the pawnbroker cannot buy it himself. I am told not only by pawnbrokers in this State—and I have spoken to a fair number, probably close to 75 per cent of them—but also by pawnbrokers in other States that the cost of operating under that method is 18 per cent in some cases.

If we reduce that cost, as has happened with the revision of other Acts, the benefits will flow on to the people going to the pawnbroker. The figure in the Act should not be five shillings because that figure was inserted in the 1860s. That has created the system the Minister is trying to control because the buy-back method means that one day after the contract is signed, the pawnbroker may put the article in the window and sell it. The Minister referred to a period of four days, but that relates to second-hand dealers. If a pawnbroker does not have to advertise an article twice or take it to auction where he will get less than he lent for it, he does not have the problem of cost. He can put it in the window and sell it.

The Queensland Act has been revised to amend the section referring to the five shillings. If the Government were interested in the people seeking the money, it would deal with and identify the problems that exist within the industry. The Government has not sought to do that, and it is depriving those people by not reducing the cost incurred in operating the industry.

Now that this matter has been brought to the attention of this Chamber, every person who wants to borrow money from a pawnbroker will be limited to the amount he can borrow and which can be arranged.

Clause put and passed.

Clause 2: Section 3 amended—

Hon. D. J. WORDSWORTH: Perhaps the Minister will explain the reason for this clause which seeks to delete the words "applying for it on payment of" and to substitute the words "applying for it on payment". In other words, the only difference is the word "of".

Had I sought to move such an amendment in this Chamber after we had agreed to delete those words, you, Mr Deputy Chairman (Hon. Robert Hetherington), would not have allowed me to move to reinsert them because such a course would be against the Standing Orders. It seems odd that the Minister is seeking to make this alteration.

Hon. PETER DOWDING: The only answer I can give Hon. David Wordsworth is that this amendment corrects the grammar of the clause. It is an odd expression and it states that the person so applying for it applies to a person to whom it shall be delivered. I cannot add anything to my explanation.

Hon. D. J. WORDSWORTH: The Minister certainly has me bluffed. Members would need a copy of the parent Act to understand the context of section 3. I am happy to read it as follows—

> That any person wishing to obtain such license shall deliver to the Clerk of the Bench of Magistrates of the district in which such person intends to reside or carry on business an application in the form in the Schedule to this Ordinance annexed marked A, recommended by five house-holders residing in the district in which such applicant may reside; and it shall be lawful for the Justices at any Petty Sessions next after ten days from the delivery of such notice, if they shall be satisfied with the character of the person so applying, to grant a license to such person under their hands in the form in the Schedule to this Ordinance annexed marked B, which license shall be in force until the thirty-first day of December next after the date thereof, and shall be delivered to the person so applying for it on payment of ten pounds—

Now the Government wants to remove the words "applying for it on payment of". All it is doing is removing the word "of" and then reinstating it. Members opposite talk about my being an ass! However, it appears that the following words have been left in the Act and they are lovely words—

> —to be paid to the Colonial Treasurer for the public uses of the said Colony.

If anything needed to be amended it would be that part referring to the colony.

Hon. Peter Dowding: Would you like me to amend that?

Hon. D. J. WORDSWORTH: Seriously, I ask the Minister the reason for this clause.

Hon. Peter Wells: The Minister's answer is incredible. I am not a scholar in this area—

Hon. J. M. Berinson: Do not be so modest.

The DEPUTY CHAIRMAN (Hon. Robert Hetherington): Order! The question is that clause 2 stands as printed.

Hon. D. J. WORDSWORTH: I think the Chamber should report progress and that the Minister should read the Act and tell me just what it means.

Hon. A. A. Lewis: He is not prepared to do that.

Clause put and a division taken with the following result—

Ayes 17

Hon. J. M. Berinson	Hon. G. E. Masters
Hon. S. M. Brown	Hon. Margaret McAleer
Hon. D. K. Dans	Hon. N. F. Moore
Hon. Peter Dowding	Hon. Mark Nevill
Hon. Lyla Elliott	Hon. S. M. Piantadosi
Hon. H. W. Gayfer	Hon. W. N. Stretch
Hon. Garry Kelly	Hon. P. H. Wells
Hon. Tom Knight	Hon. Fred McKenzie
Hon. P. H. Lockyer	*(Teller)*

Noes 7

Hon. C. J. Bell	Hon. I. G. Pratt
Hon. V. J. Ferry	Hon. John Williams
Hon. A. A. Lewis	Hon. D. J. Wordsworth
Hon. P. G. Pendal	*(Teller)*

Pairs

Ayes	Noes
Hon. Tom Stephens	Hon. G. E. MacKinnon
Hon. Graham Edwards	Hon. I. G. Medcalf
Hon. Kay Hallahan	Hon. Neil Oliver

Clause thus passed.

Clause 3: Section 27A inserted—

Hon. P. H. WELLS: I move an amendment—

> Page 2, line 7—Insert after the section designation "27A" the subsection designation "(1)".

This amendment will provide for a sunset clause which will ensure that the legislation is reintroduced for debate in 12 months' time. I believe that it is not desirable in allowing a review of this legislation to go beyond 12 months. It is reasonable to include a sunset clause because, as I have outlined, it is not correct that the provisions contained in the Bill can be effectively got around by a third person. If the legislation is not revised it will be necessary, as a result of my amendment, for it to come back to Parliament within 12 months if it is to remain on the Statute book.

I seek support for the provision of a sunset clause.

Hon. PETER DOWDING: The Government does not accept this amendment because it is wrong to insert a sunset clause when legislation has been introduced to overcome something which Parliament is decreeing as inappropriate commercial conduct. If it is inappropriate commercial conduct this year it will be inappropriate commercial conduct in 13 months' time.

I have given undertakings to this Chamber and personal undertakings to Hon. Peter Wells that there will be a review of the Act. I have encouraged Hon. Peter Wells to make submissions with a view to achieving an early review of the Act, and I have indicated that I am actually looking for mechanisms to speed it up.

I do not believe that imposing a sunset clause on what the Government describes as inappropriate commercial conduct is a desirable way of proceeding. I understand it is the third time Hon. Peter Wells has moved for a sunset clause in the last month or so and it is because Government members have indicated that sunset clauses have an appropriateness that the Opposition has seized on them.

The appropriateness of sunset clauses in the Government's view is in respect of the set up of an organisation, or a structure which has a specific task to undertake and therefore, has an end. This Bill concerns inappropriate commercial conduct, and I do not think the Parliament should impose a sunset clause on it. I have given an assurance to this Chamber on behalf of the Government that there will be a review and I oppose the amendment.

Hon. P. H. WELLS: I do not accept that the passing of this amendment will enable Parliament to debate whether the buy-back system is inappropriate or not. Parliament has not decided whether it is inappropriate, but the Government has decided to insert its requirements which are proposed in the Bill. I believe that the clause is ineffective.

In no way do I imply that the buy-back method is inappropriate. In fact it should be examined. It is in operation in a fair number of States in Australia. Although it may be right to question whether to allow pawnbrokers to buy back, I do not think any case has been put forward to say buying back is inappropriate. The review in this Chamber has revealed a serious deficiency in the Pawnbrokers Act. I do not believe that a longer period than 12 months is appropriate. If we have to go back to basics then, it will indicate that this Parliament would have to find a better method of amending this Act than relying upon the resources of the Minister's department.

If the Minister has had trouble drafting legislation, I offered to brief his counsel or I could arrange myself for the Parliamentary Draftsman to draft the proposals. That would bring about more readily some of the relief the industry requires. There are 19 pawnbrokers in Western Australia from Geraldton to Albany, but most of them are in the metropolitan area. They are small businessmen. They deserve to have reasonable legislation. This review discloses the law is not reasonable and something should be done about changing it.

Hon. A. A. LEWIS: Could I ask the Minister, in view of his comments, does he believe that appropriate commercial conduct now will be appropriate commercial conduct in 13 months' time? It seems to me that he is making a lot of assumption about commercial conduct. The Attorney General seems to change his mind on commercial conduct as the whim suits him. Can the Minister for Consumer Affairs guarantee appropriate commercial conduct now will be acceptable in 13 months' time? That was the argument he used against Hon. Peter Wells. I want to know whether he will state categorically that appropriate commercial conduct now will be what he is looking at in 13 months' time. A change in commercial conduct under this Government occurs daily.

Amendment put and a division taken with the following result—

Ayes 15

Hon. C. J. Bell	Hon. P. G. Pendal
Hon. V. J. Ferry	Hon. I. G. Pratt
Hon. H. W. Gayfer	Hon. W. N. Stretch
Hon. Tom Knight	Hon. P. H. Wells
Hon. A. A. Lewis	Hon. John Williams
Hon. P. H. Lockyer	Hon. D. J. Wordsworth
Hon. G. E. Masters	Hon. Margaret McAleer
Hon. N. F. Moore	*(Teller)*

Noes 10

Hon. J. M. Berinson	Hon. Robert Hetherington
Hon. J. M. Brown	Hon. Gary Kelly
Hon. D. K. Dans	Hon. Mark Nevill
Hon. Peter Dowding	Hon. S. M. Piantadosi
Hon. Lyla Elliott	Hon. Fred McKenzie
	(Teller)

Pairs

Ayes	Noes
Hon. G. C. MacKinnon	Hon. Tom Stephens
Hon. I. G. Medcalf	Hon. Kay Hallahan
Hon. Neil Oliver	Hon. Graham Edwards

Amendment thus passed.

Hon. P. H. WELLS: I have moved the amendment.

The DEPUTY CHAIRMAN (Hon. Robert Hetherington): No, you have moved only half of it.

Hon. P. H. WELLS: Do you want me to move the second half of the amendment, Mr Deputy Chairman?

The DEPUTY CHAIRMAN: The question is that clause 3 stands as amended.

Hon. P. H. WELLS: I move an amendment—

> Insert after proposed subsection (1) the following new subsection to stand as subsection (2)—
>
> > (2) This section shall cease to have effect on the expiration of 12 months calculated from the day on which it came into operation.

Point of Order

Hon. PETER DOWDING: On a point of order, I understand we have just dealt with the insertion of that provision.

The DEPUTY CHAIRMAN: We have just divided on the first amendment, the insertion of subsection designation "(1)".

Hon. PETER DOWDING: I understood the debate was about the amendment.

The DEPUTY CHAIRMAN: Unfortunately, the procedure followed is such that we must take the amendments one by one. So the question now is that the words proposed to be inserted be inserted.

Committee Resumed

Amendment put and passed.

Clause, as amended, put and passed.

Title put and passed.

Bill reported with amendments.

ACTS AMENDMENT (COURT FEES) BILL

Second Reading

HON. J. M. BERINSON (North Central Metropolitan—Attorney General) [9.20 p.m.]: I move—

That the Bill be now read a second time.

There is no general power in either the Local Courts Act or the Justices Act to waive, reduce, refund, or defer payment of prescribed fees. That contrasts with the Supreme Court Act and rules which do provide that the court in a particular case, for special reasons, may direct that the payment of the whole or a part of a fee shall not be taken, or shall be remitted, or that the payment of the whole or a part of the fee be postponed.

The Bill proposes to amend the Local Courts and Justices Acts to insert a similar discretionary power to be exercised by clerks of court.

Clauses 3 and 7 provide for the making of regulations under the Justices Act to provide for the waiver, reduction, refund, or deferral of the payment of prescribed fees.

Clause 8 provides for the making of similar local court rules.

I commend the Bill to the House.

Debate adjourned, on motion by Hon. G. E. Masters (Leader of the Opposition).

ABORIGINAL AFFAIRS PLANNING AUTHORITY AMENDMENT BILL

Second Reading

Debate resumed from 15 August.

HON. N. F. MOORE (Lower North) [9.26 p.m.]: This particular piece of legislation is one which the Opposition does not oppose, but it is not greeted with a great deal of enthusiasm.

Let us look at the history of this Bill. In 1974, an agreement was made between the Commonwealth and State Governments to provide for a co-operative approach to the problem of Aboriginal affairs. We now realise that this Bill seeks to end that particular contract. This is why the Opposition lacks some enthusiasm for it.

In 1967, a referendum was held and the question of Aboriginal affairs was put to the Australian people. I would like to quote from the "Yes" case as it indicates the reason for the agreement in 1967—

> It will make it possible for the Commonwealth Parliament to make special laws for the people of the Aboriginal race, wherever they may live, if the Parliament considers it necessary . . .

> This would not mean that the States would automatically lose their existing powers. What is intended is that the National Parliament would make laws, if it thought fit, relating to Aboriginals—as it can about many other matters on which the States also have power to legislate. The Commonwealth object will be to co-operate with the States to ensure that together we act in the best interests of the Aboriginal people of Australia.

With that spirit of co-operation in mind, we had a situation where the Department of Aboriginal Affairs was administered by the same person as was the Aboriginal Affairs Planning Authority within the State. That situation had its difficulties. I accept that some changes need to be made. It was very difficult for a public servant to be both a Commonwealth officer in Western Australia and also a State officer on Aboriginal affairs. If one looks back at the people who have held this office, we have been well served, but I understand and appreciate that there are difficulties attached to that situation; it is very difficult for a person to look after both those jobs.

In a sense it was advantageous to the State, because we had an officer here who was also a Federal officer and so able to apprise the State Minister of the thinking taking place in the Federal sphere.

The Government has now decided that this arrangement is to end and that the Department of Aboriginal Affairs will be purely a Commonwealth department and divorced from the Aboriginal Affairs Planning Authority. As mentioned in the second reading speech, the previous Government was working towards this end because of some of the difficulties existing with the present arrangement. In the second reading speech the Minister makes the following comment—

> The Commonwealth Government had indicated its strong wish to terminate the agreement so that the Department of Aboriginal Affairs in Western Australia would be clearly identified as the agency responsible for the implementation of Commonwealth Government policy in Aboriginal Affairs.

Under normal circumstances that would not worry me too much, but when we look at the sort of activities that the current Federal Minister is undertaking in the area of Aboriginal affairs, and his attitude towards the constitutional responsibilities of the Commonwealth and the States in this matter, we have reason to be concerned.

Not long ago in this place we had a debate on the sacred sites legislation which recently passed through the Federal Parliament, and when we take note of the comments of the Federal Minister for Aboriginal Affairs, we can be concerned about what responsibilities will be left for the State, because clearly Mr Holding sees the Federal Parliament as having almost total authority for Aboriginal affairs.

The State Government is to set up a very well-organised Aboriginal Affairs Planning Authority. The man to be in charge (Mr Easton) is a very competent officer, and under his direction the authority will work very well. However, I would not like to see an occasion where the State opted out of Aboriginal affairs, because this is an area involving very important aspects of State jurisdiction which we must continue to control. Regrettably, when power concentrates with central Governments, things are not usually conducted in the most efficient and productive way.

So, while it is accepted that the Federal Government has power to legislate with respect to Aborigines, I hope that the spirit of the argument put forward in the 1967 referendum will prevail, and that there will be a co-operative approach between the Federal and State Governments in the matter of Aboriginal affairs. I hope too that Mr Holding—who has already said that none of the States has yet to meet his policies on Aboriginal affairs—will not take over complete control of matters affecting Aborigines in Western Australia.

While we are not enthusiastic about the legislation, we can see the need for it. The Minister's speech notes indicate that the State Government sees that a need exists for co-operation at all levels between State and Federal Governments. Provided that continues, we see no real problems developing from the passing of this legislation.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

Third Reading

Bill read a third time, on motion by Hon. Peter Dowding (Minister for Planning), and passed.

ACTS AMENDMENT (INSOLVENT ESTATES) BILL

Second Reading

Order of the Day read for the resumption of the debate from 23 August.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

Third Reading

Bill read a third time, on motion by Hon. J. M. Berinson (Attorney General), and transmitted to the Assembly.

ACTS AMENDMENT AND REPEAL (DISQUALIFICATION FOR PARLIAMENT) BILL

Second Reading

Debate resumed from 2 August.

HON. V. J. FERRY (South-West) [9.39 p.m.]: This Bill follows a similar measure introduced in 1979. That Bill passed through the Legislative Council, but eventually lapsed in the Legislative Assembly on the prorogation of Parliament. In October 1980, Parliament established a Joint Select Committee of both Houses, and that committee's report was tabled in the Parliament on Wednesday, 3 November 1982. The committee was headed by Hon. Neil McNeill, MLC, and I think it pertinent to make a few comments about the report. The terms of reference for that Select Committee referred to laws relating to offices of profit and contracts with the Crown, and special regard was required to be taken of the 1979 Bill and also of the Law Reform Committee report of 1971.

The Bill before members is the result of quite monumental work done by the Joint Select Committee, and it is quite an historic landmark in the functions of this Parliament, especially relating to the obligations or otherwise of members of Parliament or prospective members of Parliament.

The Bill sets out to amend no fewer than 10 Statutes of Western Australia, and it might be appropriate for me to record the preamble of the Bill, which is as follows—

> AN ACT to amend the Alcohol and Drug Authority Act 1974, the Audit Act 1904, the Constitution Act 1889, the Constitution Acts Amendment Act 1899, the Electoral Act 1907, the Fremantle Port Authority Act 1902, the National Parks Authority Act 1976, the Salaries and Allowances Act 1975 and the Waterways Conservation Act 1976, and to repeal the Constitutional Convention Act 1974.

The DEPUTY PRESIDENT (Hon. P. H. Lockyer): Order! There is too much audible conversation both in front of and behind the Chair. I ask members to pay attention to the honourable member trying to make his speech.

Hon. V. J. FERRY: Members will realise by reading the preamble that the Bill has far-reaching implications.

The questions addressed by the Select Committee were indeed weighty. I pay special tribute to Hon. Neil McNeill for his outstanding work as chairman of the committee, which investigated the matters relevant to its terms of reference for some two years. I pay tribute also to the other members of the committee for having worked so well and so harmoniously together to bring about an outstanding result. I further pay tribute to the secretary of the Select Committee (Mr Ian Allnutt) who is an officer of this House and whose work in assisting the committee was quite outstanding. As well, other members of the staff assisted from time to time, and we are grateful for their help.

During the two years of its deliberations the committee met formally on 39 occasions, besides numerous informal discussions between its members and people in the community who had an input to the committee's work.

The appointment of the Joint Select Committee of the Parliament to inquire into and report upon the law relating to offices of profit under the Crown and members contracts with the Crown, is the culmination of many years of uncertainty within the Parliament as to the precise application of the relevant Statutes. Those Statutes—the Constitution Act and the Constitution Acts Amendment Act—were themselves based upon the then prevailing law in the United Kingdom, law which in turn had developed from the experiences of some hundreds of years of parliamentary practice.

The history of "office of profit" legislation in the United Kingdom is in itself a history of the development of the Westminster form of parliamentary Government. It is also the history of but one aspect of the struggle of Parliament to gain ascendancy over the Crown and to be the master of its own destiny as the representative forum of the people.

It can be claimed that the struggle still continues, and it is a measure of the vitality of the Parliament that it continues to be seen as contesting undue domination by the Executive to the detriment of that much prized principle of "government by the people".

It is submitted that the present law relating to members of Parliament holding offices of profit under the Crown or having contracts with the

Crown is unclear, is difficult of definition, and in a number of ways is no longer relevant to current and accepted commercial practice. The view is held that the law is inadequate to the extent that while it imposes restrictions on qualification for membership of the Parliament, it fails to provide the means by which its worthy purpose can be satisfactorily achieved.

It is worthy of note that no flagrant or wilful breach, past or present, was brought to the committee's attention. The committee noted that this situation may not be dissimilar from that referred to by the Clerk of the Chamber in his submission to the 1956 Select Committee of the House of Commons. That submission reads that he—

> had neither evidence nor knowledge of any corruption affecting members in connection with government contracts for the past 100 years.

A view was expressed by one expert witness that "disqualifying circumstances have occurred and that had the proper challenges been mounted, seats would have been lost". This being the case, and leaving aside for the moment those breaches arising out of ignorance or those lacking wilful intent, the committee could not discard the possiblity of deliberate breach, and it held strongly to the belief that Parliament was too valuable an institution to be exposed to the wiles of the unscrupulous, however rare a circumstance it may appear to have been.

Likewise, its role, established over centuries, is so vital to the welfare of the ordinary people that it demands a shield against the intention of those Governments which may desire to reduce Parliament to an extension of their own Executive power and, what would be even more damaging, an expression of an easily understood tendency of some Governments to "buy" their support.

This tendency was expressed appropriately before the committee by the Clerk of the Legislative Assembly in the following words—

> Taken to its extreme, complete relaxation of the office of profit concept could enable a Government to offer enough positions to members of the Assembly whereby it could virtually buy office and thus frustrate the tenets of the Westminster system.

The committee, in its deliberations, accepted that this principle was no less important now than ever it was, but the methods by which it was maintained might well be different.

In the sections dealing with contracts with the Crown, it was pointed out that existing Statutes provide for a number of exemptions. Notwithstanding those exemptions, the sections have long been a source of worry and concern to members of Parliament and to those persons charged with the duty of interpreting the law. It can be claimed that the very existence of this law may well have been a deterrent to the entry of some persons into Parliament, not only because of their execution or holding of a contract, but also because of a doubt as to whether the existence of a form of agreement or contract could be determined as being disqualifying.

It is not only the law itself which causes concern, but also the possibility of many and varied legal interpretations which can be invoked by its general provisions. It has also become clear that certain of the provisions do not adequately reflect either the present role of a member of Parliament or the current acceptable practices of commercial affairs.

This Bill contains many provisions and it would be appropriate to leave a number of comments until the Committee stage, but certain points can be made now. The Bill seeks to clarify the law which, I suggest, has been unclear for centuries. Many Parliaments throughout the free world have endeavoured to come up with guidelines to make it as clear as possible for the benefit not only of members of Parliament, but also of would-be members and the public at large.

The Select Committee's task was monumental. It made an exhaustive examination over a two-year period, and a tremendous amount of work went into the exercise. After the passing of this Bill, members of Parliament will know with more surety what their obligations are, but, more especially, what they are not permitted to do under the law.

Certainly grey areas exist in the present Statutes. If this Bill is passed, as I hope it will be, the situation will be much clearer for all.

Incorporation of Material

In view of the historical importance of this Bill, it would be appropriate to record in *Hansard* the names of the chairman and members of the Select Committee, which names are listed in the report. I seek leave to include this list in *Hansard*.

Leave granted.

By leave of the House, the following material was incorporated—

MEMBERS OF THE COMMITTEE

CHAIRMAN—Hon. Neil McNeill, B.Sc(Agric), M.L.C.

Minister for Justice, Chief Secretary and Leader of the Government in the Legislative Council 1974-1977.

DEPUTY CHAIRMAN—Mr John J. Harman, M.L.A.

Minister for Labour, Immigration, Consumer Affairs and Prices Control 1973-1974.

Hon. Victor J. Ferry, D.F.C., M.L.C.

Chairman of Committees—Legislative Council from 1977.

Hon. Norman E. Baxter, M.L.C.

Minister for Health and Community Welfare, 1974-1977.

Hon. Robert Hetherington, B.A., M.L.C.

Deputy Leader of the Opposition—Legislative Council 1977-1980.

Deputy Chairman of Committees—Legislative Council from 1980.

Mr Barry R. Blaikie, M.L.A.

Chairman of Committees—Legislative Assembly from 23 March 1982.

Hon. James G. Clarko, A.E., B.A., Dip Ed., M.A.C.E., J.P., M.L.A.

Resigned from Committee 1982.

Appointed Minister for Education, 1982.

*Hon. Colin J. Jamieson, M.L.A.

Minister for Works 1971-1974.

Leader of the Opposition—Legislative Assembly 1976-1978.

Deputy Chairman of Committees—Legislative Assembly 1982.

Mr Jack E. Skidmore, M.L.A.

Resigned from Parliament—January 1982.

‡Mr R. G. (Tony) Williams, M.L.A.

Appointed to Committee 23 March 1982.

Hon. Howard W. Olney, Q.C., M.L.C.

Resigned from Parliament 16 December 1981.

Appointed judge of the Supreme Court of Western Australia 15 February 1982.

*Elected 4 November 1981, in succession to Mr J. E. Skidmore—resigned from Parliament

‡Elected 23 March 1982, in succession to the Hon. J. G. Clarko, A.E., B.A., Dip Ed., M.A.C.E., J.P., M.L.A.—appointed Minister for Education.

Debate Resumed

Hon. V. J. FERRY: The Bill contains a lengthy list of exclusions which will be available to the citizens of the State and Australia and which set out the prohibitions in relation to members of Parliament and to certain categories of people seeking a seat in Parliament. I will not go into that aspect at this stage because it is more appropriate that it be dealt with in Committee.

I want to refer to an amendment which I have on the Notice Paper, and which seeks to clarify the situation of members of Parliament who are justices of the peace. I have taken the view, and a number of people share that view, that members of Parliament should not undertake work on the bench and sit in judgment on others. Certainly they can witness documents of a general nature, but it is not appropriate for them to undertake active bench work. I felt a need existed to refer to that in this Bill, but after I placed the amendment on the Notice Paper, I had more time to examine the proposition. It has been suggested to me that the Bill already provides a mechanism to cover the situation, so I give notice by way of information to the House that I may not move that amendment in the Committee stage.

I emphasise that the office of justice of the peace is an extremely privileged one in our society. JPs carry out a great service to the community throughout the State, and I believe the granting of such a title to any person must be jealously guarded. Recently, the Government arranged for members of Parliament to have that particular title if they wished. I believe it is a half-baked move because they should not carry out the full duties of a justice of the peace and sit on the bench. I hope that position is covered by the Bill without the necessity of an amendment.

Having been a member of the Select Committee, I could say a lot on this matter. I want to pay tribute to my colleague, Hon. Robert Hetherington, who contributed a great deal, as did Hon. Howard Olney, when he was a member of this House, and others.

At times, there were some sharp differences of opinion in the debate around the committee table, at regular formal meetings, and during informal discussions. Good sense and responsibility prevailed among all members of the committee, and there were many over a period of time as members will see from the list in the report.

They all played their part and it has been one of the most effective Select Committees ever to come from this Parliament, certainly during my time here. I commend the report to all members for their perusal, and I support the Bill.

HON. ROBERT HETHERINGTON (South-East Metropolitan) [9.57 p.m.]: It gives me great pleasure to support this Bill. I led for the Opposition in 1979 and opposed the Bill introduced then by Hon. Ian Medcalf. It is quite ironic that I am now supporting a Bill similar in principle to that which I opposed then.

After the Bill had passed through this House and gone to another place, I suggested to the Leader of the House that he should set up a Select Committee, and he did so. This was a fascinating experience. It was a long and involved committee, ably chaired by Hon. Neil McNeill, and although the debates may sometimes have been sharp, the end result was a great deal of consensus, with very few decisions having to be made on majority votes. The end result was that we came back with a Bill similar to the one to which I formerly objected.

The existence of offices of profit goes back a long time because originally with the development of our Parliament, the Executive had to control Parliament, and Executives from the time of the Tudors onwards, and possibly before then, controlled Parliament by the use of bribes. Patronage and the payment of money were the ways in which Parliament could be controlled.

As Parliament tried to get rid of the control of the Executive, it moved to assert that no members of Parliament, except Ministers of the Crown, should hold an office of profit under the Crown. Holding an office of profit would disqualify them. Even today in the House of Commons where no provision is made for a member to resign his seat, he does so by telling the Chief Whip. The Whip then has him appointed to one of the now defunct offices of profit which have no money attached to them, but which are regarded as offices under the Crown, and the member is thereby disqualified from sitting in Parliament.

The problem of offices of profit has become difficult as the business of Government has multiplied. First the bureaucracy increased and then the idea of Government agencies and advisory bodies was developed, and it has become a very blurred distinction.

People have not been quite sure when a member holds an office of profit and when he does not. There have been attempts to define "offices" more closely, and finally we have come to the conclusion, as we came under this committee, and as did the United Kingdom Parliament, that we had to get rid of the notion of office of profit under the Crown and instead we had to insert in our Constitution Acts Amendment Act a schedule of offices which could not be held by members of Parliament, and which, if a member accepted, would disqualify him or her from a seat in Parliament and this is the principle that has been adopted *under this Bill.*

I argued quite strongly against this long involved schedule, which members will find at the end of part V of the Bill, being placed in the Constitution Acts Amendment Act. I argued then that that Constitution should comprise short documents of principle and they should not have such masses of detail. I went into the Select Committee to argue this. I examined it and looked at it, and the longer we talked, the more I realised my position was not tenable and gradually I changed my mind and came around to supporting the view that the only way we could solve satisfactorily the whole question of what offices members of Parliament could not hold was to list them in a schedule in the Constitution Acts Amendment Act. This is what this amendment to the Act will do.

This means we now do not play around with questions about whether members hold offices of profit. We look up the schedule and if a member occupies a certain office in the schedule, he is out. If he occupies a certain office in the schedule and he wants to be a member of Parliament, he has to do certain things, and the Bill sets out a number of things. There are some positions such as those held by high judicial officers—judges of the courts—which it is argued, and I would argue it strongly, a member cannot hold and stand for Parliament. We must have a separation of the judiciary, the Executive, and the Legislature. Therefore, under this Bill, it is proposed that judges must resign their office before they stand for Parliament. A judge does not very often resign his office to stand for Parliament. Most judges are fairly well satisfied with their positions and certainly they are better paid than are members of Parliament.

Hon. J. M. Berinson: Sometimes members of Parliament resign to become judges.

Hon. ROBERT HETHERINGTON: That is true. Some members of Parliament have resigned to become judges. There is one very famous judge who resigned to enter Parliament in the 1940 election, and that was Mr Justice Evatt—Doctor H. V. Evatt—who resigned his position on the High Court which he had held with great distinction for many years and became the Minister for External Affairs in the Curtin and Chifley Governments, eventually becoming the Leader of the Opposition, but to the regret of many of us, never Prime Minister. I believe that he was a bad Leader of the Opposition, but he was one of those bad Leaders of the Opposition who would have made a great Prime Minister, but we were never to see that and I think that is a great pity. He was denied this by the splits within the Labor Party in the 1950s.

The whole question is, and I think it is beyond dispute, that a judge—any member holding high judicial office—cannot stand for Parliament and then resign if he gets in because he has to be seen to be apart and to be above politics. Although

politicians become judges, they do not thereby remain partisan.

I was quite interested once to watch the appointment of a cousin of the then Prime Minister (Hon. R. G. Menzies) to the High Court. I thought, "What happens here?" One of the first things that happened in the Hersey case in Tasmania was that the new judge found against the Government which had appointed him. Judges do this and it is one of the strengths of our judicial system that when a person occupies the bench, he tries as far as he can to completely divest himself from his prejudices and preconceptions, although he cannot always succeed.

It is also argued that people who are heads of departments cannot also stand for Parliament. It would look silly if a head of a department who was a chief adviser of a Minister stood against his Minister's Government. What such a situation can do to our system was illustrated by the vituperative speech against his own Treasurer by the head of Treasury, Mr John Stone, while he was still a member of Treasury. This raised a lot of eyebrows and it was grossly improper for the gentleman concerned to make the statement. Here I am not canvassing his arguments which I did not care for at all, but the fact that he was still a head of a department. He had not resigned, and yet he chose to step out and become political. This is an impossible situation, because although heads of departments and many public servants have politics, they cannot be seen to display politics in public.

Hon. D. J. Wordsworth: I thought he resigned.

Hon. ROBERT HETHERINGTON: He had handed in his resignation, but he was still being paid as head of Treasury when he made that speech. He had resigned in the future, but he was still receiving Government money as head of Treasury.

Hon. J. M. Berinson: He was still acting in the position.

Hon. ROBERT HETHERINGTON: Yes. I think that if one wants to vent one's spleen, one should pay for it by resigning a little earlier. I do not want to argue that particularly here. I mention it as an example of how impossible it would be if a person who had not resigned and who was about to pass out of the department behaved in this way and how impossible it would be if a head of a department stood against the party in which his Minister was because after the election the situation would be impossible.

One has to draw the line and we have tried to draw the line in this Bill and we have a series of officers whom we regard as the ordinary Public Service officers and the cut-off point is arbitrary, as these things always are, where it is regarded as proper for the holder of the office to stand for Parliament, but not proper to continue in that office once he is a member. Therefore, on taking his seat, and on taking the oath in Parliament, he automatically loses the office, and vice versa.

Under this Bill, if I were to accept an appointment, say, to a department within the Government, I would automatically lose my seat. I would not be fined. Normally a member would resign before he did such a thing. We have got a range of offices which cannot simultaneously be held while a person is a member of Parliament. We have listed them and we have made provision in this Bill for a review of the list by the Executive Council with the advice of both Houses of Parliament; in other words, if the list is to be revised, the matter has to come before Parliament because this is part of our fundamental law. It is part of our Constitution.

I do not want to speak at great length on this. I think it is important that the Bill has come in because it will dissolve a lot of doubt. It will get rid of the possibility of disputes.

The other thing this Bill does is to get rid of the notion of contract of members of Parliament. Members of Parliament are not allowed to hold contracts with the Government, and the ramifications of the Crown have gone so far that it is a bit difficult to know where a contract with the Government begins and ends. It is not a simple thing. Already there are special amendments to the Constitution to make provision for exemption for people who are shareholders in a company, but who have nothing to do with the day-to-day running of the company.

If we draw a very long bow—I do not think this would get caught up, but some people might think it would—a university is a statutory authority set up under a Statute. Does any member of Parliament who gives a lecture for a fee come under the notion of a contract with the Crown? I think he does not, but does a lawyer who appears in court under legal aid, have a contract with the Crown?

I was one of those people who believed that we should retain this notion that a person should not have contracts with the Crown because this allows the Crown to hand patronage to members of Parliament. However, the more I looked into it, the more I found it could not be solved, except by the way in which it has been solved; namely, to abolish the concept, so that if members have contracts with the Crown they must stand up in public and face the fact and suffer from political obliquoy if it is justified. Otherwise we are in the hands of the common informer. We are in the hands of accident, and I think this is something members

should not be. Whatever might be said about our parliamentary system—and it is open wide to criticism, and I promise the members opposite that I will not talk about electoral systems tonight because I do not want to do that—

Hon. N. F. Moore: I am sure you will get your chance.

Hon. ROBERT HETHERINGTON: Yes, I will in due course. However open to criticism our Parliament may be—and Parliaments in the modern world suffer under great difficulties—I think that the corruption which used to be found in the previous Parliaments in Britain in the nineteenth century has largely vanished. The use of corruption in order to get people to vote or follow Government lines is not something about which we know very much. We do not have to fear from the Crown subverting people by corruption in Parliament these days. We can afford to throw this to the winds, relying on the Press and on the Parliament itself to ferret out any improprieties that may occur, and I think these are not likely to happen.

I welcome this Bill and I am pleased that the Attorney General introduced it so quickly. When I say "quickly", I refer to the fact that it is only about 18 months since the Government got into office, and this is a very complex Bill, as Hon. Vic Ferry has pointed out. It took the committee about two years to grapple with the concepts in the Bill, and although I realise that members of the Crown Law Department perhaps are brighter than we were or are, it is still a highly complex and difficult subject and it is one that must be gone into very carefully.

I am also pleased to see how many of the recommendations of the committee have been accepted in this Bill. It does suggest that the committee did, in fact, not only work diligently but also worked well. It has brought down recommendations which I think are worthwhile and it has produced a Bill which I hope all members will accept. I remember the former Leader of the House, Hon. Ian Medcalf, suggesting in 1979 that it was high time we changed the Constitution in that way. I believe he was correct. It is even more important and more appropriate that we change the Constitution now that more time has elapsed. As the honourable gentleman said in 1979, it is appropriate to change the Constitution when nobody is under a cloud. Nobody is suggesting any members are holding offices or contracts improperly. There is no threat or hint of scandal and in this time of stability one can afford to look at the Constitution and change it for the better.

I warmly commend this Bill to the House and I hope it will be accepted unanimously on the second reading by all members.

HON. A. A. LEWIS (Lower Central) [10.16 p.m.]: Having not been a member of the committee, but having been a witness before the committee—an unusual experience for me—I want to congratulate both the Attorney General and the committee on the job they have done. I was one of the members concerned and the committee has been referred to many times in this place by people who seem to think it is amusing to do so. On certain instances I have taken advice from the Crown Law Department and other people.

I have undertaken a fairly thorough reading of the Bill and a very thorough reading of the committee's report. I agree with Hon. Robert Hetherington that the Attorney General has done a first-class job in putting the committee's recommendations into legislation. It is pleasing at times like that that notice is taken of a bipartisan committee's report. It may be that the Attorney General had something to do with the committee and had some minor interest in the legislation brought forward. It is good for the Parliament that these things can be done. I congratulate the Attorney General and wish the Bill every success.

HON. J. M. BERINSON (North Central Metropolitan—Attorney General) [10.18 p.m.]: I thank members who have contributed to this debate for their support of the Bill. This Bill is quite a substantial and technical measure and those factors, taken together with the fact that it involves the position of members themselves, could well have led to a lengthy debate. The fact that that has not happened is, I think, a reflection of the great deal of consideration which has been given to this subject over a number of years. As I indicated in my second reading speech, we have had the advantage of a Law Reform Commission report in 1971, a Bill which was introduced in 1979, and the recommendations of the committee established in 1980.

Members are quite right in describing this Bill as closely following the recommendations of the Select Committee and that, in turn, reflects the consideration and usefulness of the work that committee did.

I have no doubt, in fact we have had some indication, that there will be particular provisions of the Bill which will require further discussion, but that will be better placed in the Committee stage.

For the moment I thank members for their support and I commend the Bill to the House.

Question put and passed.

Bill read a second time.

ADJOURNMENT OF THE HOUSE

HON. D. K. DANS (South Metropolitan—Leader of the House) [10.20 p.m.]: I move—

That the House do now adjourn.

Electorate Offices: Parliament House

HON. H. W. GAYFER (Central) [10.21 p.m.]: I rise briefly to make an observation. Today I received on my desk a letter telling me that a photocopying machine which has been left in my office at my request is to be removed, as other photocopying machines can be used within the building. Many of us have never believed that the Parliament, the Government, or the State should go to the expense of setting up electorate offices. Many of us believe that electorate offices are electioneering offices. Over many years we have decided to enjoy the facilities offered by Parliament House, and, in fact, we work under fairly cramped conditions with secretaries supplied in this House.

Over the years those of us who have adopted this course have saved the State and the people many thousands of dollars by centralising our activities in this place. Therefore, it seems right to me that if any moves are made to give facilities to members in the electorate offices then those same facilities should be available to those of us serving in this place. Every member of Parliament should be entitled to at least have access to the same items as other members of Parliament. I suppose that the argument could be justly put that if members choose to remain in Parliament House, they should possibly have greater access to items of secretarial assistance. We do not have air-conditioners which are available in the electorate offices. We notice that photocopying machines are going to be made available to electorate offices and we believe that having them supplied to our offices is a just and correct move. If I moved to an office across the street, as some have done, then a machine would be available. Ridiculous!

Many of us come to Parliament House in the weekend and choose to use photocopying machines in exactly the same way as can any member in an electorate office outside the House. I object to the letter we have received saying that the machines will be removed from our offices. I got my hackles up this afternoon and I was going to summon the police if anyone came into my office and removed anything from it. I have cooled down a little in the last few hours and I ask you, Mr President, to convey my feelings on this subject to the Deputy Premier. I think I talk for others in this place when I refer to those photocopying machines in this way as they are facilities which are no different from typewriters or anything else in our office. We should enjoy in Parliament House the same facilities that would be available if we had an electorate office outside.

Bottled Milk: Replacement by Cartons

HON. FRED McKENZIE (North-East Metropolitan) [10.25 p.m.]: Before the House adjourns I draw to its attention the matter of an article which appeared in the *Weekend News* on Saturday, 8 September titled "Bottled Milk to go".

The position in relation to the disappearance of bottles is of concern, particularly when one notes in the article that the cost of bottled milk is 2c cheaper than the same quantity in a carton; that is, a carton of milk costs 43c and a bottle of milk 41c. The consumers do not appear to have any say in respect of whether or not bottles are available.

As members are well aware, there are now only two major bottling companies in Western Australia; Brownes Dairy Pty. Ltd. and Masters Dairy. I do not think it is good enough for them to determine that we should not have milk in bottles in the metropolitan area. I know that there are some transport problems with regard to delivery in country areas.

I am drawing this matter to the attention of the Minister for Consumer Affairs in this House and also requesting that the Minister representing the Minister for Agriculture look into it and take every possible step to prevent the milk processing plants in this State from forcing upon the community the necessity to buy milk in cartons, particularly in view of the fact that since their inception cartons have been much dearer than bottled milk. It is probably very convenient for the milk companies not to deal in bottles. However, the problem of carton disposal is somebody else's problem; local shires and the community bear that burden.

According to this article bottles in Western Australia can be reused on an average of 19 times. I understand that in New Zealand they are used on an average of 60 times. We have a very bad track record in respect of the number of times the bottles can be used. That is the reason for the difference in the price.

Hon. W. N. Stretch interjected.

Hon. FRED McKENZIE: That is true. There must be a balancing factor, but they get three times the amount of use in New Zealand that we give them in Western Australia.

I do not think enough is done to encourage people to use milk marketed in bottles. I bring forward this matter in the adjournment debate

because it is the first opportunity I have had. In the interests of consumers I do not think that we as parliamentarians should let it pass without some action being taken.

I ask the Minister for Consumer Affairs and the Minister representing the Minister for Agriculture to see whether we can do something to retain bottled milk in Western Australia.

Electorate Offices: Parliament House

HON. J. M. BERINSON (North Central Metropolitan—Attorney General) [10.29 p.m.]: I will make a short comment on the complaint raised by Hon. Mick Gayfer in respect of photostat facilities.

I do not propose to enter into a debate on the merits of members' having their offices in the Parliament or in the electorate. That is a matter for the discretion of members individually and whatever suits them best is available to them. Whether one or other facility is more economical does not come into consideration.

As to photocopying machines, I can say only that the provision of these machines to members who have their electorate offices in the Parliament occurred as a result of an error. To the extent that those members were led astray, I am sure the Government regrets that. However, the truth of the matter is that the photocopiers were made available to overcome a lack of the facility for members with their offices in the field. Members here have always had available to them the general photocopying facilities within the House.

Hon. H. W. Gayfer: Those facilities are not available over the weekend.

Hon. J. M. BERINSON: If analogies hold, and I have cautioned at other times against taking them too far, one might look to the position of telephone services and the fact that although a separate telephone facility is available in electorate offices, it does not mean that members in the House also have an individual telephone or switchboard; they go through the general switchboard.

Similarly when there is a general facility like a photocopying service, we look to members, in the interests of economy, to use that service. Hon. Mick Gayfer has raised the problem which he has apparently faced from time to time that the general facility is not available to a member who comes in during a weekend.

Hon. H. W. Gayfer: We are told that if we move to one of the offices in the great white palace across the road, we will get all the facilities. What a lot of rot that is!

Hon. J. M. BERINSON: I agree with that. What I was about to say was that, if we do have this problem where a member coming in at the weekend does not have a photocopying facility, that is something which should be looked at and I invite Hon. Mick Gayfer and any other members in the same position to take up that matter with the President or with the Joint House Committee—whatever is the appropriate avenue—and solve the problem in that way.

I can only assure members who have been placed in this invidious position of having a goodie presented to them and then withdrawn—

Hon. H. W. Gayfer: It is treating you like a little boy. They give it to you one minute and take it away from you the next!

Hon. J. M. BERINSON: They should not have given it to the member in the first place and he would not be tempted in that way! The truth is that these additional photocopiers are not necessary and to the extent that some additional service is required from the central facilities, I invite the member to take up that with the President.

HON. A. A. LEWIS (Lower Central) [10.33 p.m.]: I thank the Attorney for his explanation, but when the letters went out to members in my position—my dual position and an unheard of one as party secretary and Secretary of the Joint House Committee—members asked me what the situation was. I said, "There is no way you are going to get photocopying machines in Parliament House additional to what you have already". So I telephoned the Department of Premier and Cabinet the day that those letters came out. I was told, "Yes, the instruction has been given that all members, wherever their electorate offices are situated, may have these photocopying machines". I was trying to save the Minister for Budget Management some money, because I did not think—and my friends, Mr Gayfer, Mr Ferry, and others may disagree—we should have more photocopying machines in the House.

I was left in the position of having told some people—I think Hon. Vic Ferry was one—not to apply, because I thought that was the sensible way to deal with the matter, but I was then told by the Minister responsible for this department that these members could have these machines.

Therefore, there is no way now that the department, having made that decision, can change its opinion and remove the machines. The people in this House made the appropriate approaches to the Government to stop what was happening; but the Government overruled them, put the machines in, and now, some two or three months later, it is changing its mind completely. It is not good enough when one has been told—

Hon. J. M. Berinson: I agree it is most undesirable and very unfortunate.

Hon. A. A. LEWIS: It is completely unethical.

Hon. J. M. Berinson: But it did not reach the Government. I agree that the officers were told. The information was not transmitted to the Government and, when it came to mind, we moved to correct it as quickly as possible. That is the position.

Hon. A. A. LEWIS: It is not a good enough answer.

Hon. J. M. Berinson: It is a fact.

Hon. A. A. LEWIS: Either the Attorney accepts responsibility or he does not. I know it is not his responsibility; it is the Deputy Premier's. I feel very sorry for him and for any Minister in that position, but he has made the decision through delegation and now he has to wear it.

I do not believe any more machines should be allocated to Parliament House, but there is no ethical way to remove the machines that are here already. They have been given to the members. The Minister must wear the mistake he made. Many of us wear the mistakes we make. The Attorney and I do so, although some of his ministerial colleagues do not wear the mistakes they make. I believe the Attorney must wear this mistake. The machines must stay here and we will then draw a line and nobody else will get a machine.

Hon. J. M. Berinson: But don't you think it would be reasonable for those members who now understand the background to co-operate in this economy? If that does not occur, we have simply wasted money. It is not our money; it is taxpayers' money.

Hon. H. W. Gayfer: Are you going to give up one of yours?

Hon. J. M. Berinson: I don't have one in my electorate office.

Hon. A. A. LEWIS: If the Attorney is to follow that line, I suggest he talk to some of his colleagues and ask them to do away with some of their advisers because they have been proved to be incompetent, to be of no use, and to be unnecessary. The Attorney can nitpick all the way down the line; but he has made the mistake and he must wear it. The Attorney was warned and he should not make individual members suffer because of this mistake.

I shall quote the late Tom Hartrey—one of my great legal advisers—who said that, under, I believe, the Constitution Acts Amendment Act—

Hon. J. M. Berinson: Possession is nine-tenths of the law.

Hon. A. A. LEWIS: No.

Hon. J. M. Berinson: Sorry, wrong quote!

Hon. A. A. LEWIS: We cannot treat one member of Parliament differently from another. Some members may recall—it was before the Attorney's time, as he is a very new member in this place—the occasion when I brought a caravan to this place in order to try to get an office. The Leader of the House then said, referring to Tom Hartrey, "Be careful of him, because the last bloke he defended was hanged!" However, the late Tom Hartrey said that every member had to be treated in the same way.

I am sure all the other members who have their electorate offices in the House will not be pressing the Attorney for the same advantages, but I am also sure that the members in the House who have those advantages already should keep them and that the Government should put the three or four machines down to experience. We should not be quite as penny-pinching as the Attorney wants to be, particularly with the Opposition.

We read about shredders in the Department of Premier and Cabinet. Approximately seven or eight months ago, the Leader of the Opposition asked for a shredder. We find that the Premier's office is now changing shredders, but the Leader of the Opposition's office still does not have one. Without going into all the details, which I do not expect the Attorney to understand, because it is not his job, but just as a piece of advice and bearing in mind that I am not involved in this matter, I emphasise that once one has given something, one cannot take it away.

As Minister for Budget Management, the Attorney should now draw a line, leave the machines with the people who have them, and when those people retire or die, he can take back the machines and do what he likes with them. However, the Attorney should not reallocate or take away those machines now that those members have been given them. The Attorney should leave the machines where they are, because the members have asked for them, they have got them, and, after three or four months, the Attorney cannot simply take them away.

HON. N. F. MOORE (Lower North) [10.38 p.m.]: I sympathise with Hon. Mick Gayfer and I appreciate there are some administrative difficulties associated with members having photocopying machines at Parliament House. However, as one member who has received a photocopier for his electorate office, I commend the Government for providing it. It is a tremendous facility. We sought a photocopier for many years. It is a good machine, and I appreciate it very much.

HON. V. J. FERRY (South-West) [10.39 p.m.]: I have my electorate office in Parliament House and that has been the case from the time I entered Parliament. I appreciate having a photocopying machine in my office and it came about because I wrote formally to the Department of Premier and Cabinet asking for one. There were no problems whatsoever and it was supplied promptly at my request, a request which I made officially. If it is to be taken away now, I will be extremely disappointed.

Question put and passed.

House adjourned at 10.40 p.m.

QUESTIONS ON NOTICE

HEALTH: TOBACCO

Advertising: Letters

141. Hon. P. H. WELLS, to the Attorney General representing the Minister for Parliamentary and Electoral Reform:

Further to question 78 of 15 August 1984—

(1) How many forms were returned to the Minister from the letter sent to people answering the Government's tobacco advertisements?

(2) What information was sent to people who completed this form?

(3) Will the Minister provide a copy of each piece of information sent to people who completed this form?

Hon. J. M. BERINSON replied:

(1) to (3) The Minister for Parliamentary and Electoral Reform has supplied copies of all the material and the necessary statistics in a letter to the member.

PLANNING

Gantheaume Point

151. Hon. N. F. MOORE, to the Leader of the House representing the Minister for Tourism:

In his answer to my question without notice, No. 15 of Thursday, 16 August, the Minister for Planning advised that he is aware of two developers interested in developing the Gantheaume Point site in Broome—will the Minister for Tourism advise the names of the two developers?

Hon. D. K. DANS replied:

As the Government has not yet called for formal expressions of interest in the site, it is intended to respect the confidentiality of the developers who have tentatively expressed their interest.

ARTS COUNCIL

Instant Lottery Distributions

152. Hon. TOM KNIGHT, to the Attorney General representing the Minister for the Arts:

(1) Is the Minister correctly reported in *The West Australian* of Saturday, 11 August 1984 in which he is reported to have said "most of the lottery money is, in fact, processed through the Arts Council—but he reserves the right to give direct grants where he thinks them appropriate"?

(2) Does the Minister take advice from the WA Arts Council in the distribution of Instant Lottery grants to the Arts?

(3) What was the last occasion on which the WA Arts Council was asked for such advice?

(4) Will the Minister table a list of all grants given by the Instant Lottery to the Arts during the financial year ended June 1984?

(5) Will the Minister identify which of these grants were given with specific advice from the WA Arts Council?

(6) If the WA Arts Council was consulted, will the Minister inform the House on whose advice the grants were given?

Hon. J. M. BERINSON replied:

(1) Not exactly. The report should have stated, "Arts Council office". The Western Australian Arts Council staff process all applications, including some which are mailed directly to my office. I always take advice from appropriate sources and do not give grants without consultation.

(2) Yes, where appropriate, but not exclusively from the Western Australian Arts Council. The Western Australian Arts Council office staff in making recommendations to me regularly refer to Arts Council policy. As part of the philosophy of open government, a number of sources of advice are sought on a confidential basis. It is felt that no one body of people has a monopoly on artistic wisdom.

(3) The normal procedure is for applications which are sent directly to the office of the Western Australian Arts Council to come to my office with initial recommendations already appended. Those applications which come at first to my office are routinely sent to the office of the Western Australian Arts Council for processing and advice. In that sense, the Western Australian Arts Council office is being consulted constantly. In one recent week, for example, I received recommendations from the Western Australian Arts Council office on 22 different applications for Instant Lottery funds.

(4) A list compiled by the Western Australian Arts Council was made available to the media on 9 September 1984, together with a Press statement. Both documents are tabled herewith.

(5) Because all Instant Lottery grant applications are processed through the office of the Western Australian Arts Council, presumably interested council members would have an opportunity to tender advice on all applications should they so desire.

(6) Advice from all sources is received on a confidential basis.

I table the documents referred to.

The paper was tabled (see paper No. 141).

ROADS

Leinster-Meekatharra and Leinster-Mt. Magnet

153. Hon. N. F. MOORE, to the Minister for Planning representing the Minister for Transport:

(1) Does the Government have any plans to seal the roads from Mt. Magnet to Leinster and from Leinster to Meekatharra (via Wiluna)?

(2) If so, what are these plans?

Hon. PETER DOWDING replied:

(1) and (2) There are no plans at present to seal either of these roads.

154. *Postponed.*

HEALTH

Aboriginal Medical Service: Geraldton

155. Hon. N. F. MOORE, to the Leader of the House representing the Minister for Health:

(1) Has the Minister inspected the Geraldton surgery of the Aboriginal Medical Service?

(2) Is he aware that the condition of the surgery is totally inadequate?

(3) What action does he intend to take to upgrade this facility?

Hon. D. K. DANS replied:

(1) Yes, several years ago.

(2) I am aware that the premises have apparently never been considered totally adequate.

(3) Aboriginal Medical Services are funded by the Commonwealth Government.

QUESTIONS WITHOUT NOTICE

GAMBLING

Committee of Inquiry

42. Hon. P. H. LOCKYER, to the Minister for Administrative Services:

(1) What are the names of the members of the committee inquiring into the gambling laws in Western Australia?

(2) What are the terms of reference of that committee?

(3) When does the Minister expect the committee to report?

Hon. D. K. DANS replied:

(1) to (3) I must ask the member to put that question on notice and I will give him a detailed answer.

MR RON BELLAMY

Employment by Government

43. Hon. G. E. MASTERS, to the Leader of the House:

Will the Minister advise me whether Mr Ron Bellamy, ex-Transport Workers' Union organiser, has been employed by the State Government; and, if so, what is his official position?

Hon. D. K. DANS replied:

Mr Ron Bellamy is employed by the Office of Industrial Relations. I understand he was working in that office, but I am not sure at what grade. I inquired recently about his duties and ascertained that currently he is undergoing some training.

Again, if the Leader of the Opposition puts his question on notice, I will give him a detailed reply.

MR RON BELLAMY

Employment by Government

44. Hon. G. E. MASTERS, to the Leader of the House:

If the Minister wants me to put the remainder of my questions on notice, I will do so. I will ask my question first and he can indicate his reply. I understand that Mr Ron Bellamy is employed by the State Government, and I ask—

(1) Is his employment permanent?

(2) Is he a public servant?

(3) If he is being trained in his duties, what special qualifications did he have in the first place to gain that job?

Hon. D. K. DANS replied:

(1) to (3) Mr Bellamy is employed by the office of Industrial Relations.

Hon. G. E. Masters: On a permanent basis?

Hon. D. K. DANS: To the best of my knowledge, he is employed on a permanent basis. He was employed by the director. That matter was not referred to me but again, if the Leader of the Opposition wants the details of his employment, I will obtain them for him if he puts his question on notice. I do not interfere in the running of departments or the employment of people in any of the areas under my control.

GAMBLING: CASINO

Burswood Island: ERMP

45. Hon. P. G. PENDAL, to the Minister for Administrative Services:

(1) Is he aware that the Environmental Protection Authority has recommended an Environmental Review and Management Programme into the siting of a casino on Burswood Island?

(2) Has he received that recommendation?

(3) If so, what has he done with it?

Hon. D. K. DANS replied:

(1) to (3) No, I am not aware of that. I have received no recommendation to date.

MR RON BELLAMY

Transport Workers' Union: Secretary

46. Hon. G. E. MASTERS, to the Leader of the House:

My question does not relate directly to the form of employment of Mr Ron Bellamy, but I ask—

(1) Is it true that Mr Ron Bellamy opposed Mr John O'Connor for the secretaryship of the Transport Workers' Union?

(2) Is it also true that he is taking legal action against Mr John O'Connor?

(3) Is it further true that he has now got the job with the Government and has dropped that action?

Hon. D. K. DANS replied:

(1) to (3) Yes, I know that Mr Bellamy did oppose Mr John O'Connor for that position. I am not in a position to answer the other questions because I simply do not know the facts.

PAWNBROKERS

Interest Rates: Government Control

47. Hon. P. H. WELLS, to the Minister for Consumer Affairs:

I refer to a media report of the Minister's comments relating to the interest charged by pawnbrokers. These statements have been reported as we have been told, to the ALP conference, that the Minister is considering controlling the interest rates of pawnbrokers.

Hon. PETER DOWDING replied:

The member is aware that I have expressed great concern about the operation of a small portion of the pawnbrokers operating at the present time. I indicated in the course of a speech at my party's State conference that the member had apparently thought nothing of interest rates in the region of 240 per cent per annum. That is not the interest rate normally charged on pawnbroking transactions. I am glad to say that, whatever view is taken of the pawnbroking industry, the majority of pawnbrokers are not the subject of complaints which arrive at my department. As the member knows, we have before this House legislation for particular purposes, and I have already announced that there will be a general review of pawnbroking legislation. I would not pre-empt that review other than by saying that I regard desirable the passage of legislation in this place is soon as practicable.

PAWNBROKERS

Interest Rates: Range

48. Hon. P. H. WELLS, to the Minister for Consumer Affairs:

Has the Minister carried out a study of the average interest rates charged by the 19 pawnbokers in this State, and of the range of interest rates charged?

Hon. PETER DOWDING replied:

No study to that effect has been conducted by me. If the member wishes to genuinely obtain information, I will seek

advice from my department. He may do that by placing the question on notice.

PAWNBROKERS

Legislation: Drafting

49. Hon. P. H. WELLS, to the Minister for Consumer Affairs:

I ask the Minister whether the department has already drafted a proposed Bill relating to pawnbroking?

Hon. PETER DOWDING replied:

To the best of my knowledge, information, and belief, the department has not prepared a new Bill in relation to pawnbroking. As the member well knows, because he has spoken to it, there is a Bill before this House. I am not aware of any other drafting which has been done by my department in relation to the pawnbroking legislation.

PORTS AND HARBOURS: MARINA

Sorrento: Plans

50. Hon. P. H. WELLS, to the Leader of the House:

Are any plans available concerning the Government's proposed marina at Sorrento?

Hon. D. K. DANS replied:

At present there are no details or plans at all.

PORTS AND HARBOURS: MARINA

Sorrento: Environmental Report

51. Hon. P. H. WELLS, to the Leader of the House:

(1) Is the Government seeking an environmental report or the marina project?

(2) If "Yes", when will it be available?

Hon. D. K. DANS replied:

(1) and (2) As soon as the consultants have done their job, the report will be available. The EPA has prepared a report and I have released that to the Wanneroo council. I knew that it would not be necessary for me to realise it to the Press; it went straight to the Press from the council. I have no objection to that course. As soon as the other report is prepared, I will release it to the Parliament.

PORTS AND HARBOURS: MARINA

Sorrento: Environmental Report

52. Hon. P. H. WELLS, to the Leader of the House:

Does the Leader of the House know whether the briefs provided to the consultants in regard to the environmental report cover the total project envisaged for the marina, or only the first stage which I understand is the retaining wall.

Hon. D. K. DANS replied:

To the best of my knowledge it covers the whole project. The principals, whose name I cannot recall at present, will be calling for subcontractors and other consultants for the various areas of the project.

REGIONAL DEVELOPMENT: JOONDALUP DEVELOPMENT CORPORATION

Mitchell Freeway: Extension

53. Hon. P. H. WELLS, to the Minister for Planning:

I direct a question to the Minister for Planning regarding an issue which arose during the adjournment of Parliament when the Minister refused to allow a representative of the Joondalup Development Corporation to come to my office to explain a report of which the Shire of Wanneroo and the Corporation were the authors. I ask the Minister: On what grounds did he deny a local member's request to have a statutory authority explain a non-confidential report relating to the prefunding of the Mitchell Freeway project, a request which I made by letter and personally to the Minister on 11 September?

Hon. PETER DOWDING replied:

Even in his asking of his question the member seems incapable of sticking to the same story. The facts are that since I have been a Minister, in the portfolios that I have held, I have offered to members of the Opposition briefing on particular matters which might be of some interest to them. I have done so in the portfolios of Mines, Energy, Consumer Affairs, and Employment and Training. It is interesting to note that Hon. Peter Wells—and indeed no member of the

Opposition—prior to the events that he has so inaccurately described, had not sought a briefing from the Joondalup Development Corporation on any matter at all. I understand from the corporation that the Opposition has not, during the life of this current Government, expressed an interest in a briefing from the Joondalup corporation on any matter at all.

The second thing that ought to be said is that my position and, I am sure, my colleagues' positions in relation to ensuring the Opposition was fully briefed is remarkably different from the role that the members opposite and their confreres in the lower House played when they were in Government. At that time Mr Ian Laurance sought to exclude me from any contact at all with the officers of the State Housing Commission in my electorate. I did not hear Hon. Peter Wells leaping to my defence on that occasion, and I recall no occasion on which, from 1980 to 1983, I requested a briefing from the Government of the day and that request was granted. The position under my Government's tutelage is completely different and the Opposition has had access to briefings on numerous occasions.

The facts are that I was away in the north in the days prior to 7 September, but I am informed that the member rang my office on 6 September and asked if a member of the staff of the Joondalup corporation would be permitted to attend a meeting on Monday, 10 September. My assistant private secretary suggested—

Hon. D. J. Wordsworth interjected.

Hon. PETER DOWDING: Will Hon. D. J. Wordsworth listen? He was a Minister himself. On 6 September the telephone request was made and Hon. Peter Wells was told that the matter could not be processed because I was not there, but that if he would put the request in writing it would be attended to immediately.

A letter arrived on 7 September from the Hon. Peter Wells. It read as follows—

> In response to a request to support the Wanneroo Shire and Joondalup Development Corporation's proposal of funding for the Mitchell Freeway, I have invited a Shire representative to meet with Hon. Peter Jones MLC and Tony Trethowan MLA—

I thought Mr Wells would have known Mr Jones was an MLA! To continue—

> —at my office on Monday 10 September 1984, at 2.15 pm, to explain the proposal.

And the letter continues.

Firstly, that was not a meeting at which an Opposition member for the Joondalup area was seeking some information about activities in that area. It was a meeting described by Mr Wells as having been created by him including representatives of a shire, to meet with two Opposition members who were not concerned with that area, to explain a proposal the Government was then considering. That was his stance on the Friday.

On the Monday morning there was an item on the ABC news that a shadow Cabinet meeting was to be held in Wanneroo. Apparently embarrassed by its previous lack of interest in outer suburban and country areas, the Opposition took a leaf out of the Government's book and started to parade its front benchers around various areas to try to fight the criticism that it was centralist and interested only in Perth.

Point of Order

Hon. P. H. WELLS: I asked a question relating to the Minister's action, and he is not referring to the question I posed.

The PRESIDENT: There is no point of order. However, I was about to suggest to the Minister that he was stretching my imagination.

Questions without Notice Resumed

Hon. PETER DOWDING: The reason I am going into some detail on this is that the question begs a series of matters which I need to address. I will be as speedy as I can.

The ABC, I understand, was carrying a news item put out by the Leader of the Opposition, so this meeting supposedly to be held in Mr Wells' office with two members of his own party was not that at all. According to the ABC item, it was a meeting between the Shire of Wanneroo and the Shadow Cabinet. In

my view, it was not an occasion on which a Government instrumentality ought to be debating or raising issues about submissions currently being considered by the Government.

Mr Wells was told when he rang me on Monday morning that I considered there was a difference between what he pleaded in his letter and that which, apparently with his approval and concurrence, was put out in the media, and that I thought he should be frank about what was happening.

He then conceded it was the front benchers and not two of his confreres, and that they were interested in finding out more about the Joondalup Development Corporation's attitude about the submission before the Government. I told him then on the phone and later by letter that I would arrange for a briefing at any time for him and the Opposition by the corporation on the project, but I was concerned he was trying to embroil a Government instrumentality in a bit of party politicking. That was what the effort was about on 11 September. He then wrote a letter to the Premier on 13 September which once again misled the Premier about the true nature of this so-called meeting.

The briefing offer is open to Mr Wells and to the Opposition, but it would be irresponsible of me to authorise a Government agency to become involved in party politicking. That is exactly what Mr Wells was doing, and it is a pity that he did not have the honesty to be frank in his correspondence when he wanted to set up the meeting, and made the request in the guise of a briefing to himself as an interested member when, in fact, he was doing a bit of party hack work.

REGIONAL DEVELOPMENT: JOONDALUP DEVELOPMENT CORPORATION

Mitchell Freeway: Extension

54. Hon. P. H. WELLS, to the Minister for Planning:

Following on that statement which has some inaccuracies, I ask—

Is it not correct that I told the Minister in the morning that the meeting had been requested by me following a request I had received from the Shire of Wanneroo for support of that particular programme, and that the meeting had been organised to include the two people mentioned in the letter and not the total shadow Cabinet?

Hon. PETER DOWDING replied:

The member indicated to me on the telephone that the request for this meeting had come from the shire. In the letter he wrote to me, he indicated the request was his own. It was not clear to me that this was a meeting requested by the shire with the Joondalup Development Corporation. I have never been asked to approve meetings between the corporation and the shire. As I understand it, they have a very good relationship and the corporation does not require or seek my approval for meetings with the shire.

REGIONAL DEVELOPMENT: JOONDALUP DEVELOPMENT CORPORATION

Mitchell Freeway: Extension

55. Hon. P. H. WELLS, to the Minister for Planning:

Is it not a fact that, when talking to me on Monday, the Minister read back part of my letter on that particular occasion?

Hon. PETER DOWDING replied:

I drew to the member's attention my view that he was being a bit dishonest in attempting to deceive the Government about the purpose of this meeting and the way it had been set up. I regarded it as a breach of the privilege I have willingly extended to the Opposition to ensure that it is adequately briefed about matters of interest.

REGIONAL DEVELOPMENT: JOONDALUP DEVELOPMENT CORPORATION

Mitchell Freeway: Extension

56. Hon. P. H. WELLS, to the Minister for Planning:

If the Minister is referring to the letter, how did he get the misunderstanding in the terms of my conversation that the meeting was arranged by the shire and not by me which fact I made clear in the letter and when I spoke to him?

Hon. PETER DOWDING replied:

I dispute the assertions in that question, and I think the matter has been fully answered.

REGIONAL DEVELOPMENT: JOONDALUP DEVELOPMENT CORPORATION

Briefings

57. Hon. P. H. WELLS, to the Minister for Planning:

Is the Minister not aware that, in the last 12 months, the Joondalup Development Corporation has had local members and councillors down to its office to view its projects, and that the corporation on a previous occasion has been available to brief members on its projects?

Hon. PETER DOWDING replied:

I think I have already answered that question. The corporation is doing a splendid job of informing people in the area and interested parties about its programme. I have attended briefings to which members of the Opposition have been invited for particular purposes, but I am informed by the corporation that the Opposition has never sought a general briefing, and that surprises me having regard to this apparent renewed interest in its operations.