

Legislative Council

Tuesday, 27 September 1983

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

RECREATION: YACHTING

America's Cup: Statements

HON. I. G. MEDCALF (Metropolitan—Leader of the Opposition) [4.32 p.m.]: I seek leave of the House to make a short statement concerning the America's Cup.

Leave granted.

Hon. I. G. MEDCALF: We are all extremely thrilled at winning the America's Cup. On behalf of members of the Opposition in this Chamber, I express our congratulations to John Bertrand, all the members of his crew, Alan Bond, and all the supporters of *Australia II* at Newport for the fantastic exhibition they displayed and the wonderful way they won the America's Cup.

It is such a signal event in Australia's sporting history that we should not let it pass without formally recording our wonderment at such a magnificent and significant victory after America had held the cup for 132 years. We pass on our sincere congratulations to John Bertrand and his crew.

Members: Hear, hear!

HON. D. K. DANS (South Metropolitan—Leader of the House) [4.33 p.m.]: I seek leave of the House to make a statement.

Leave granted.

Hon. D. K. DANS: I intended to move a motion without notice, which was—

That this House expresses its congratulations to the crew and all others associated with winning the America's Cup for Australia.

I reinforce the words of the Leader of the Opposition. It was a magnificent win. I have been interested in sailing for some time and I do not think we have previously seen such a magnificent yacht race. Indeed, I doubt whether some of us will ever see another race of that nature. Winning the America's Cup has brought a great deal of national unity to Australians. I do not think anything else has captured so greatly the imagination and spirit of Australians, and that is a good thing.

When Alan Bond and his crew return to Australia I am sure they will be honoured in a very fitting manner.

Members: Hear, hear!

HEALTH: TOBACCO

Advertising: Petition

On motions by the Hon. Kay Hallahan, the following petition bearing the signatures of 62 persons was received, read, and ordered to lie upon the Table of the House—

To the Honourable President and Honourable Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.

We the undersigned believe that advertising and promotion of cigarettes and tobacco products are some of the influences encouraging children to smoke. We urge the Council to demonstrate its commitment to protect children from beginning habits which are dangerous to their health by supporting legislation which will prevent advertising and promotion of cigarettes.

Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound will ever pray.

(See paper No. 277.)

QUESTIONS

Questions were taken at this stage.

LIQUOR: WINE

Grape Spirit Excise: Motion

HON. FRED MCKENZIE (North-East Metropolitan) [5.01 p.m.]: I move—

That this House urges the Federal Government to reconsider the imposition of the Grape Spirit Excise because of its inequitable application which disadvantages the fortified section of the Wine Industry concentrated on the Swan Valley.

It is somewhat of an anticlimax to move this motion because as members will be aware, the Federal Treasurer announced late last week that the imposition of the excise on grape spirit had been reduced from \$2.61 to \$1.50.

Hon. P. G. Pandal: What do you put that down to?

Hon. FRED MCKENZIE: That was a result of the actions of this Government, of individuals, and, I have no doubt, of other people around Australia. I emphasise that this Government made a considerable input in persuading the Federal Government to do something about the tax. I re-

mind the House, in case any doubt exists about this Government's concern about the imposition of the excise, that from the very day of the announcement in the Budget, the Government took action to have the Federal Government rethink the matter. It started with the Premier, who had immediate discussions with the Federal Treasurer (Mr Keating), and expressed this State Government's alarm at the imposition of the tax on grape spirit. We knew very well that a large amount of fortified spirit is produced in the Swan Valley.

Hon. P. G. Pandal: You knew a by-election was coming.

Hon. FRED McKENZIE: We knew the effect the excise was likely to have on grape growers in that area.

Hon. P. G. Pandal: On the by-election!

Hon. FRED McKENZIE: The by-election had nothing to do with it at that stage. No doubt members opposite would want to draw that inference and capitalise on it.

I remind members that the former member for Mundaring (Mr Troy) travelled to the Eastern States in connection with this matter.

Hon. G. E. Masters: At his expense?

Hon. FRED McKENZIE: I am not sure, but I understand it was at his expense. I have not asked him, nor have I made that inquiry of the Government.

Hon. G. E. Masters: Was it at Government expense?

Hon. FRED McKENZIE: I am aware of the action taken by the former member for Mundaring. I think it was at his own expense but I cannot be categorical about that. Mr Masters can find that out by asking a question.

Hon. G. E. Masters: I will. I thought you would have researched it.

Hon. FRED McKENZIE: I do not research matters relating to what a private person does. The former member's action was very commendable, and had the support of the Government. In those circumstances I think the Government ought to have met his expenses. I am not sure that it did, but I think it should have met them. He went to Canberra and spent a considerable amount of time discussing this matter with the Federal Treasurer and also with the Minister for Primary Industry (Mr John Kerin).

I remind the House that the Minister for Agriculture in this State (Mr Evans) also was very quick off the mark in trying to persuade the Federal Government to reconsider the imposition of this tax, and to abolish it. He was in contact with the Minister for Primary Industry and ex-

plained to him the difficulties the excise would pose for growers in the Swan Valley. Members would know that the Swan Valley operations are family concerns.

The problem with this type of tax is that it is imposed at the time of manufacture rather than at the time of sale.

Hon. G. E. Masters: At the time of use, isn't it?

Hon. FRED McKENZIE: We have urged the Federal Government to reconsider its action in imposing the excise, but members will realise that both Federal and State Governments face a difficult period and a difficult task as a result of the deficits they inherited when the people of Australia and Western Australia decided to change the Governments of the day.

Hon. P. G. Pandal: You have been reading your own propaganda again.

Hon. FRED McKENZIE: No, I have not. I am stating the facts. Mr Pandal's Government left a deficit of over \$30 million, and the deficit at the Federal level was about \$10 billion. Governments cannot run the nation and the State with those sorts of deficits, and of course they have endeavoured to grapple with them. While we are not growling about the Federal Government's trying to do that, we are saying in our opinion its priorities are wrong and no tax should be imposed on the fortified wine industry.

The Federal Government has recognised a problem exists in the grape growing industry, particularly in the Swan Valley, and has decided to meet us almost half way. That is still not good enough as far as we are concerned and the matter will not rest there. We will endeavour to persuade the Federal Government to reduce the excise further. Members know how difficult it is for State Governments to achieve this; members opposite have had that experience themselves in dealing with Federal Governments. Nevertheless, I am pleased something has been achieved.

Production in the Swan Valley is centred on this type of grape spirit; a large amount of the output is in fortified wines, and for that reason the original excise would have had a devastating effect on people in that area.

I conclude on this point: Some results have been achieved following our representations to the Federal Government, but this motion is put forward with a view to eliminating the excise altogether. We are not satisfied with the Federal Government's action; it has gone only half-way. At least we have endeavoured right from the outset to get the Federal Government to review its decision, and that has been done. That is far more

than would have been recognised by a Federal Liberal Party Government.

HON. NEIL OLIVER (West) [5.10 p.m.]: I am somewhat disappointed with the contribution of the mover of the motion. I would have thought the Government's army of advisers would have prepared for him some more reasonable notes to bring him up to date with the state of the industry.

With the Hon. Gordon Masters, I represent West Province, which includes the Swan Valley. That area is very important to us. I point out what could happen under the constitutional reform proposals which may come before this House in the next fortnight. I would not be able on a province basis to speak out with knowledge of the subject. If any members would like to question me later or in any way test me on my knowledge of the grape growing industry and vignerons of the Swan Valley, I would be happy to oblige. I am totally aware of the problems of that area and the day-to-day marketing situations of the grape growers. I need no advisers, secretaries, or electoral offices, apart from the one I have, to draw my conclusions.

This motion came before the House approximately on 15 September, and almost two sitting weeks have elapsed until it came before the Chair. It has been adjourned on every day the Parliament has sat. I can understand the reasons for this motion being continually adjourned. A motion was moved simultaneously in another place, and was dealt with last week. I can understand why possibly all members may be puzzled as to the reasons this motion is now before the House after being adjourned on each day of the last two sitting weeks of the Parliament.

To satisfy the curiosity of members I point out that a by-election will take place in Mundaring on 8 October. Obviously, the mover of the motion was not aware of that because he said this motion had nothing to do with the by-election and reflected the Government's concern for the vignerons in the Swan Valley.

In my opinion this is a straight-out cheap political stunt. If the Hon. Fred McKenzie takes umbrage at that I would say it reflects the hypocritical way the Government goes about its business. He put forward this motion purely for propaganda purposes—to put the Government's concern for the grape growers and vignerons in the Swan Valley.

Hon. D. K. Dans: We have already effected a reduction to \$1.50.

Hon. NEIL OLIVER: I will come to that.

Hon. D. K. Dans: I am a bit of an expert on the grape myself.

Hon. NEIL OLIVER: The Minister may be an expert on the grape, but I will await his reply with delight. I am also looking forward to Mr Hawke's visit to the Swan Valley tomorrow and to see what statements he makes.

Hon. D. K. Dans: He will be welcomed with open arms.

Hon. NEIL OLIVER: Obviously this motion has something to do with the presence of the Prime Minister in Western Australia. It is also associated with the impending Government announcement about the distillery in the Swan Valley for the conversion of surplus wine juice into spirit. Therefore, while I am on my feet the Government may already have made plans to release a Press statement. It has been said that we have not heard the Prime Minister's response, but I believe that was put forward by Mr McKenzie, who said that a reduction has been made of the tax on fortified spirits from \$2.51 to \$1.50 a litre. I assure the mover of the motion that that information does not give great satisfaction to the people of the Swan Valley.

A member: It is \$2.61 a litre.

Hon. Fred McKenzie: Surely half a loaf of bread is better than none.

Hon. NEIL OLIVER: Perhaps, but the Prime Minister, when Leader of the Opposition on the election campaign trail, said there would be no tax on the wine industry. Can members imagine what that meant to the people of the Swan Valley? However, not only was a tax introduced into the wine industry which the people involved were told would not be introduced, but apart from the normal wine tax, which was introduced by the Whitlam Government and removed by the Fraser Government—

Hon. Fred McKenzie: Don't forget that Fraser said the deficit would be only \$4.6 billion, yet it was \$9.4 billion.

Hon. NEIL OLIVER: The Government is now talking about the Federal deficit, but what has that to do with the people of the Swan Valley? The vignerons have no interest, at this time, in the Federal Government's deficit. If Mr Hawke goes out there tomorrow at nine in the morning and uses that as an excuse, he will be in for trouble. There are no rotten grapes out there, but there are rotten tomatoes. The only thing these people are interested in is that there is now a tax on the spirit they use to fortify wines, and they want it withdrawn.

This is an iniquitous tax, one which has been introduced to apply not at the time the winemakers use the spirit, but at the time they purchase it in bond. There is a certain time in the Swan Valley when a person can buy fortified spirit. That fortified spirit may stand in bond for six months. Vignerons are required to pay for that before they place it into wine they wish to fortify. Fortified wines need to mature, and the vignerons will also have a requirement over perhaps six to eight years, which is the average time for fortified wines to mature, to pay the excise as they add the spirit to the wine and also as they place it from rack to rack as the wine is matured. It must be understood that there is a loss of almost 30 per cent of the spirit as wine is fortified. Over the span of the production and bottling of fortified wines, there is a continuous loss of spirit through evaporation.

Some of the average fortified wine producers of the Swan Valley are looking to next March and wondering where they will find the money to buy the fortifying spirit so that they can put the wines down and rack them over the next six to eight years. An average wine producer in the Swan Valley will be committed to over \$25 000 because of the Federal Government's new tax.

Hon. D. K. Dans: That is with the amended figure?

Hon. NEIL OLIVER: Yes.

Hon. D. K. Dans: He must sell an awful lot of fortified wine.

Hon. NEIL OLIVER: The people of the Swan Valley could not believe it when this tax was introduced, nor when it was reduced to \$1.50. Up to a fortnight ago, the Labor candidate for the Mundaring seat had been moving around the electorate telling the people that he had travelled to Canberra and that the tax would be totally removed. He said that to the wine producers a fortnight ago today.

Hon. Mark Nevill: Rubbish!

Hon. NEIL OLIVER: I will arrange to have the member's interjection circulated among the people of the Swan Valley.

Hon. Mark Nevill: Did he say it would be abolished or he hoped it would be abolished?

Hon. NEIL OLIVER: He said it had been abolished. After he had had discussions with Mr Keating, he said it would be removed. I thought the debate had been adjourned because representations were being made to Mr Keating to have the tax totally removed, and a fortnight ago the Labor candidate for Mundaring was saying it would be removed.

The point is this: All previous Labor Governments have wanted to kick the wine industry, and to kick it when it was down. Consider the brandy excise; that was first introduced by a Labor Government and it has gone from \$3.60 to \$16.30.

Hon. D. K. Dans: Are you suggesting Labor Governments put all that excise on it?

Hon. NEIL OLIVER: A Labor Government introduced that excise. Members opposite can blame Liberal Governments for all they like, but it was Liberal Governments that removed these taxes. The people of the Swan Valley know this.

The Hon. Fred McKenzie said that the other day action was taken by the Premier, who spoke to Mr Keating, to do something about this excise on fortified spirit; but this was all after the horse had bolted.

Let me quote now some of the actions taken by this Opposition. I might add at this stage that a Government needs to anticipate problems rather than to close the door after the horse has bolted. The following is from a Press statement by the Leader of the Opposition dated 21 June 1983—

The Leader of the Opposition, Mr. Ray O'Connor, said today that he was most concerned to hear that the Federal Government was considering the imposition of a new or increased wine tax in the coming budget.

The local wine producers in Western Australia were under tremendous pressure in a highly competitive market and this, coupled with increased Government charges and high labour costs, would threaten the future of many grape growers and wine producers.

"The grape growers and wine producers of Western Australia deserve all the encouragement they can get," Mr. O'Connor said.

"For years they have worked to develop the industry against great odds, small producers even doing two jobs to keep their vineyards going.

"It is through their efforts that Western Australia is increasingly acknowledged as an important producer of high quality wines."

Mr. O'Connor said he had written to the Federal Government condemning any new or increased wine tax.

He said any such tax would be a serious blow to the industry.

This action was taken by the Leader of the Opposition before the news was first received, well before the Premier decided to take action. On 19 August 1983 the Leader of the Opposition issued the following Press release—

The news that a tax on wine was almost certain to be imposed in the Federal Budget next week was a blow to the Western Australian wine industry, the Leader of the Opposition, Mr. Ray O'Connor said today.

"The statement by the South Australian Premier, Mr. Bannon—

Obviously he had forewarning of it. To continue—

—that he had given up hope that his Federal Labor Colleagues would do the right thing by the Wine Industry is most discouraging," Mr. O'Connor said.

"Mr. Bannon has at least tried to help the industry, although he had left it a bit late because the Budget is due to be presented next Tuesday."

Mr. O'Connor said that early in June when Budget strategy was being planned, he had written to the Prime Minister presenting a strong case against the introduction of such a tax on the Western Australian wine industry and had made a public protest against the tax at the same time.

For the most part, the Western Australian wine industry had been built up by individuals and families who had worked extremely hard to create the industry.

Now was not the time for the Government to threaten the industry with new taxes.

I was not aware of these moves when, on 18 August this year, I spoke on the adjournment motion and drew to the attention of the Leader of the House the possibility of the introduction of a wine tax. Government members yawned, possibly because of the late hour, but I went on to say this—

The proposed imposition of this tax comes at one of the momentous times in the history of the wine industry in Western Australia. I was prompted to raise this matter because of an article which appeared in *The West Australian* this morning. For the first time in the history of the Western Australian wine industry a company in this State has won the most coveted and prestigious award; that is, the Jimmy Watson memorial trophy. That award was presented to the Cape Mentelle vineyards.

I went on to say—

The article to which I refer indicated a WA wine had won a top award and Mr David Hohnen, one of the shareholders in Cape Mentelle, met with the Victorian

Governor, Sir Brian Murray, yesterday to be presented with it.

[Resolved: That motions be continued.]

Hon. NEIL OLIVER: I then went on to say—

I extend my congratulations to the Cape Mentelle vineyards on winning this coveted and prestigious award. I hope—

I emphasise the words "I hope".

Point of Order

Hon. TOM STEPHENS: I may be mistaken, but I am under the impression that the member is quoting from a debate of this session. I understand that is in breach of the Standing Orders. I may be wrong, but I ask that the point be clarified.

The DEPUTY PRESIDENT (Hon. D. J. Wordsworth): Mr Oliver, are you quoting from a debate of this session?

Hon. NEIL OLIVER: No, I am quoting from an adjournment debate of this House.

Debate (on motion) Resumed

Hon. NEIL OLIVER: I went on to say—

I hope the Leader of the House uses his best endeavours to ensure the Premier of Western Australia brings this matter to the attention of the Federal Government, because the imposition of this iniquitous tax would have a disastrous effect on a primary producing industry; that is, the wine industry.

Deputy President's Ruling

The DEPUTY PRESIDENT: I will explain the position in respect of the point of order raised by the Hon. Tom Stephens. The adjournment debate is a debate of the House, and a member should not allude to it unless it is quite relevant to the discussion. The relevant Standing Order is Standing Order No. 81.

Debate (on motion) Resumed

Hon. NEIL OLIVER: Thank you, Mr Deputy President. It is relevant to the discussion because the point made is quite relevant to the motion moved. I made those points prior to the imposition by the Federal Government of this tax, and my point now is that after I pleaded with the Government in this State to make representations to the Federal Government on behalf of the wine industry, this Government did nothing; and now our wine industry is placed in the predicament it is in.

I will no longer quote from that adjournment debate, but move to a statement issued by the Leader of the Opposition on 4 September, following the aftermath of the introduction of this impost. It states—

Changes in the Federal Government's fortified wine excise to make it apply at the point of sale instead of at the point of manufacture were supported today by the Federal Opposition Leader, Mr Peacock.

The changes were suggested by the State Opposition Leader Ray O'Connor as a way to ease the burden on the struggling wine industry, if the Federal Government insisted on imposing the excise.

Mr Peacock and Mr O'Connor conferred on the issue by telephone today, following preliminary discussions at a Liberal Leaders' meeting in Sydney on Friday.

Mr Peacock said that the present arrangements for the excise would harm the wine industry throughout Australia. In particular he understood that a planned distillery in the Swan Valley could be jeopardised by the proposed \$2.50 a litre excise.

We know that amount has been varied. The statement continues—

He fully supported Mr O'Connor's suggestion that the excise—if it had to be paid at all—should be applied at the point of sale on a wholesale basis. This would at least give the industry some breathing space.

The proposal by the Federal Government, even with the amendment to it, is totally unacceptable. The excise will be imposed at the point of production, and it may be eight years before the tax is recouped by the grower. To rub salt into the wound the tax is locked into the Consumer Price Index. The Federal Government has thrown growers to the ground, kicked them in the guts, then jumped up and down on their eyes and screwed its heels into them by locking the tax into the CPI.

Hon. P. G. Pendar: That is exactly what they are doing.

Hon. NEIL OLIVER: A bottle of port will probably cost \$16 by the time it is sold. The cost of a bottle of port will almost double, but I am assured it will be at least \$16. The small vignerons of the Swan Valley will go out of business.

The people they now employ will be dispensed with, yet this Government is supposed to support employment. Within two or three years the fortified wine imported to Australia will take over the market. As well, the Government supports the

withdrawal of the import taxes. This State and every other State will be swamped with imports of fortified wines—such as ports and sherries—and our producers will be no longer in business.

A telex was sent from Mr Ray O'Connor, the Leader of the Opposition, to Mr P. J. Keating. I understand Mr Keating's telex machine was out of order on that day, so the telex was relayed to him. Possibly it did not reach him. On 31 August Mr Neville Wran moved into the arena. His news release of that date was received here on 5 September, and it states—

The Premier, Mr Neville Wran, announced today that he had contacted the Prime Minister and urged him to reconsider the collection procedures for the excise tax on fortified wine.

Mr Wran said he had strongly urged Mr Hawke to review the tax because of the severe impact it was likely to have on the wine industry, particularly in the Murrumbidgee Irrigation Area.

"It seems clear that the tax will have a major impact on the liquidity of some winemakers which is likely to affect the wellbeing of their grower suppliers through reduced grape intake," Mr Wran said in his letter to Mr Hawke.

I will not continue with this long release from Mr Wran. It does show his concern for the situation. I could continue with much more material that I have obtained because of my deep involvement with the vignerons and other grape growers in my district. All members, whether they be in the Government or the Opposition, are aware of my concern. On many occasions I have moved motions in support of those growers, and at times those motions have been contrary to the view of the Liberal Party when in Government. I condemn this Government for its inactivity and inability to do anything to solve the problem.

Hon. Fred McKenzie: How can you say that?

Hon. NEIL OLIVER: This Government has done nothing to benefit the vignerons of the Swan Valley.

Hon. Fred McKenzie: You didn't listen to my speech.

Hon. NEIL OLIVER: I listened to the speech by the Hon. Fred McKenzie. I have said already how unfortunate it was that he did not have notes prepared by an adviser.

I condemn the Government for its inactivity and for the way it has disgracefully treated the vignerons of the Swan Valley. Everything the Government has said it would like to do has

added up to total inactivity. It is acting after the horse has bolted. As a result of the coming by-election we suddenly find a great need to highlight the Swan Valley, but this Government has done nothing for that area.

Hon. Fred McKenzie: You don't like it because you didn't think of it yourself.

HON. MARK NEVILL (South-East) [5.40 p.m.]: I will reply initially to some of the comments made by the Hon. Neil Oliver. Firstly, he said he would provide us with facts. Half-way through his remarks he tried to give facts, but he did not do a good job. He did not have the rudimentary facts correct. He said the excise was \$2.51 a litre, and after we corrected him he continued to refer to \$2.51.

Hon. Neil Oliver: That indicated my sense of no interest in what you say.

Hon. Tom Stephens: It indicated no sense.

Hon. MARK NEVILL: He lacked a grasp of the facts. Secondly, he said that fortified wines were laid down for an average of eight years. I thought the average was five years.

An Opposition member: It is up to 15 years.

Hon. MARK NEVILL: The period would be less than five years, possibly about three years. Thirdly, he said that Mr Gavan Troy said the excise would be abolished and then that it had been abolished. It is a fact that Mr Troy said at the meeting that he was optimistic there would be a change in regard to the grape spirit excise, but the Hon. Neil Oliver incorrectly quoted him.

Several members interjected.

The PRESIDENT: Order!

Hon. Neil Oliver: I quoted him correctly.

Hon. Tom Stephens: Check it with him, and don't make scurrilous misrepresentations.

Hon. Phil Lockyer: Why don't you shut up?

Hon. Neil Oliver: Which speech, where?

Hon. Tom Stephens: The one he gave two weeks ago tonight.

Hon. Neil Oliver: Were you there?

Hon. Tom Stephens: No, but we contacted Mr Troy and found out what he did say.

Hon. G. E. Masters: What about the trip to Canberra?

Hon. MARK NEVILL: I spoke to Gavan Troy, the ALP candidate, and he said he paid for the trip to Canberra out of his own pocket.

Several members interjected.

The PRESIDENT: Order!

Hon. MARK NEVILL: I understand the move for a tax on grape spirit was initiated by the Federal Treasury. The main aim of the move was to lessen tax avoidance in the industry. A lot of excise-free grape spirit had been used in brandy.

Several members interjected.

The PRESIDENT: Order!

Hon. MARK NEVILL: I understand that many producers used this excise-free spirit to pad their brandy, and therefore avoided an excise of \$16 to \$19 a litre. I do not support this tax to be applied to grape growers of the Swan Valley. It is unfair and inequitable. Firstly, brandy is not produced in the Swan Valley; and, secondly, grape spirits are not exported from the Swan Valley—in fact, the grape spirit is imported. The tax is completely inequitable as it applies to the Swan Valley.

The issue has nothing to do with the Mundaring by-election. An outrage would have occurred over this excise whether or not it was imposed at the time of an election in Mundaring. The Swan Valley does cover more than the area of the Mundaring electorate. Is it not correct that all the affected vineyards are in the Mundaring electorate?

Several members interjected.

The PRESIDENT: Order! I do not mind a couple of interjections, but the only person who does not seem to be able to get a word in edgewise is the Hon. Mark Nevill. I suggest everybody else await his turn to make a speech.

Hon. MARK NEVILL: One of the reasons that the fortified wine industry suffered the tax and everyone else got away clear was that the Wine and Brandy Producers Association represents mostly major international companies and it is not interested in supporting little vigneronns in the Swan Valley. I suspect that is the reason a tax was not imposed on table wine.

This excise is probably due to tax avoidance. Like members on the other side, we disagree with it. We do, however, welcome the reduction from \$2.61 to \$1.50 a litre. It will ensure that sales of fortified wines are maintained. Had the excise been imposed at the level of \$2.61 it would have had a disastrous impact on the sale of fortified wines.

In supporting this motion, I think the Opposition's interest in the Swan Valley wineries is rather new-found.

Hon. P. G. Pental: Come on, that is a silly comment.

Hon. MARK NEVILL: Only 14 days before the election the previous Government announced

a \$25 000 grant for cold storage, but that was after the facilities were built and operating.

Hon. Tom Stephens: Shameful!

Hon. MARK NEVILL: The Opposition's amendment is somewhat phony and is an attempt to embarrass the Government. I would like to see the excise abolished completely, but I do welcome its reduction.

HON. G. E. MASTERS (West) [5.46 p.m.]: I listened with some interest to the speeches of the two members of the Government and noted that the Hon. Fred McKenzie began by saying this was an anticlimax. I suppose he was suggesting there was no need for the debate at this time.

Hon. Fred McKenzie: I did not suggest that at all.

Hon. G. E. MASTERS: Indeed, I am surprised that the Government is prepared even to bring this sort of motion before the House in view of its performance in representing the growers and producers of the Swan Valley. There is no doubt at all that the decision was wrong and Government members have said so. The Hon. Fred McKenzie said that he believed the excise or duty should be eliminated. They were the words he used. The Government is pathetic in bringing forward this motion; it is a belated attempt to try to recover some of the votes lost in the Swan Valley as a result of the Government's inaction in the past.

Hon. D. K. Dans: We will see about that.

Hon. G. E. MASTERS: Yes, we will.

Hon. D. K. Dans: Look at the figures for the last election.

Hon. Fred McKenzie: Tell us what you did.

Hon. D. K. Dans: We know what will happen now in regard to your constituency; you never wake up.

The PRESIDENT: Order!

Amendment to Motion

Hon. G. E. MASTERS: In view of the Government members' speeches, I am sure that they will agree to the amendment that I propose, particularly after they have listened to the debate and the reason for it. I move an amendment—

Delete the words "reconsider the imposition of" and substitute the word "withdraw" and to delete the full stop at the end of the motion and add the following—

in accordance with representations already made to the Prime Minister, Mr Hawke, by the Leader of the Opposition, Mr O'Connor;

2. Regrets that the State Government did not see fit to take any public action in regard to the Grape Spirit Excise imposed on the Wine Industry until after the announcement of the Mundaring by-election;

3. Requests the Prime Minister whose Government was responsible for imposing the excise to make an immediate announcement that the excise will be lifted.

Hon. Garry Kelly: Politically!

Hon. G. E. MASTERS: What is the member talking about? If all that the Government members have said so far during this debate is correct, Government members are bound to accept what we put forward; they cannot do otherwise. This motion brought forward by the Government is a pathetic and belated attempt to overcome some of the problems created by this excise. All members here would recognise that the excise is an imposition; it is a cruel and selective tax, nothing more and nothing less.

Hon. A. A. Lewis: Hear, hear!

Hon. G. E. MASTERS: It is an imposition on the producers of fortified wine in the Swan Valley. There are many such producers. The Labor Government has been guilty time and time again—this is another clear illustration—of breaking promises. Previous speakers, especially the Hon. Neil Oliver, have pointed out some of the Government's broken promises, and this is one of them. The Government does that without any compunction. Prior to the election it made all sorts of promises which would affect every single person in Western Australia. This excise duty has imposed a tax or a burden on the people. It represents a clear breaking of promises. I am sure Government members do not want me to go through the broken promises of the Premier and the Government. List after list of them exist. These promises were publicly made prior to the election and every one of them has been broken. They all affect the people in the Swan Valley.

Hon. Fred McKenzie: What promises?

Hon. Peter Dowding: You must be getting desperate about this by-election.

Hon. A. A. Lewis: Not as much as the Minister.

Hon. Peter Dowding: I thought you were confident.

The PRESIDENT: Order!

Hon. G. E. MASTERS: During the course of this debate I made the point that the State and Federal Governments have broken many prom-

ises, yet the Hon. Fred McKenzie asks, "What promises?" I am not going to go through them all again.

Hon. Fred McKenzie: I just want to know about the ones relating to wine.

Hon. G. E. MASTERS: My point was that the broken promises of the State Government in regard to the statements that there would be no Government increases in tax, in land tax, in electricity charges—

Hon. Fred McKenzie: That is a State matter. We are not talking about State taxes. We are talking about Federal matters.

Hon. Peter Dowding: Was that based on your deceitfulness?

The PRESIDENT: Order! I want all members to cease their interjections. I ask the member to confine his remarks to the proposition in the motion and the amendment he has moved. There certainly is no provision for him to talk about anything else. Other times are available in which he can do that if he wants to, but he certainly is not permitted to do it when discussing this motion. He may talk about the contents of the motion.

Hon. G. E. MASTERS: Of course, Mr President, I accept your ruling. I was only pointing out that many Government promises have been broken and that this excise or duty is a broken promise, a promise made clearly and loudly by Mr Hawke prior to the election.

Hon. Fred McKenzie: Give us that quotation; that is all I want.

Hon. G. E. MASTERS: I will. On 16 February 1983 Mr Hawke, then the Leader of the Opposition, made this statement—

I believe the Australian people have had enough of election promises made only to be broken.

On the same day Mr Hawke also stated—

Labor is pledged not to impose a sales tax or an excise tax on wine.

In February the Prime Minister made that statement, yet a few months later he broke that pledge; he broke a pledge which the Wine and Brandy Producers Association said would be unbelievable. That was the word used. The association said there could be no excise duty because the Prime Minister had given his solemn word; however, we are presently arguing that it is a terrible thing that the Government has introduced the excise and in so doing has broken a solemn word. That is absolutely typical of the Government of this State and in the Federal scene. The worry and the big problem we have is, it is not finished.

Hon. Peter Dowding: Your nose is going to grow longer, it really is, Pinocchio!

Hon. G. E. MASTERS: It will take years.

Hon. P. H. Lockyer: Rosebud!

Hon. G. E. MASTERS: As the Minister knows nothing about this subject, I suggest he listens.

Hon. Peter Dowding: I do not want to be misled by you.

Hon. G. E. MASTERS: Here we have a firm pledge or promise being broken—an excise duty being imposed against the promises made. This reflects on the Labor Party.

Hon. A. A. Lewis: A wine imposition for the people of the Swan Valley.

Hon. G. E. MASTERS: Sure. Let us look at the prospects for the wine industry. On 27 August 1983 in *The West Australian* the following article appeared—

While they were still reeling from the new excise this week the Treasurer, Mr Keating, was warning of more to come.

He told the National Press Club in Canberra on Wednesday that the wine industry escaped a general sales tax this year because of its depressed condition—but that such a tax would be considered for future Budgets.

Here we have a clear indication that the Government is proposing possibly in the middle of the next or the following year to impose a tax on wine. The wine industry can take no comfort from the little cover-up job that has just occurred or from this panic move that has been brought forward in the hope of quietening some people at this time. The wine industry is being threatened as it has never been threatened before.

Hon. P. G. Pental: We don't even know what is coming up in the State Budget yet.

Hon. G. E. MASTERS: That is right; we certainly do not know that. Can anyone believe the comments made by Government members in assuring us that they would not impose a wine tax or an excise duty? The Government has been and continues to be dishonest, and there is certainly no way that we can act in confidence or comfort after the remarks Government members have made. The Federal Government said that it expected to raise about \$15 million or \$16 million from the excise at the point of first introducing it. There were arguments. Some people insisted it would raise \$6 million and the industry said it would raise \$27 million. Let us take the amount of \$15 million or \$16 million that the Government said it would raise. It reduced its excise by about 40 per cent, yet it still says it will receive \$13

million or more. The estimates are miles apart. Obviously a mistake has been made and somebody must have said, "We could get the same amount of money with a reduction", because the Government had not done its homework and it still needed to gain \$13 million to \$15 million in excise duty.

Hon. Peter Dowding: What about the people of this State that your Government deceived? That is more important.

Hon. G. E. MASTERS: The Government has given that false figure and is now saying, "We increased it by 40 per cent but we are still going to raise \$13 million, \$14 million, or \$15 million". That is an insult; that is outrageous. The Government is trying to get a great deal of money from the wine industry, which is difficult to understand in view of the comments made. It is hard to understand how the Government could possibly think of bringing forward a motion to this House which will simply give us the opportunity to reveal the truth of what is going on and let the public have a full understanding of the hoax that is being perpetrated on them.

This is a brutal attack on an industry that presently is under a lot of pressure. There are many small wine producers in the Swan Valley, as Mr Piantadosi would know. These people have been struggling. The Government's action is quite disgraceful. The State Government is partially responsible by its own inaction. It is no good the Hon. Fred McKenzie saying the Government made representations on behalf of the producers, because it did not do so until the excise was announced. Then came panic motions. I ask the Hon. Fred McKenzie when he replies to give us some real answers.

The Hon. Neil Oliver made a number of accusations in defence of the wine producers.

Sitting suspended from 6.00 to 7.30 p.m.

Hon. G. E. MASTERS: Prior to the tea suspension, I was talking about the Federal Government's brutal attack on the wine industry and the imposition of the excise on grape spirits. I reached the stage where I had almost convinced Government members that they should support my amendment. The State Government was as responsible as anyone for the imposition of the excise, because it took no action leading up to its imposition.

Hon. Fred McKenzie: Tell us what you will do.

Hon. G. E. MASTERS: I have no doubt Mr McKenzie has done some homework during the tea suspension. The State Government was inactive until it was too late. I know the previous member for Mundaring, Mr Troy, belatedly flew

to Canberra in a panic to try to do the best he could. He returned with a situation changed very little, because the amount of money which will be raised from the industry is still approximately \$13 million.

It is strange that the Government should move this motion at this time. I wonder whether the mover of the motion has any understanding of the industry in this State, and particularly of the production of fortified wines, or whether, rather than putting forward a genuine point, he is simply moving this motion as a political gimmick. If that is the case, I do not think the wine producers will be fooled by it.

Hon. Fred McKenzie: I know the industry very well.

Hon. G. E. MASTERS: We in the Opposition have been resisting and fighting the imposition of any excise duty or any extra duty on wine. We were doing this long before the Federal Budget was announced. The Hon. Fred McKenzie asked me to quote some instances of where the Opposition had taken action, and I shall do that.

On 21 June 1983, the leader of our party—

Hon. Fred McKenzie: I know about that. You have said that before.

Hon. G. E. MASTERS: —sent a letter to the Prime Minister. He did that as a result of talk of the possibility of the imposition of an excise or charge on wine. Our leader wrote to the Prime Minister and asked that such an excise not be considered. He pointed out the very difficult times being experienced by the wine industry and the effects that sort of charge would have on it. I am sure the honourable member who asked the question does not want me to read the complete statement made at that time, but the leader of our party opposed any imposition of a tax on wine or excise on spirits.

Hon. Fred McKenzie: How did he know there was going to be one?

Hon. G. E. MASTERS: It was suggested an excise may be imposed. It was referred to in the Press and floated around that a tax or extra charge may be made on wine. Obviously, as good members of Parliament, we moved immediately, and said, "If what we hear is true, please reconsider the position". We did that before the Federal Budget was announced.

Hon. Tom Stephens: You probably gave them the idea in the first place.

Hon. G. E. MASTERS: The member should not be ridiculous. The Hon. Neil Oliver and I represent the Swan Valley. We understand the prob-

lems of wine growers in the area; and, of course, we reacted to that rumour.

On 19 August a statement was made by the leader of our party again condemning the excise and appealing to the Prime Minister.

On 26 August a telex was sent imploring the Government to reconsider the position because of the difficulties which would be experienced as a result of the proposed excise. I have the text of the telex and I do not believe Government members would want me to read it in full. If they ask me to do so, I shall; otherwise I shall make it available to them.

The telex pointed out the great difficulties caused by the excise and said, in part, that—

The Swan Valley produces 90 per cent of Western Australia's fortified wines and many family businesses are dependent on sales of these types of wine for their survival.

The telex was another appeal from our party. Nevertheless, the tax persisted. After an appeal by the Hon. Ray O'Connor, on 4 September a statement was made by Mr Peacock, who supported Mr O'Connor. That was another appeal to the Government. On the same day another telex was sent by the Leader of the Opposition. Once again it appealed against and pointed out the problems caused by the excise. I have copies of that telex also, so there can be no doubt about the position. I will not read the telex in detail, but I assure the Government that approaches were made consistently by the Opposition on behalf of the wine producers and the people of the Swan Valley, in particular, against the imposition of the excise, and asking for it to be reconsidered.

Now we know the Government rushed in after the imposition of the excise and tried to recover the position. The fortified wine industry is a very important one and there is a real possibility that, if an excise of any great amount is imposed on grape spirit or spirit used in the production of fortified wines, the industry could well face destruction. That is no exaggeration. The brandy industry in Australia was almost destroyed by excises and imports. Therefore, we must take account of the effects of these duties on the wine producers and the retail prices of wine.

In reports of the effects of excises or extra costs and charges on fortified wines, a well-known wine producer in South Australia stated that the excise has a multiplier effect; that is, indexation and the like result in a strong possibility that a bottle of wine which costs \$5 today could cost \$10 in three years.

When we talk about fortified wines, it is important to understand that they are not produced

in great quantities in some areas, but if we look at the whole of Australia, in which approximately 52 million litres of wine are produced every year, we see that 17 per cent of the national production is made up of fortified wines. Therefore, this section represents a substantial quantity of the total market.

A big wine producer in South Australia believes his production of fortified wine will cost, in the long term, approximately \$600 000 more each year because of the excise. That is a very large producer and smaller ones would be affected to a lesser degree. For example, it is estimated in the Swan Valley that about \$250 000 could be raised from the producers of fortified wine by means of the excise. Give or take a few thousand dollars, that is the estimate and I have no doubt it is substantially correct.

I wonder whether the mover of the motion understands fully how the duty will be raised and at what stage.

Hon. Fred McKenzie: I explained that to you. It is at the stage of manufacture. I told you that.

Hon. G. E. MASTERS: With all due respect to the mover, that is not necessarily so. The spirit is placed in bond and the excise is paid when it comes out of bond, not when it is produced. That is where Mr McKenzie is wrong and that shows how wrong he is.

I will not argue with the honourable member. He is not quite correct. Obviously, it is a misunderstanding. I point out to him that the excise is payable when the spirit comes out of bond. The fortified wine producer purchases the spirit, takes it out of bond, and puts it into his wines.

Hon. Robert Hetherington: In other words, he has to pay for it to manufacture his wine.

Hon. G. E. MASTERS: The fortified wine producer must pay the excise within seven days of taking it out of bond.

Hon. Fred McKenzie: That is correct. I am not disagreeing with that. I said, "at the time of manufacture".

Hon. G. E. MASTERS: Perhaps the member meant the manufacture of the fortified wine rather than the manufacture of the spirit.

Hon. Fred McKenzie: That is right.

Hon. G. E. MASTERS: I may have misunderstood the member. The excise on the spirit added to the fortified wine is paid within seven days. The wine producer may carry that fortified wine in store at an absolute minimum for three years, but perhaps for five years, or in some cases 15 years. Therefore, a compounding effect occurs, because people producing the fortified wine year

after year are paying for the spirit well in advance. There is a multiplier effect. A cumulative effect occurs, which, in the long term, has a marked effect on the producers.

This tax is inequitable. Government members would agree that it is selective. There is no doubt about that, because the excise is targeted on 17 per cent of the producers.

Hon. Peter Dowding: Most taxes are selective.

Hon. G. E. MASTERS: The excise is selective because it imposes an extra burden or tax on 17 per cent of the production and leaves the rest of the production untouched.

Hon. Fred McKenzie: We acknowledge that by our motion. It uses the word "inequitable". If you read the motion you will see it says that.

Hon. G. E. MASTERS: All I have done is seek to amend the member's motion to make it more correct and thorough.

Hon. Robert Hetherington: That is not true.

Hon. G. E. MASTERS: We simply want to get to the truth of the matter. The excise is inequitable and selective.

Hon. Peter Dowding: Your nose is growing longer again.

Hon. G. E. MASTERS: I have a long way to go to catch up with the Minister.

Hon. Peter Dowding: You must not tell fibs. You are politicising the issue.

The DEPUTY PRESIDENT (Hon. D. J. Wordsworth): Order! The member will address the chair.

Hon. G. E. MASTERS: The Minister said I was politicising.

Hon. Peter Dowding: You are politicising the issue.

Hon. Fred McKenzie: Of course you are.

Hon. Peter Dowding: You are desperate about Mundaring.

Hon. G. E. MASTERS: The tax is inequitable and selective. I will not worry about the silly remarks of Government members. We are talking about a tax which will greatly affect some small producers in the Swan Valley. It is not a laughing matter; it is very important to them. The tax will genuinely hurt them and put some of them out of business. It will greatly damage wine producers and wine markets, because costs will be higher and, undoubtedly, quality will suffer because producers of fortified wine will sell it before they should in order to get their money back. They will have to do that to survive.

There is a real chance producers may change from fortified wine to table wine, and if that occurs it will affect the grape growers who are geared to supply grapes to the fortified wine market.

Undoubtedly the excise will affect the liquidity of some companies, both small and large, because it is too much to expect them to carry that sort of burden year after year. It is possible some of the fortified wine producers will pull out of the market. They will not produce those wines, and therefore they may sack workers and close their establishments.

It could be said in some cases the excise will cause the collapse of the small family winery. The Government should look carefully at the amendment before the House. It should certainly use the word "withdraw" rather than the words "reconsider the imposition of", which is what the Government's motion states.

The words of the mover of the motion were that he thought the excise was quite wrong and should be withdrawn. If that is the case, he has no option but to support the amendment before the House. Of course the excise should be withdrawn. The word "reconsider" does not seek the withdrawal of the excise. We want the Government to remove the excise; that is what we are talking about in this House.

The Government's motion is a wishy-washy statement. It gives the Federal Government the option to take whatever action it wishes. We are asking that the excise be withdrawn completely. It is wrong, it should not be there, and it should be taken away. That is the question before the House.

If Government members cannot support the amendment, they are not very genuine and sincere in their arguments, because that is the only issue about which we have been talking.

Hon. Fred McKenzie: Take all the rest out of your amendment and we will support it.

Hon. G. E. MASTERS: That is the only thing about which we are talking. The rest of the motion is perfectly proper. There cannot be any argument about it. Previous speakers have proved that Mr O'Connor made representations to the Prime Minister (Mr Hawke) so there cannot be any argument about that. I have given examples, so who would argue against that proposition?

Could the Minister pay attention? He might learn something. The second part of the amendment reads—

2. Regrets that the State Government did not see fit to take any public action in regard

to the grape spirit excise impost on the wine industry until after the announcement of the Mundaring by-election;

I would like to know about it if it does intend to take action, because no public statement was made. Indeed prior to the announcement, we anticipated the Government of the day was thinking about a tax along those lines.

Hon. Mark Nevill: You hoped for it.

Hon. G. E. MASTERS: Of course we did not. The third part of the amendment reads as follows—

3. Requests the Prime Minister whose Government was responsible for imposing the excise to make an immediate announcement that the excise will be lifted.

What is wrong with that? We say the Federal Government should be requested to lift the excise. The Prime Minister is in Western Australia and will be going to the Swan Valley in the next day or so.

Hon. Mark Nevill: We hope he does.

Hon. G. E. MASTERS: Of course the member does.

Hon. Peter Dowding: What do you think Gavan Troy did about it? He went to Canberra, which is a darned sight more than you did. He is one who is really representing the interests of the growers, not like your footling political amendment.

The DEPUTY PRESIDENT (Hon. D. J. Wordsworth): Order!

Hon. G. E. MASTERS: Time and time again the Opposition approached the Federal Government to ask for a recommendation. Indeed we approached the Government prior to the imposition of the excise because we anticipated such a move. More importantly, the Federal Government broke its promise without consideration at all—

Hon. Fred McKenzie: Which Government?

Hon. G. E. MASTERS: It was a promise made by Mr Hawke.

Hon. Peter Dowding: Not the Burke Government; certainly not Gavan Troy.

Hon. G. E. MASTERS: No wonder the Government is embarrassed when we talk about broken promises. I am not allowed to talk about them in this debate, but there are so many and they are so frequent that of course the Government is embarrassed.

In February this year, prior to the election, the Federal Government promised that no excise duty or tax would be imposed on wine; in June of this year, it cold-bloodedly broke that promise. This was a serious broken promise, which upset the in-

dustry; so, it is fair to say the amendment before the House is proper. It has been proved to be correct, and it seeks to do all the things the Government itself would like to proceed with.

I commend my amendment to the House.

HON. V. J. FERRY (South-West) [7.50 p.m.]: Mr Deputy President—

Hon. Peter Dowding: Look out, they are all asleep over there.

Hon. V. J. FERRY: The Opposition is not asleep at all, as is indicated by the amendment moved by the Hon. Gordon Masters. It is an indictment on the Federal Government and State Government that this state of affairs is such that we have to move an amendment in this House condemning the imposition of a tax on the spirit used in fortified wines. This tax establishes a principle. It was tried before—we heard that earlier in the debate—during the Whitlam years, and was taken away by the Liberal Government in recognition of the value of the wine industry to Australia. Here we have a Labor Government in Canberra and a Labor Government in Western Australia hell-bent on hamstringing private enterprise again, and particularly small business.

Hon. Robert Hetherington: That is not true.

Hon. V. J. FERRY: That is a very good interjection from the Government side. This tax underlines the insincerity of both Labor Governments in imposing a tax on small business, because most of these wineries are small businesses. To say it is not true is utter rubbish and another example of the Government's hamstringing small businesses. I would like to support my remarks by quoting from the Council of Small Business Organisations of Australia. It made a statement early this year, as follows—

The Hawke Government has made a commitment to small business and is now on trial ...

Point of Order

Hon. J. M. BROWN: Mr Deputy President, my understanding of the Standing Orders is that an amendment must have a seconder. I do not know that there has been any call for a seconder in the House.

The DEPUTY PRESIDENT (Hon. D. J. Wordsworth): The point of order is quite correct. I did not call for a seconder. I now call for one.

Debate (on amendment to motion) Resumed

Hon. V. J. FERRY: I apologise for that oversight, and I now formally second the amendment. To reiterate—

The Hawke Government has made a commitment to small business and is now on trial...

This tax certainly will affect small businesses, the small grape wine producing businesses of the Swan Valley and the State as a whole. It will affect small businesses producing wine in the south-west corner of the State and in the Frankland River-Mt. Barker area. The tax will do nothing to encourage small businesses to survive.

I had a conversation only a couple of days ago with representatives of the small business community in this State. They are most disenchanted with the performance of both the Hawke and Burke Labor Governments in regard to their attitudes to small businesses. The people expected miracles. I could have told them prior to the election that a Labor Government was not capable of performing miracles in their interests. Now they are finding it out. That was one of the great thrusts the Labor Party made during the run-up to both the Commonwealth and State elections: It would be the answer to all the prayers of small businesses. This is not happening.

Reference already has been made to increased charges which affect those particular enterprises, and this charge is adding to the burden. There is no way in which the people in my province can put up with this sort of imposition. I could draw a parallel to what is happening in England at the present time. I was over there a few months ago and I happened to make an inquiry about the wine industry in the United Kingdom. I was surprised to find that the wine industry, which was introduced during the time of the Roman Empire, died away about the sixteenth century because of the decline in the monastery system and because of severe winters. The industry has started up again now, particularly in the last 10 years, but is only a small industry. It is recognised and it is being encouraged. That is what we should be doing in this country—encouraging this sort of production to take the place of a number of failing industries. This is similar to what has happened in the United Kingdom, where grape growing has taken over from less reliable industries.

It is happening in Western Australia. In the south-west part of the State we have a wine industry taking its place in the area of Margaret River and Busselton in particular, where there has been a change of emphasis from traditional agricultural production to grape growing for wine production. This has introduced another dimension in the whole area. It affects tourism by encouraging tourists to go down there and enjoy the south-west as they have never enjoyed it before by sampling the wine and looking at the vineyards being estab-

lished. There are some 25 to 30 in my province. They are very concerned with the result of this tax imposed by the Federal Hawke Government. The same sort of principle applies to that area known as the Frankland River-Mt. Barker area and the lower great southern, where the fledgling industry is on a par with that which has been revived in the United Kingdom, particularly the southern part of England, where it is somewhat warmer and where grapes can flourish.

The same thing is happening there. This industry deserves to be encouraged because we have seen in many cases industries which are failing. We hear a lot from conservationists, "greenies" and all the rest.

Point of Order

Hon. FRED McKENZIE: The member is referring to the wine industry as a whole rather than to the tax applied to a particular section of it.

The DEPUTY PRESIDENT (Hon. D. J. Wordsworth): Order! The point of order is not sustained.

Debate (on amendment to motion) Resumed

Hon. V. J. FERRY: The Government seems particularly touchy on this issue, just as it should be, because it knows it is in the wrong. Any tax on one section of the industry affects the entire industry. If members opposite cannot understand that, Lord help this country, because if that is their line of thinking, there is not much hope.

I refer now to the comments of the Hon. Mark Nevill. I have a great regard for this new member.

Hon. Tom Stephens: We have too; he is a very good member.

Hon. V. J. FERRY: I think that in time he will contribute a great deal to the work of the Legislative Council; however, he is a new member, so I shall forgive him for some of his remarks. He mentioned that the Federal Treasury had imposed this tax. It is not the Treasury which is imposing the tax. Under our Westminster system of Parliament, the Government of the day must take full responsibility for imposing this tax on the wine industry. To suggest the buck can be passed to the Federal Treasury is completely out of order.

The Government of the day must take full responsibility. I have no doubt that there is great input from the Government departments and the Treasury, but the ultimate decision rests with the Minister of the day and the Treasurer. This is a

Treasurer's measure and we condemn it wholeheartedly. This tax should not be imposed on the wine producing industry of this State.

I wholeheartedly support the amendment moved by the Hon. Gordon Masters.

HON. ROBERT HETHERINGTON (South-East Metropolitan) [8.01 p.m.]: I am not sure whether the Hon. Victor Ferry said the wine industry began in the sixth or sixteenth century. It would seem to me that if he said the sixth century BC it would be closer to the mark. There is mention of a wine industry in Homer, and in the "Odyssey" we find mention of "the wine dark sea". It has been going even longer than he thinks.

I am not anxious to extend the debate. It seems to me that in this debate the Hon. Gordon Masters has suffered from a rush of rhetoric to the head in that he is accusing the Government of the day. It is a pity that the Hon. Neil Oliver could not refrain from making personal accusations against Mr Gavan Troy which have no substance.

Several members interjected.

The **DEPUTY PRESIDENT** (Hon. D. J. Wordsworth): Order!

Hon. ROBERT HETHERINGTON: The Hon. Sandy Lewis may stir the muddy waters behind me but he knows what I am saying is true.

I do not want to delay the House unnecessarily, but it seems to me that the Hon. Gordon Masters would have done well to listen to the many things the Hon. Neil Oliver said about the industry and the tax proposed by the Federal Government at present. I appeal to the honourable member, even at this stage, to withdraw his amendment. It depends on what he wants: If the aim of the debate here tonight and the Hon. Gordon Masters' amendment is to aid the vigneron of the Swan Valley, perhaps he should use different tactics; on the other hand, if the aim is for the Opposition to propose a motion, which it knows we cannot support, in order to get political capital for the Mundaring by-election, then that aim—

Several members interjected.

Hon. Peter Dowding: Because it is false.

Hon. G. E. Masters: It is not false.

The **DEPUTY PRESIDENT** (Hon. D. J. Wordsworth): Order! There are too many interjections from both sides of the House. The Hon. Robert Hetherington.

Hon. ROBERT HETHERINGTON: I thank you for your intervention, Mr Deputy President, and I point out to the Hon. Sandy Lewis that if he lets me develop my argument he might find out what I am saying. I am not going to respond to

his interjections as he sees fit; I will develop my argument as I see fit—it is my debate. It would be much better if we could pass a motion in this House which would have the unanimous support of all members, instead of a motion which spends half its time, as the Hon. Gordon Masters' amendment does, in denigration of the State and Federal Governments. I will not support the amendment.

The motion is one that might well be supported by members of both sides of the House. I am sorry that the Hon. Gordon Masters is playing the kind of game he is, because we would be better served if he played another one.

Several members interjected.

Hon. ROBERT HETHERINGTON: It is up to the Opposition to decide on its own tactics. As it has the numbers no doubt there may well be an amendment passed by a section of the House which will not have the force of a motion passed unanimously. I suggest that the honourable member and other honourable members opposite think about that because it is important.

There are two aspects to this tax. One is that it is levied at all; I think that is a great pity and that it should be lifted entirely, I want to be clear on that.

I have never approved of taxes on Australian wine because I think that the industry should be encouraged. I disapprove of this tax because it is a tax which does not really hurt the multi-nationals in the wine industry—Penfolds, Lindemanns, and Orlando—which have 72 per cent of the industry in their hands and which do not produce relatively a great deal of fortified wines. The people it will hurt, as honourable members opposite, as well as my colleague and friend, the Hon. Fred McKenzie, have pointed out, are the small vignerons in Western Australia and the Hunter Valley; but particularly the small vignerons in the Swan Valley. Perhaps it is a great pity that the Federal Treasurer (Mr Keating) as well as collecting antique furniture, does not indulge in collecting antique port. He might well be then aware of the problems affecting the wine industry.

Several members interjected.

Hon. ROBERT HETHERINGTON: I point out to vociferous members on my right that I am capable of making my own speech in my own way and I do not thank them for their support. The only support I want from them is support that will vote against the Hon. Gordon Masters' amendment if he does not withdraw it, or support for the Hon. Fred McKenzie's motion.

Point of Order

Hon. H. W. GAYFER: On a point of order, Mr Deputy President: Under Standing Order No. 193 I think the present debate is out of order. I do not believe the amendment has been seconded.

Hon. G. E. Masters: Yes it has.

Hon. H. W. GAYFER: I ask whether it has been seconded.

The DEPUTY PRESIDENT: (Hon. D. J. Wordsworth): It has been seconded; it was not seconded immediately after it was moved.

Debate (on amendment to motion) Resumed

Hon. ROBERT HETHERINGTON: The point I make now is important. There are two things about this tax that has been imposed by the Federal Treasurer. One is the fact that there was an excise tax on grape spirit; and many people were caught by some of the pre-Budget propaganda that floated around the country because they were fighting against a tax on wines and suddenly found themselves with a tax on wine spirit.

I point out to the House that members of the Government party who have had the privilege of hearing the Premier in the party room know he has for a long time expressed his concern about a wine tax and he has outlined to us the things he has been doing—quietly, without a lot of noise; he has not been playing politics with it; he has been trying to change the mind of the Federal Treasurer, with some limited success.

Several members interjected.

Hon. ROBERT HETHERINGTON: The other thing that is important is not just the fact that there is a tax—and I think the Hon. Gordon Masters and the Hon. Neil Oliver might put their minds to this, because it arises from something they have both said—but that the tax is being put on at the wrong place and at the wrong time. As the Hon. Gordon Masters pointed out, the tax is put on fortifying spirit as it is withdrawn from bond in order that it can be blended with wines.

The bottles are then put on racks in the cellar. I do not want to be technical about this process, but I know when it comes out of the cellar the end result often is quite palatable. It is racked for anything up to 20 years, but the time will vary according to the wine. The tax has to be paid after the spirit is withdrawn and before it is blended with the wine. After the wine is put down—and this could be up to 20 years—one can get a refund if the spirit has evaporated. All one has to do is to wait for two, three, five, eight, or 20 years.

Hon. P. H. Wells: Is inflation taken into account?

Hon. ROBERT HETHERINGTON: Of course on the other hand if one then pays tax on the spirit, the tax might be higher, but the point of payment is terribly important, as honourable members opposite know. I am not trying to teach my grandmother to suck eggs, but I know that members opposite realise the point that is important is that this impost hits the small wine grower now. He has two choices. He has to put up the price of his product so that probably it does not sell, and this results in his going out of business. It seems most unfortunate and it is most undesirable. As far as I am concerned the Federal Treasurer is making a mistake in imposing the tax.

Hon. Tom Knight: That is assuming he is selling wine at that time. What if he is a new grower?

Hon. ROBERT HETHERINGTON: Well, he has problems and it will be difficult for small growers to make a start. The point made by the Hon. Tom Knight is a valid one.

We want the Treasurer to reconsider the whole question, and if he must impose a tax of which we do not approve he should change the method by which he raises the tax so that the cellar, where the wines are racked, becomes a bond and the point where any duty is paid in two, five, eight, or 20 years when the wines are ready and come out of bond. This point is most important, but it is not in the Hon. Gordon Masters' amendment.

We should not pass the amendment, but should go back to the original motion and merely ask the Treasurer to reconsider the whole question in the light of the debate in this House.

My position has been made quite clear and I think the Hon. Fred McKenzie's position has been made quite clear. If members of the Opposition see fit to join us so that the Hon. Fred McKenzie's motion is passed unanimously it might have greater strength and we might have some chance of getting the Prime Minister, the Treasurer, or both, to change their individual or collective minds. This would be highly desirable.

Perhaps the Prime Minister in his euphoria with the fact that Western Australia has just won the America's Cup will listen to what is being said and will perhaps change his mind. We do not want him to do it tomorrow; we will give him time to think. Perhaps he will go back to Canberra, have discussions, and change his mind. For that reason I would ask the Hon. Gordon Masters, as much as I enjoyed his rhetoric, to withdraw his amendment and vote for the Hon. Fred

McKenzie's motion so that in this House we can pass a motion unanimously. It would show the Prime Minister, the Federal Treasurer, and the Federal Government that this question needs to be reconsidered and that we hope they do so because in Western Australia there is unanimous agreement between members of the Government and members of the Opposition in the Legislative Council.

I suggest to the Hon. Gordon Masters that if he followed this course it would be an honourable course and in the best interests of the vignerons in the Swan Valley and in Margaret River in the south-west.

It may, in fact, be effective. If the Hon. Gordon Masters continues to push forward his amendment, then no doubt he will have the numbers to win. It will be a Pyrrhic victory because he will have made a little bit of political capital, but I do not see how that will help the grape growers in the Swan Valley. I am serious about this, and I think he should consider it carefully. I want a motion to come out of here not one that reads so beautifully and not one that reads like a Press release, but one that may have some hope of having some effect on the Federal Government. For that reason I oppose the amendment and I support the original motion.

HON. FRED McKENZIE (North-East Metropolitan) [8.15 p.m.]: I will not be long in replying because a lot of the points I intended to make have been raised by my colleague, the Hon. Robert Hetherington. I thank my colleagues, the Hon. Mark Nevill and the Hon. Robert Hetherington, for the support they gave to this motion. I looked expectantly to the other side of the House to see if Mr Masters would take up Mr Hetherington's plea, because I thought it was a sensible one. We would have accepted an amendment calling for the withdrawal of the excise; no problem would have arisen with that. Unfortunately, the Opposition resorted to making what it believes is political capital out of the amendment.

Hon. Peter Dowding: Pure politics!

Hon. FRED McKENZIE: In doing so the Opposition put us in a position where we cannot accept the amendment. I hope the motion will be carried in the interests of the wine growers in the Swan Valley and other parts of the State where the effects of the excise will be felt.

I want to comment on one or two points that arose during the debate when the State Government was attacked for allegedly having failed to take action in respect of the wine excise. I thought I made it perfectly clear when I moved the motion that we took action and we were concerned about

this matter. I gave examples to show that the Premier and the Minister for Agriculture had been in touch with the Federal Treasurer and the Minister for Primary Industry.

Mr Masters and Mr Oliver pointed out in support of their amendment that the Leader of the Opposition (Mr O'Connor) had taken action prior to the announcement of the Budget details. That action amounted to one letter. Not a great deal of work was done prior to the Budget, and I would say the Opposition was as concerned as we were after the Budget was brought down, but no more. It is a great pity we cannot be united because I am sure it would have more effect on the Federal Government, as Mr Hetherington pointed out. That is not to be.

I will deal with the statement made by the Hon. Neil Oliver about the undertaking given by Mr Troy at a particular meeting; he was alleged to have said the tax would be waived, and subsequently it was not. I have heard such statements made by Mr Oliver before.

Hon. Neil Oliver: When?

Hon. FRED McKENZIE: I wish he would not mislead the House; he has done so before.

Points of Order

Hon. NEIL OLIVER: I would like the member to state when I have misled the House, and I ask him to withdraw the statement.

The DEPUTY PRESIDENT (Hon. D. J. Wordsworth): There is no point of order.

Hon. FRED McKENZIE: For the benefit of the Hon. Neil Oliver, if he has any doubt, I refer to the debate on the Town Planning and Development Act.

The DEPUTY PRESIDENT (Hon. D. J. Wordsworth): I ask the Hon. Fred McKenzie to confine his remarks to the amendment.

Hon. NEIL OLIVER: On a point of order. A statement has been made that I misled the House. That is a very serious accusation. I believe that remark should be withdrawn.

The DEPUTY PRESIDENT: I ask the Hon. Fred McKenzie to indicate where he feels the honourable member has misled the House.

Hon. FRED McKENZIE: The Hon. Neil Oliver said the former member for Mundaring, Mr Gavan Troy, had told a meeting that the excise would be withdrawn. That is an untrue statement. At no time was that said by the former member for Mundaring.

The DEPUTY PRESIDENT: I believe the Hon. Fred McKenzie is casting aspersions on the honourable member and he should withdraw.

Hon. Peter Dowding: Mr Oliver said it.

Hon. FRED McKENZIE: He did say that.

Hon. A. A. Lewis: Withdraw!

The DEPUTY PRESIDENT: I believe the Hon. Fred McKenzie is making a personal imputation against the Hon. Neil Oliver.

Hon. FRED McKENZIE: Out of respect for you, Mr Deputy President, I will withdraw the remark. I would like the honourable member to repeat it outside the House.

Hon. Peter Dowding: Say it outside!

Several members interjected.

The DEPUTY PRESIDENT: Order! I ask the Hon. Fred McKenzie to confine his remarks to the amendment.

Debate (on amendment to motion) Resumed

Hon. FRED McKENZIE: I am replying to some aspects of the debate and I want to put the record straight in respect of what Mr Troy said in a Press report that appeared in the *Daily News* on 7 September.

The report states—

Mr Troy today said he was “quietly confident” that the excise would be amended later this month.

There is no suggestion that he said it would be withdrawn; it certainly was not apparent on 7 September. Furthermore, he said the excise should be applied at the point of sale rather than at the time of manufacture.

If the Hon. Gordon Masters is prepared to withdraw the amendment, I am sure we can be united on this matter. We on this side have made it perfectly clear we are unhappy with the excise, and we are urging the Federal Government to reconsider it. We did not attempt to involve ourselves in political point scoring, and it is rather regrettable the Opposition has done so. I urge members to support the motion.

HON. NEIL OLIVER (West) [8.23 p.m.]: Speaking to the amendment—

Point of Order

Hon. D. K. DANS: The mover of the motion has replied to the amendment.

The DEPUTY PRESIDENT (Hon. D. J. Wordsworth): I believe Mr Oliver has not spoken to the amendment.

Debate (on amendment to motion) Resumed

Hon. NEIL OLIVER: I am surprised that the Government is playing with words in regard to the

amendment moved by the Hon. Gordon Masters, which seeks to delete the word “reconsider” and substitute the word “remove”. I believe the House is in complete agreement with that amendment.

The Opposition could be excused for feeling so strongly about this motion. I believe the sincerity of the Hon. Fred McKenzie, who moved the motion; I understand his concern and the manner in which he put forward his views. I understand also the views of the Hon. Robert Hetherington who, being an ex-South Australian, will know that that State is very much allied with the wine industry. Every person in that State is aware of the mechanics of the industry and the way it operates. Mr McKenzie was ably supported by Mr Hetherington.

One can understand the concern of the Government in this matter because it was a Labor Government that first introduced the impost on the wine industry. The Government moved this motion to express concern and to request that the Federal Government reconsider the excise.

Hon. D. K. DANS: The best way to assist the industry is to drink more wine.

Hon. NEIL OLIVER: Members will understand the concern of the Opposition, because the Federal Labor Government made an election promise not to place an impost on the wine industry. That was made in January this year by the now Prime Minister. Now we have seen in the Budget not just an impost on the wine industry, but a selective impost.

This is the point of the Hon. Gordon Masters' amendment. I can understand his moving this amendment, and at the same time I can understand why the Hon. Fred McKenzie has expressed concern about the representations already made to the Prime Minister by the Leader of the Opposition (Mr O'Connor).

If one looks at part (2) of the amendment, one sees the word “regrets”. What is wrong with this House passing an amendment to this motion that states it “regrets” certain matters? Surely the speakers on the Government side, who supported the motion moved by Mr McKenzie, have expressed regret. Everybody has expressed concern. I do not think there is one member who is not concerned, or who has not expressed regret. Why is the Government so concerned about this amendment? I cannot see any undercurrents, and I cannot see why the Government members made their interjections and accusations. I am disappointed with the Hon. Fred McKenzie in relation to the point of order I took, but that is another matter.

I cannot understand why the Government has expressed so much opposition. I would have thought a Government would be behind everything associated with this matter.

Several members interjected.

Hon. Graham Edwards: The Government's concern is for the grape growers in the area.

The DEPUTY PRESIDENT (Hon. D. J. Wordsworth): Order! There are interjections from both sides of the House. The member will be heard in silence.

Hon. NEIL OLIVER: We have not canvassed the major issue here—the distillery in the Swan Valley. This impost is on fortified spirits and that is the product of a distillery. The excise places the construction of a distillery in jeopardy.

The Government should support this amendment because it will make the motion stronger and the Government will gain the benefit of expressing support for the distillery in the Swan Valley. I have asked questions of the Leader of the House, in his capacity as the Premier's representative, as to whether the Government supports the distillery and the reply has always been "Yes".

I cannot understand why members opposite are so concerned about supporting this amendment. The only reason must be that they are in collusion with the Hawke Government. Or is this a political stunt? I am not making accusations.

Hon. D. K. Dans: What do you mean by "collusion"?

Hon. NEIL OLIVER: Why will the Government not support this? If the Government does not support this amendment it shows that it does not understand what the motion is all about. I feel sorry for the Hon. Fred McKenzie, because he has been put up as a front man to propose the motion for some ulterior motive.

Amendment put and a division taken with the following result—

Ayes 16

Hon. W. G. Atkinson	Hon. I. G. Medcalf
Hon. C. J. Bell	Hon. Neil Oliver
Hon. V. J. Ferry	Hon. P. G. Pandal
Hon. H. W. Gayfer	Hon. I. G. Pratt
Hon. Tom Knight	Hon. W. N. Stretch
Hon. A. A. Lewis	Hon. P. H. Wells
Hon. P. H. Lockyer	Hon. John Williams
Hon. G. E. Masters	Hon. Margaret McAleer

(Teller)

Noes 11

Hon. J. M. Berinson	Hon. Robert Hetherington
Hon. J. M. Brown	Hon. Mark Nevill
Hon. D. K. Dans	Hon. S. M. Piantadosi
Hon. Peter Dowding	Hon. Tom Stephens
Hon. Graham Edwards	Hon. Fred McKenzie
Hon. Kay Hallahan	

(Teller)

Pairs

Ayes	Noes
Hon. G. C. MacKinnon	Hon. Lyla Elliott
Hon. N. F. Moore	Hon. Garry Kelly

Amendment thus passed.

Motion, as Amended

Question (motion, as amended) put and passed.

HIGHWAYS (LIABILITY FOR STRAYING ANIMALS) BILL

Second Reading

Debate resumed from 21 September.

THE HON. A. A. LEWIS (Lower Central) [8.36 p.m.]: Two or three things in this Bill worry me. I have had some discussions regarding this Bill with the Attorney—and I thank him—and with the Leader of the Opposition. I find myself at odds with both of them. Although I realise they both understand the law far better than I do, I wonder whether they understand the practicalities of the Bill as well as I do.

I wish to make a point about negligence and intentional acts or omissions. The Bill refers to the "general nature of the locality", and we have heard many discussions in this place by previous speakers comparing pastoral country with, perhaps, south-west country; and the difference in herding stock, whether it be an area with fences or without fences; and the amount of traffic that would travel down any particular highway. I wonder what will happen if stock do escape, perhaps on a bushfire track fenced on both sides, which normally would see just one car a week travel along it, and the stock find their way to a major highway on which many cars travel. This situation does not seem to be explained in the Bill.

Hon. H. W. Gayfer: If the fences are not to the shire's standard, the owner is gone.

Hon. A. A. LEWIS: The Hon. Mick Gayfer is assuming something there.

Hon. H. W. Gayfer: It is in the Bill.

Hon. A. A. LEWIS: I do not think it is and that is why I am asking the Attorney to explain. Quite frankly, the Hon. Mick Gayfer's legal knowledge and mine are on a par, and that is why I am seeking clarification.

The other feature of this Bill is the extent to which users of a highway would expect to encounter animals on it. In a fenced area they might not expect to encounter any animals. However, local motorists with knowledge of the area might know that a particular stretch was subject to washaways or had a lot of trees along it, and these

people might be more aware of their chances of encountering an animal, whereas the general motorist would not be similarly aware. It seems it all depends on the road.

Some roads in my area have trees right up to the verge. Are we to do as the Labor Party is to do with stream and road reserves in the south-west, and clear all these roads, just as the Government intends to do under the Shannon basin arrangement? Are we to clear all the roads to make them totally clear from fence to fence? What are the implications of taking measures to warn users of such a highway? What would be the situation with a farmer who put up signs at each end of his farm on the roadway saying, "Danger. Stock may be on the road"? Would this save him from being sued? Should farmers put up signs saying, "Hold on fellas; perhaps one day my stock will escape and so I am protecting myself against that possibility with this sign"?

It appears that it will become the common practice in different localities for various standards to be set in regard to fences. Certainly in my area there may be problems with dogs, perhaps even cougars. I want to know what would happen in the case of stock, cattle or sheep, being driven over fences. I want the Attorney to explain the situation with respect to inspecting fences. When will a farmer have to inspect his fences; will it be daily, hourly, or weekly? Who is to set this standard? Where will the courts take their standards from?

I am extremely worried about this, because a practical farmer cannot inspect all his boundary fences every day. The Bill contains just so many intangibles that a farmer would not be able to understand. The rule of *Searle v. Wallbank* has served for many years. It is all very well having a nice legal Bill. The Attorney and his predecessor have convinced me that they know what the law is, but neither has been able to make an indentation in the practicalities of what will happen to farmers.

What in practical terms will happen to the farmer? We have heard legal argument, but that cannot be translated into practical terms. I hope the Attorney will be able to explain the queries I have raised tonight, so that I will be able to vote for the Bill. However, I assure him I will vote against it unless he can give me the answers I require.

Perhaps another member of the Labor Party could help the Attorney, someone like the Hon. Kay Hallahan, the Hon. Jim Brown, the Hon. Mark Nevill, or the Hon. Tom Stephens. Those people know quite a deal about fences, and I hope they will be able to tell me how this measure will

work in practice. I believe it will be impossible to put this measure into effect without causing primary producers to incur great costs.

I hope the Attorney will be able to answer these questions so that we can sell the measure to primary producers. If he cannot I will have to vote against it.

HON. J. M. BROWN (South-East) [8.47 p.m.]: I have no intention of answering the queries of the Hon. Sandy Lewis or of trying to allay his fears. Members have made a substantial contribution in general to the debate. I also have had communication with the farming industry. Precedents have been referred to and the Attorney will comment on them. I have consulted him on this matter.

The Pastoralists and Graziers Association in its letter of 11 August this year congratulated the Government for its initiative in moving to establish a Statute to remove the uncertainty in regard to the question. The people in the industry with whom I have spoken realise that uncertainty has existed in the present law. On 6 October 1981 the Hon. Ian Medcalf in a Press release said that farmers who were considered liable for damage caused by their straying stock could insure against such liability. He went on to say that that could be done by taking out a public liability insurance policy.

It is fair to say that everyone in either the pastoral or the agricultural industry generally would have a public liability policy, which of course would cover straying stock. From the information I have been able to obtain, it seems a logical and commonsense approach by the Attorney to introduce a Bill to clarify and amend the law relating to liability in tort for damage caused by animals straying onto highways. I took the opportunity to determine what is meant by the word "tort" as used in the preamble to the Bill. Tort is a breach of duty implied by law; it is the right of action for damages. As was demonstrated by the Attorney in his second reading speech, the courts of Western Australia already have made a decision. I can understand why the Pastoralists and Graziers Association supports a Bill such as this, which spells out the liability of stock owners in no uncertain terms. It also offers to the State at large practical procedures over which the courts can exercise commonsense.

Hon. H. W. Gayfer: It has not been fully tested in the courts.

Hon. J. M. BROWN: It has been fully tested in the courts of Western Australia, as was said by the Attorney. He said also that a submission of the Law Reform Commission in 1979 suggested

that something should be done, and this has been followed up.

It is difficult indeed to pinpoint who owns straying animals. I do not know whether other members recognise that point. One needs only to consider the stealing of animals. The people accused have said that the animals strayed, and to prove the ownership of those animals either by brands or earmarks has been difficult. This Bill will demonstrate the liability in tort for the matters I have already revealed to the House.

Clause 3(4) says that the court in determining negligence may consider many things. This type of flexibility allows one to have a better understanding of the situation which will prevail throughout the length and breadth of the State. The measure is one of common sense, and is accepted by the industry.

From the remarks I have read of members on the other side I believe their comments were sound, and I appreciate the comment of one member, which was that he would not support it at any price. I respect the stand he took, but farmers and pastoralists are concerned about the existing situation, and have supported this measure. My personal observations indicate to me it is a sound piece of legislation, which will give direction to farmers and will confirm what has been said over many years about what should be done in regard to straying stock. The introduction of this measure will be fruitful to the industry.

HON. W. G. ATKINSON (Central) [8.52 p.m.]: I am concerned by a number of aspects of this Bill. As a farmer and a representative of an electorate containing many farmers, who own a large number of stock, it is my duty to express my strong fears of this Bill. It contains a number of measures that will greatly increase costs of stock owners.

I acknowledge that the farmers' organisations, both the PIA and the Pastoralists and Graziers Association, have expressed their support for the Bill. Likewise, insurance companies have expressed their support for it. One does not need to look far for the reason for their support—it is financial.

Farmers have expressed concern for what will be just another cost imposition. It will come on top of a series of cost rises in the rural sector caused by inflation in this country.

Although insurance will not be compulsory, it will be most unwise for a farmer as a business person not to have adequate insurance cover, especially in this day and age when damages awarded by courts can run into hundreds of thousands of dollars, and have exceeded more than \$1

million on one occasion. A limit of \$500 000 has been included, but even that will cause a heavy premium to be placed on farmers if they take out public liability insurance to cover the contingency. I have no doubt that as inflation continues to rise this limit will rise, and soon it will be \$750 000, and then \$1 million. This measure is the thin end of the wedge. We will progressively be driven to greater costs.

What of the young boy or girl who owns a pony, something which many children desire? The cost to parents is already high to maintain horses, whether they be in the country or on small blocks near the metropolitan area.

The parents of these children will need to take out insurance for public liability, and this will make them feel the pinch in providing a useful and pleasurable amenity for their children. The insurance cost might be the very thing which prevents young children from having this pleasure, which is a most useful activity for children. The consequences of not taking out this insurance could be disastrous for a family in the event of a claim arising from an accident involving a child's horse.

Naturally insurance companies encourage this sort of legislation because it means an expansion of their potential markets. They are in the business of selling insurance, and if they see an area that will create a market for them they will quickly move in. Most farmers are responsible people, especially in the raising of their livestock. Their livestock is their income, and fences are necessary to keep that livestock not just off highways, but also away from dangerous areas such as those containing poison. Farmers go to considerable expenditure to build and to maintain fences to achieve these aims. Fences need gates, which happen to be left open at times, and this leads to stock straying onto highways or into areas where poison is held. Farmers have a considerable financial incentive to maintain their fences in good order to prevent their stock from straying.

The provision of the Bill dealing with the common practice in a locality in regard to fencing, and other measures in the Bill to prevent stock straying onto highways in a locality, are important. The Attorney in his second reading speech said that the standard of fencing varies widely in a State the size of Western Australia. He went on to say that by adopting the factors mentioned, a court would be in a position to make its own evaluation of the requirements and customs of any particular area. What does this lead to? Who will determine the acceptable standard of a fence? Would a court when hearing a case have to ad-

journ to tour a locality in order to ascertain for itself the standard of fencing?

Hon. H. W. Gayfer: They will have to be careful they don't go over the shire boundary, because they would see another standard.

Hon. W. G. ATKINSON: That is for sure. Will the question fall back onto local authorities to determine? Will it fall to some department, such as the Department of Agriculture? We have already witnessed the department set a standard in regard to fencing around deer farms. Maybe it will be the authority called upon to determine this question.

I do not support farmers or graziers who consistently neglect their fencing. Such people deserve to have the weight of the law come down on them.

Hon. Peter Dowding: Isn't this what a court does all the time? It hears evidence about the facts and then comes to a decision. There is nothing new about this.

Hon. W. G. ATKINSON: The Parliament is being asked to place itself in the place of the court.

Hon. Peter Dowding: No, it gives a court the power to make a decision.

Hon. W. G. ATKINSON: This matter is something a court should decide, and it should be taken to the highest court in the country.

I certainly do not have sympathy for farmers who neglect their fences. Unfortunately each district has one or two people in this category. But what about cases of stock being stampeded either by packs of straying dogs, the movement of motor vehicles, or natural causes such as fires or thunderstorms? Flood or fire causing damage to fences, and motor vehicle accidents causing the same, lead to stock straying.

The whole matter would be better left to the courts, rather than to members of Parliament, to decide. Therefore, I oppose the Bill unless some of the questions I have asked can be answered. I wish to see the limit of \$500 000 recommended by the Law Reform Commission included in the Bill.

HON. P. H. WELLS (North Metropolitan) [9.01 p.m.]: I am indebted to the Leader of the House for his delaying consideration of this Bill to enable me to speak to this issue. I will try to ensure that my remarks do not take too much time. I support most provisions of the Bill, although it could be argued that a city person who has a swimming pool has a liability in the event of injuries associated with it. If a milkman trips over a hose in a person's yard, the owner of the hose has certain liabilities. From reading the Law Reform

Commission report and the Minister's second reading speech, I gather that the uncertainty that has been created by various court decisions means that Parliament has to decide certain issues. Project 11 of the Law Reform Commission report on liability for stock straying onto the highway said that the rule in *Searle v. Wallbank* indicates that owners or occupiers of land adjoining our highways are in no danger if they take reasonable care to prevent their animals straying onto the highway.

Each of us has certain responsibilities in that area. If I were to take heed of the chuckling Minister's remarks in terms of who should decide, I gather that the courts should decide after Parliament has set the parameters. I suppose we are setting the parameters here to allow the courts to decide.

I find some clauses of the Bill a little bewildering. I hope the Minister can explain them for me; he has had a better briefing on the Bill than I have had. A problem I find with legislation is the lack of support provided to a member of Parliament. We are not able to research matters as deeply as we would like to do so. Clause 3 is a retrospective clause, part of which reads as follows—

... restricts the duty which a person might owe to others to take such care as is reasonable to see that damage is not caused by animals straying onto a highway does not form part, and shall be deemed never to have formed part, of the law of Western Australia.

I do not know how one could exclude something that did not exist according to the courts. In his second reading speech, the Attorney General said the decision meant there was no duty to take care in any case. The decision in *Searle v. Wallbank* said there was no duty. I wonder what liability is referred to in the first clause, and what "retrospectivity" means in the second reading speech, if that liability did not exist according to the case cited. How can we wipe it out?

Hon. J. M. Berinson: No, we are saying the rule is wiped out, not the liability.

Hon. P. H. WELLS: In his second reading speech the Attorney said clause 2 was to limit the retrospectivity and not to affect actions already commenced in the courts. I ask the Attorney General if under the law of Statute accidents that have happened in the last six years, which have not come before the courts, will come under this legislation.

Hon. J. M. Berinson: Yes.

Hon. P. H. WELLS: So it is possible that this legislation could bring a spate of claims before the court, which would not otherwise be before it?

Hon. J. M. Berinson: The most recent authority of the Western Australian Supreme Court was the case of Thomson v. Nix.

Hon. P. H. WELLS: I am a little confused. I have read the Law Reform Commission report. If a ruling in terms of liability is under question, that is the reason for this legislation. If a person still has liability, why the need for this Bill? It creates some confusion.

It is interesting to see the Minister for Mines with his university lawyer's education, and appearing to know the answer to all these questions, shaking his head. He is probably asking why he has to put up with my questions. I ask the Government to give me some explanation.

Hon. P. G. Pental: You are quite right.

Hon. P. H. WELLS: The Attorney General is telling me the High Court said they are liable.

Hon. J. M. Berinson: No, I said the Supreme Court.

Hon. P. H. WELLS: I gather it will be challenged in the High Court.

Hon. H. W. Gayfer: Once it is through, it cannot be challenged in the High Court.

Hon. P. H. WELLS: It confuses me. I thought that was the necessity for this legislation. We need to provide people who are not lawyers with clear directions in this regard. If the High Court says they are already liable, the Government has lost some of my support for this Bill, because I would have thought the law was okay if it went through the courts.

Hon. J. M. Berinson: I repeat again that it was not the High Court that said that; the Western Australian Supreme Court said it. The law hangs on that because the High Court has said the reverse of that, but not specifically in relation to Western Australian law.

Hon. P. H. WELLS: There is a lot of confusion there. This legislation will bring in a whole range of retrospective claims, and the farming community may have had no opportunity to obtain cover, because they may be working under totally different local situations. I wonder whether that matter is under consideration. How could a person operating under a law be covered when he did not believe he was covered?

The Minister is shaking his head and is probably thinking I am not on the right track. I point out to him that I would have loved to have more time to obtain advice on this matter. That is a problem with our parliamentary system and the

amount of legislation going through. If a member wants to speak on a particular Bill, he has to contend with the pressure of time in regard to the Parliament and his electorate, and he does not get the chance to obtain advice such as that provided to members of the Government.

Hon. H. W. Gayfer: The old rule prevails.

Hon. J. M. Berinson: If my memory is correct, this Bill was introduced on 4 August, which would have given you a fair amount of notice.

Hon. P. H. WELLS: That is right. I have been working on a number of other Bills. I know the Attorney General only works on a couple at a time. He has his advisors. He knows that as a member I tend to have an interest in most Bills that come before the Parliament. However, I do not have a back-up system of advisers to assist me.

Hon. Mark Nevill: You need an adviser.

Hon. P. G. Pental: See if we can borrow a couple of advisers, Mr Wells.

Hon. P. H. WELLS: Clause 3(4) is a very interesting clause. 3(4)(d)(i) lists the various things the courts should take notice of, such as fencing. Clause 3(4)(d)(ii) talks about taking measures to inform all users of the highway of the likely presence of animals thereon. That situation could occur on a pastoral lease or a person's property. I assume in most cases we are talking about roads and signs which come under the control of the Main Roads Department or a local authority. I pose this question to the Attorney General: If a slick lawyer such as the Minister for Mines—

Hon. P. G. Pental: The Minister for Mines!

Hon. P. H. WELLS: —decides to advise farmers that tomorrow they could go to the MRD and request that warning signs be put up, they could then say they tried to warn people but the Government would not put up warning signs in a certain area. I think this clause is a bit superfluous because it can be effectively overcome by the smart alecks.

The Law Society of Western Australia brings subclause 3(4) into question. I understand the Minister has a copy of the letter which reveals this Bill. The second paragraph of that letter reads as follows—

In summary, the Bill is welcomed with reservations with respect to clause 3 (4), particularly (e). It might be best to delete clause 3 (4) entirely. It gives rise to a danger that, particularly in the lower courts, the stated criteria might receive undue attention to the exclusion of others having relevance in the circumstances of a particular case.

I gather it is claimed that the Government accepts that for the various paragraphs (a) to (e) it set the parameters regarding what the court should consider. The court may give prominence to those provisions, or it may not do so. The recommendation of the Law Society is that this should be removed from the Bill. What answer would the Government give to the Law Society in regard to that? There could be an inherent danger in that more realistic things that should be brought in may be overlooked.

Clause 3(4)(e) deals with the cost of fencing. It is felt that this should be taken into consideration. I cannot understand why that should be the criterion in two different areas, because the cost of fencing in the north would be dearer than the cost of the same fencing in the south-west; yet the danger where no fence exists is similar.

I gather that acts of God will be excluded from action under the Bill. If a tree falls over and damages a fence and allows stock to stray that, I assume, is called an act of God. I am not too certain, but I wonder if this provision really protects people. I refer to the last point, which covers straying stock generally. Once laws are defined in terms of the State, because of decisions of the State about whether kangaroos or cougars can be shot and whether certain types of animals are allowed in specific areas, the State by its omission in respect of curtailing certain wild animals should be responsible for accidents caused by them. If under the Bill certain people will be liable for accidents, should not the State accept some liability, particularly in cases where it prohibits the shooting of kangaroos? I notice in the Law Reform Commission's report that some 48 per cent of accidents are caused by kangaroos. A movement exists in this country to stop the shooting of kangaroos, and actions taken as a result of that movement could create a liability. If farmers are expected to pick up the tab in respect of stock, it may well be that the State has a liability because it created the situation of straying kangaroos.

I support the basic concept of the Bill, with reservations on the need for clause 4. I accept that some need exists for maximum liability.

The last question I pose to the Attorney refers to recommendation (5) of the Law Reform Commission report. It is noted that in drawing up the Bill the Government has taken notice of the first three recommendations but has not accepted the fourth recommendation which deals with an upper limit, at present of \$500 000, to be placed on the amount of damages recoverable in respect of any one accident, with provision for this limit to be increased at regular intervals. Recommen-

dation (5) concerns the existing law of contributory negligence and contribution between persons guilty of negligence applying to claims brought in respect of loss suffered as a result of an animal straying onto the highway. If that is embodied in the proposal, perhaps the Minister could explain it to me. I refer to page 33 of the report. It is also explained in detail on page 41. Recommendations (4) and (5) on page 33 are not incorporated in the Bill. The Attorney might be willing to explain why they were not included. Also, I assume the Attorney has a copy of the comments of the Law Society of Western Australia on the Bill. I would be interested in his remarks on those comments, particularly with reference to recommendation (4).

HON. J. M. BERINSON (North Central Metropolitan—Attorney General) [9.21 p.m.]: Most speakers in this debate have given general support to the Bill and I thank them for that. Members who have expressed reservations have looked in the main for some limit on the liability which the Bill creates or modifies.

The Hon. Vic Ferry has listed an amendment which would limit that liability to a maximum of \$500 000 and I recognise that that would be, in fact, in line with that Law Reform Commission report. The advice of the commission in this respect has not been followed because, in the view of the Government, to follow that recommendation would be inconsistent with almost all other actions for negligence. Where tortious injury is caused by accident at work, in traffic, by faulty building or maintenance, by negligence in the practice of medicine, law, engineering, architecture, accountancy, and so on, or where it is caused in any one of an innumerable list of other circumstances and combination of circumstances, damages are virtually always unlimited. Moreover, if the Supreme Court decision in *Thomson v. Nix* represents the law in Western Australia, the law on liability for straying stock on the highway is even now, without this Bill, unlimited.

Hon. H. W. Gayfer: What is the difference?

Hon. J. M. BERINSON: The difference is we want to avoid any continuing uncertainty on the matter. I will anticipate a reply I would have given later to the Hon. Peter Wells: The purpose of the Bill is to eliminate any uncertainty which might otherwise arise from inconsistent judgments by the High Court in respect of the law in other States. The High Court has not been called on to adjudicate on the law in this State, and until it does the authority in Western Australia is as established by *Thomson v. Nix*. In the Government's view, we should not go backwards, nor

alternatively should we create an anomaly in this particular area or aspect of negligence.

I appreciate there will be some additional cost for those landholders who are so unwise as still to be uninsured against this risk. The Hon. Bill Stretch opposed this Bill altogether on that very ground. He expressed concern at the addition of further burdens on industry, which is a serious consideration, but one which is hardly novel. The same can be said of workers' compensation insurance, which is compulsory; and of third party insurance, which also is compulsory; and of motor vehicle and public liability insurance, which are not compulsory, but which are prudent from the point of view of the insured party, and are nearly always essential from the point of view of a party injured by the sort of negligence these insurance policies cover.

It is worth remembering in this context, with the greatest respect for those who are concerned about additional cost to farmers, that farmers also are users of the highway; they also are people at risk in the sorts of situations this Bill is setting out to cover. The effect on them can be just as disastrous as it would be on anyone else who comes to grief as a result of negligence of this type where the responsible party is uninsured and, with the scale of damages now available, certainly not in a position to meet a judgment from private sources.

To summarise on this aspect, I say first that in principle the general requirement is that unlimited liability should not be disturbed. Second, in practice the cost of insurance should not be excessive in the context of general costs, including those for other types of insurance.

The Hon. Vic Ferry led for the Opposition and I propose to deal in greater detail with the matters he raised, although many similar points were raised by other speakers. I hope my reply to him will serve the purpose of replying to other comments as well. He pointed out among other things there is no definition in the Bill of the word "highway" and he compared this with the situation of an Act such as the Road Traffic Act where the word "road" is defined. I suggest it would not be appropriate in a Bill of this nature to define the word "highway". The reason is that it is the purpose of this Bill to negate a common law rule which incorporates the term, but in the nature of things without a specified definition. As the rule has developed, so has the understanding of the types of roadway to which the term "highway" applies.

The Hon. Vic Ferry also referred the House to regulations 1702 and 1702A of the Road Traffic Act. With respect, I put to the House that those

regulations have no immediate relevance to the proposals contained in this Bill. They simply make it an offence to fail to take reasonable precautions to prevent stock straying onto a road. The consequence for a person who fails in this regard is that he may be subject to a fine. Sometimes regulations can set particular standards of care to which the courts will have regard in considering the question of civil liability, but this is not the case here. Nor would the fact that an owner of stock had not been convicted of a breach of those regulations be admissible on trial of an action for damages arising in the same circumstances. On the other hand, an admission of such a breach made by that owner would be admissible.

Essentially, the same position obtains with regard to the sections of the Local Government Act to which the honourable member referred. They have no relevance, either, to the matter of civil liability for stock straying onto the highway. Some mention was made in the course of debate of the criteria which may be considered by a court in relation to a claim under this Bill. The Hon. Vic Ferry referred to this and I think the Hon. Tom Knight and the Hon. Peter Wells referred to it as well. The criteria which the honourable members question are found in clause 3(4) of the Bill. It is true, I believe, that these criteria might have been omitted altogether with very reasonable confidence that the court would consider these and other relevant matters in any event.

This leads me to the sorts of questions which the Hon. Sandy Lewis put and which the Hon. Peter Wells also raised tonight in which they constructed all sorts of theoretical possibilities—

Hon. A. A. Lewis: Practical possibilities.

Hon. J. M. BERINSON: —theoretical practical possibilities—and asked what I would do about that. My short answer to these very reasonable questions is that I would do nothing, but I would expect the court to do a great deal. I would expect the court to adjudicate on those sorts of questions in the same way as it adjudicates every day of the week on fact situations which are equally as complex as these.

I do not propose to give a lecture on the law of tort mainly because—

Hon. A. A. Lewis: You don't understand it.

Hon. J. M. BERINSON: I am sorry the member is so unkind. I suggest that in the whole law of negligence a body of law has been built up and a well recognised approach has been adopted by the courts. Concepts like the duty and standard of care have had to be applied over limitless combinations of circumstances. Up to this time they

have not daunted the courts and I am sure the courts would not be daunted by having to face the admittedly difficult circumstances which could arise from the sorts of situations to which honourable members have referred.

The question remains, if that is the case, why refer to these criteria in the Bill at all? The reason for that is found in the report of the Law Reform Commission which makes clear that the real purpose of specifying the criteria is to give some guidance not so much to the courts but to the keepers of animals. That is referred to at page 37 of the report.

Again this is only notice to landowners in the most general of terms. Nonetheless, it puts them on notice of the sorts of things they might reasonably look to observe. Conversely, it gives them at least some indication—I think a rather clear indication—that they will not be looked to for heroic measures. No-one will believe that a leaseholder on a property of one million acres will be expected, with the sparsity of stock on his property, to fence every roadway which might go through or around the property. This merely gives an indication of the thinking of the commission, now I hope to be reflected by the opinion of this House, and will serve as some guidance to the people who would be affected.

Hon. W. N. Stretch: That puts it back on the landholders then, doesn't it?

Hon. J. M. BERINSON: No, because *Searle v. Wallbank* says that, irrespective of circumstances, if it is simply a question of stock straying onto highways, no liability arises. The report says it does arise given normal, reasonable standards of duty and care.

Hon. W. N. Stretch: But over three-quarters of the State it would not really apply.

Hon. J. M. BERINSON: I can only start repeating myself in response to comments like that by saying that is a matter for the courts to determine and not for me.

Hon. A. A. Lewis: That is what worries us.

Hon. J. M. BERINSON: I am flattered to think the Hon. Sandy Lewis would rather have my determination of these problems.

Hon. A. A. Lewis: I am not sure that I would. We could explain it to you many times. I do not really want to criticise the legal profession, but at times members of it do not get a grasp of the practicalities and the cost to the industry—things about which many of us are worried.

Hon. J. M. BERINSON: I do not think there is any question here of worrying about the practicalities of the legal profession. It seems to be fair

sport in this House to criticise lawyers in the ordinary course of events and the most common criticism of them is that they are impractical people.

Hon. H. W. Gayfer: They charge too much!

Hon. J. M. BERINSON: Be that as it may, the adjudication in these matters will not be by lawyers; it will be by judges and I suspect that even the Hon. Sandy Lewis will stop short of saying that they are so impractical as to be incapable of producing reasonable decisions in this area of the law, as they do in so many others.

In the context of this same clause, attention was drawn to the fact that clause 3(4) says that a court may consider the matters set out. A question was raised by the Hon. Tom Knight, among others, as to why that should not be made mandatory by replacing the word "may" with the word "shall".

The discretion which the word "may" imparts is regarded as being preferable. A mandatory requirement that all stated factors be considered could be to the detriment, for example, of a person who did not produce evidence of one such factor on a view that it was irrelevant in the particular circumstances. There is an additional consideration that this list of factors is not intended to be exclusive. In fact the court, as in all other matters of negligence, should take into consideration what ought reasonably to be considered.

Hon. Tom Knight: But with the points we were looking at there it is most imperative that they shall look at it, because all the points in the clause lay out the aspects of how it can be determined and I believe the word should be "shall". They shall look at those points because they are all relevant.

Hon. J. M. BERINSON: I have suggested two reasons why the word "shall" would not be desirable. It is easy to conceive of situations where one or more of these factors are totally irrelevant and there is no point in making it mandatory on a court to consider them, anyway.

I hope I have dealt with at least most of the main questions raised. I commend the Bill to the House.

Question put and a division taken with the following result—

Ayes 18

Hon. J. M. Berinson	Hon. Margaret McAleer
Hon. D. K. Dans	Hon. I. G. Medcalf
Hon. Peter Dowding	Hon. Mark Nevill
Hon. Graham Edwards	Hon. P. G. Pandal
Hon. V. J. Ferry	Hon. S. M. Piantadosi
Hon. Kay Hallahan	Hon. I. G. Pratt
Hon. Robert Hetherington	Hon. Tom Stephens
Hon. G. E. Masters	Hon. P. H. Wells
	Hon. John Williams
	Hon. Fred McKenzie

(Teller)

Noes 7

Hon. C. J. Bell	Hon. Neil Oliver
Hon. H. W. Gayfer	Hon. W. N. Stretch
Hon. Tom Knight	Hon. W. G. Atkinson
Hon. A. A. Lewis	

(Teller)

Pairs

Ayes	Noes
Hon. Garry Kelly	Hon. G. C. MacKinnon
Hon. Lyla Elliott	Hon. N. F. Moore
Hon. J. M. Brown	Hon. P. H. Lockyer

Question thus passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (the Hon. John Williams) in the Chair; the Hon. J. M. Berinson (Attorney General) in charge of the Bill.

Clauses 1 and 2 put and passed.

Clause 3: Liability in tort for damage caused by animals straying on to highways—

Hon. V. J. FERRY: This clause is probably the most important part of the Bill and it contains one very important omission to which I alluded in my second reading speech; that is, the limitation of liability where an action for damages is determined in favour of the person claiming the damages. I am fortified by the knowledge that the Law Reform Commission report recommended a limit to the damages awarded for any one accident. Accordingly, I will shortly move an amendment.

Awards for negligence are reaching astronomical figures. The situation is getting out of hand in Australia and the situation in the United States is even more ridiculous. From what I gather, there is a trend to restrict the maximum amount awarded for damages in various actions; this trend is gaining recognition and popularity in the community at large, and therefore should be entertained by us. Anyone taking out an appropriate insurance cover should not be burdened unduly with extremely high premiums for that cover.

Hon. J. M. Berinson: Do you have examples of the sorts of limitation to which you are referring?

Hon. V. J. FERRY: I have none at my fingertips, but I am aware of some very high awards for damages. Only recently I was talking to a United States citizen and he alluded to the situation in his country where people are being awarded millions of dollars in damages, completely and utterly out of proportion to the need. It is appropriate that we should be restricting the amount awarded for damages without denying people the right to claim for damages.

As I mentioned in my second reading contribution, this Bill does not contain a provision for the making of regulations. I commend this inasmuch as what we see is what we get, and we are not relying on regulations drawn up at some future time. In keeping with the spirit of the legislation, we should not have regulations flowing at a later stage to increase the maximum amount of liability to be recoverable by tying it to the inflation rate, CPI adjustments, or factors of that nature.

It is quite common for insurance companies to suggest that premiums should be increased by 10 per cent each year, that being a good round figure. I would much prefer any adjustments to the maximum to be decided by the Parliament rather than to be made by way of regulations governed by any factor beyond the control of this Parliament. If there needs to be any adjustment in the future, the legislation of necessity should return to the Parliament for the Parliament to determine.

This Bill is breaking new ground; it is changing the old rule and is establishing new guidelines. In that respect it is monumental legislation. Therefore, if in the future there is to be any change for any reason to any aspect of the legislation, certainly in regard to the maximum damages ceiling, the legislation should come back to the Parliament.

I move an amendment—

Page 3—Add after subclause (4) the following subclause to stand as subclause (5)—

(5) There shall not be recoverable by way of damages in respect of any one cause of action in tort for negligence arising out of damage caused by animals straying on to a highway an amount exceeding \$500 000.

Hon. H. W. GAYFER: Mr Ferry is right when he says this Bill is breaking new ground. The seven of us who opposed the second reading of the Bill were trying to spell it out. Having lost that division, now that the Bill will become law—we do not have the majority to stop it—we believe it is now necessary to try to limit the liability which could be incurred by any one person in the event

of an accident taking place such as that envisaged in the terms of the Bill.

The Hon. Vic Ferry is right when he says that awards are becoming astronomical, especially in the United States. Not only in the US but also in this country they are jumping up month after month and year after year. In no way will the farmer or the landowner or whoever it may be—the person with the quarter-acre plot with a horse on it—be able to keep up with what appears to be the mounting inflation in respect of awards. Somewhere along the line, if we are going to have legislation such as this, there must be wiser counsel than regulation to increase those awards as time goes by. I agree with the Hon. Mr Ferry, that if indeed awards are to be allowed under the terms of this Bill, Parliament should have the right to peg the limits of liability under the Bill.

Accordingly I intend to support the amendment. It would be futile now to oppose it. In supporting it I must express my opposition to the whole principle of the Bill. This is the thin end of the wedge that we have been talking about. This is the Achilles heel of the Bill, that we believe to be wrong. These costs are being pushed back onto the industry and in a very short time the Act will be back before the House with an amendment to increase the \$500 000 limit to another figure. This is exactly what the eight of us who have opposed this Bill have expressed our doubts about—this and the standards of fencing and other matters. I support the Hon. V. J. Ferry and the amendment he put forward.

Hon. J. M. BERINSON: I will be brief on this matter, but I hope that will not be taken as an indication of my support for the amendment. On the contrary, I am strongly opposed to it. If I speak briefly now it is because it seems to be only half and hour since I spoke at some length in explanation of the reasons for the Government's view that liability under this Bill should in fact be unlimited.

The Hon. Vic Ferry has said that awards are getting astronomical. Leaving aside what may be happening in other countries, by ordinary standards I think it is fair to say that some awards in Australia are in fact getting astronomical. The truth of the matter is that that is because the measure of damages is astronomical. People are being compensated for loss, and calculations are closely made to reflect the real losses suffered by the people who have been injured. That is the reason that they are astronomical. It is not that courts have become more generous, or, at least in most cases, that different standards are being applied. In fact it is that damages of that order are being awarded.

Hon. P. G. Pendal: It is that value judgment that people are challenging.

Hon. J. M. BERINSON: I will come to this in a moment. Before doing so I should like to trace the costs and benefits of what we are talking about. The difference between a public liability insurance cover of half a million dollars and one for \$1 million is relatively small. In most cases it can be counted in hundreds of dollars only.

Hon. H. W. Gayfer: Hundreds of dollars! To you, that is just nothing.

Hon. J. M. BERINSON: It is nothing compared to a potential loss of \$500 000 by an insured person or persons who find themselves deprived of the capacity to care for themselves.

Hon. H. W. Gayfer: Hundreds of dollars in premiums is nothing to you. My God!

Hon. J. M. BERINSON: I ask the member to consider this in the context of costs on the one hand and losses on the other. If \$500 000 is in fact inadequate as a measure of damages for a particular set of circumstances, the loss for the person or persons affected could be disastrous. If we are talking about another couple of hundred dollars' premium, I suggest to Mr Gayfer, even in these difficult days that does not represent a problem of the same order. This is all a matter of judgment.

Hon. A. A. Lewis: A premium increase of \$200 per person represents a total increase of \$2 million a year.

Hon. H. W. Gayfer: What an academic approach!

Hon. J. M. BERINSON: It is not an academic approach.

Hon. H. W. Gayfer: You have no understanding of the situation; you would not have a clue.

Hon. J. M. BERINSON: If I may say so, I have had occasion to take out public liability insurance and insurances of various kinds. It is not only a matter of protecting somebody who might suffer by an act of mine, but to protect myself as well, as a matter of prudence, I go for the higher insurance rather than the lower, and I am prepared to accept the cost.

Hon. H. W. Gayfer: There is a difference: You can afford the additional premium while many others cannot.

Hon. J. M. BERINSON: I believe that the member's constituents would not oppose this. While preferring a lower premium on their motor vehicle insurance cover, for example, most of them would not dare to go on the roads if they were not comforted by the thought that unlimited liability would be covered in the event of injury to

somebody else. I believe the honourable member's constituents would share that point of view. All I am trying to put forward is that it is reasonable to have the same sort of judgment applied here.

Hon. A. A. Lewis: Could you just tell me whether you can add on the cost in your business? Can you add the cost to the consumer when you sell goods out of your pharmacy?

Hon. J. M. BERINSON: There is not much point in our going back into history to the days when I was in the pharmacy. I am not prepared to go out on the roads without the security of a full and unlimited cover. That is a fact. That is a matter of my own security. The other part of it is that persons who may suffer by my negligence have damages available to them without sending me bankrupt and without going short of their full measure of damages because I simply cannot pay and I do not have the insurance.

It was said at one point that there is a tendency to restrict the amount of damages which can be recovered. I invited the Hon. Vic Ferry to give an example. As far as I am aware, the examples are all in the opposite direction. In my comments a few moments ago I listed various types of insurance, and all of those—the exception, I suppose, is workers' compensation, which is subject to a prescribed amount but does not involve negligence—involve unlimited liability.

I do not think it helps much to talk about the experience or trends in the United States. I think I have said here before that although I am an admirer of the US I do not admire the propensity for litigation in that country and I do not admire many other matters which emerge from its judicial systems, including the range of damages for all sorts of extraordinary things. We do not have that here. Our awards for damages as a result of negligence are awards closely calculated to the actual loss.

The Government is strongly opposed to this amendment for the reasons I have just given, and for the reasons set out in my second reading comments. I urge the Committee to reject the amendment.

Hon. V. J. FERRY: One explanation is due to the Committee. The amendment before the Chamber is not that which appears on the Notice Paper. The amendment I have moved makes no reference to insurance; therefore the amendment covers any person who may have or may not have insurance. In other words, the total liability covers any contingency. If I were an owner of stock and preferred not to take out insurance to cover any liability, I would still be covered by this. Any amount I was called upon to pay would not be

more than the maximum. I emphasise that it is not compulsory for people to take out this insurance.

Hon. H. W. GAYFER: The ridiculous argument put by the Attorney has left me cold. For him to say that an upper limit should not be provided by this Bill is ridiculous. All its omission would do is to write an open cheque. To use the Attorney's words, the premiums would be only a few hundred dollars more. That is the very argument we have put; the Government would have thousands of farmers and other people pay a premium with an open cheque.

Hon. J. M. Berinson: Why don't you urge the same for third party insurance?

Hon. H. W. GAYFER: If the Labor Party is to govern this State it must get down to understanding what the people out there can afford or cannot afford to do. Cost is one of the prime arguments in the rural sector at the moment.

Hon. J. M. Berinson: I have already agreed with that.

Hon. H. W. GAYFER: For the Attorney to advocate an open cheque to meet this problem is absolutely ridiculous. I am amazed to hear such a lack of understanding. A solicitor, a chemist or a politician can pass on his costs, but the agricultural person beyond those hills is not able to do that. The sooner the Attorney can understand what this State is all about, the better he will run it.

Amendment put and a division taken with the following result—

Ayes 14

Hon. W. G. Atkinson	Hon. I. G. Medcalf
Hon. C. J. Bell	Hon. Neil Oliver
Hon. V. J. Ferry	Hon. P. G. Pendar
Hon. H. W. Gayfer	Hon. I. G. Pratt
Hon. Tom Knight	Hon. W. N. Stretch
Hon. A. A. Lewis	Hon. P. H. Wells
Hon. G. E. Masters	Hon. Margaret McAleer (Teller)

Noes 10

Hon. J. M. Berinson	Hon. Robert Hetherington
Hon. D. K. Dans	Hon. Mark Nevill
Hon. Peter Dowding	Hon. S. M. Piantadosi
Hon. Graham Edwards	Hon. Tom Stephens
Hon. Kay Hallahan	Hon. Fred McKenzie (Teller)

Pairs

Ayes	Noes
Hon. G. C. MacKinnon	Hon. Garry Kelly
Hon. N. F. Moore	Hon. Lyla Elliott
Hon. P. H. Lockyer	Hon. J. M. Brown

Amendment thus passed.

Clause, as amended, put and passed.

Title put and passed.

Bill reported, with an amendment.

DOG AMENDMENT BILL*Second Reading*

Debate resumed from 15 September.

HON. J. M. BERINSON (North Central Metropolitan—Attorney General) [10.10 p.m.]: The Hon. Phillip Pental made two points. The first was to ask whether proposed section 6 (3) did not in fact implement the opposite of what is intended. My answer to that is: "Very likely, although not certain". For purposes of greater caution I will in the course of the Committee stage propose a small amendment to add the words "under this Act" after the words "liability in tort" in proposed new section 6(3). I have discussed this with the honourable member and I think it meets his objection.

As I recall the honourable member's second comment, it related to an opinion given by the Law Society that the Bill as presently worded might not meet all conceivable possibilities of what a dog might do to an individual on the highway. The honourable member suggested that the Law Society might be going too far in trying to cover every conceivable and even inconceivable problem, and I agree with him again. In short, it would appear that this is one of those rare and happy moments where we all agree; at least the Hon. Phillip Pental and I agree.

I commend the Bill to the House.

Hon. P. G. PENTAL: It must be the America's Cup win.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (the Hon. Robert Hetherington) in the Chair; the Hon. J. M. Berinson (Attorney General) in charge of the Bill.

Clauses 1 and 2 put and passed.

Clause 3: Section 6 amended—

Hon. J. M. BERINSON: I move an amendment—

Page 2, line 27—Insert after the words "the liability in tort" the words "under this Act".

As I previously indicated, this is to meet the objection raised by the Hon. Phillip Pental. It is perhaps conceivable that by some sort of tortuous manipulation of the words as originally proposed in the Bill the intended sense might be read into it. As I have indicated, however, for proper caution and greater clarity, I propose that these words be included. I understand that the Hon. Phillip Pental agrees that this meets the objection he raised.

Hon. P. G. PENTAL: The Opposition merely wishes to acknowledge the Attorney General's comments and to thank him for his willingness to be prepared to add those words.

Hon. D. K. DAns: All heart.

Hon. P. G. PENTAL: It appears that the addition of those words meets the objection that we raised during the second reading debate. I thank him for that and signify our support for the amendment.

Amendment put and passed.

Clause, as amended, put and passed.

Title put and passed.

Bill reported with an amendment.

ADJOURNMENT OF THE HOUSE

HON. D. K. DAns (South Metropolitan—Leader of the House) [10.16 p.m.]: I move—

That the House do now adjourn.

Coal: Press Statement

HON. A. A. LEWIS (Lower Central) [10.17 p.m.]: I will not hold up the House, but at question time today I asked the Minister for Mines and Minister for Fuel and Energy a question about a Press statement he made. I accused him of using my name in the Press statement. I want to state here in the House that it is acknowledged that he did not do so. In regard to the second part of the question I was quite right; he tried in the Press statement to justify his inadequacies by belting people under the ear and

he made some very false allegations about the Opposition in Collie and about gas from the North-West Shelf. He has not stated whether he believes we should have gas from the North-West Shelf or not. I believe it is my duty to apologise to the Minister for that.

Hon. Peter Dowding: Birth of Child

Finally, I congratulate the Minister and Jill, his wife, on the birth of Katrina. May they both—

Hon. P. H. Wells: Have many more sleepless nights!

Hon. A. A. LEWIS: That is up to Mr Dowding.

Hon. Fred McKenzie: And his wife.

Hon. A. A. LEWIS: I hope they are both well and continue in good health.

Hon. Peter Dowding: I am most grateful for your comments.

Question put and passed.

House adjourned at 10.18 p.m.

QUESTIONS ON NOTICE

ROTTNEST ISLAND

Kingston Barracks: Transfer

431. Hon. P. G. PENDAL, to the Leader of the House representing the Premier:

- (1) Has agreement been reached on the transfer of the Rottneest Army land to the State Government?
- (2) If so, is the decision being withheld so that announcement is made just prior to the Mundaring by-election?

Hon. D. K. DANS replied:

- (1) No.
- (2) No.

COMMUNITY WELFARE

Separating Couples: Financial Assistance

436. Hon. P. G. PENDAL, to the Minister for Mines representing the Minister for Youth and Community Services:

- (1) Is the Minister aware of the policy outlined by his predecessor in May 1981 relating to financial assistance to partners seeking to leave the marital home wherein—

- (a) the department in future is to make prior contact with the husband to allow him sufficient opportunity to oppose an application for such assistance;
- (b) all such applications must be referred to the director or deputy director of his department for their decision; and that
- (c) if the application is subsequently approved, the husband must be advised in advance of the department's intention to assist with travel costs so as to enable him the time and opportunity to take any legal action which may be open to him to prevent the loss of access?

- (2) Is this policy still operative, or has it been altered in any way?
- (3) If the policy is still operative how many women have sought assistance since May 1981?
- (4) Of these, how many women have received such assistance?
- (5) Of those who have received such assistance, how many of the husbands

involved were notified in advance of the policy?

- (6) If any husbands were not notified, what were the "compelling reasons" advanced as to why the policy has been varied?

Hon. PETER DOWDING replied:

- (1) (a) to (c) Yes. However, parts (a) (b) and (c) of the question provide an incomplete and oversimplified account of the department's policy statement (Administrative Instruction No. 222) on this matter. A number of different situations are identified in the policy statement. For example, a husband with no legal rights regarding the children involved may not be contacted before assistance is provided and the director or deputy director are not necessarily consulted in all situations.

- (2) Yes.

- (3) No separate records are kept of women applying for assistance to leave home. For one thing such approaches to the department are resolved in various ways not all involving the wife leaving home or the town in which she is living.

- (4) Again separate records are not kept of this particular category. Some 500 stranded emergency travel cases a year are processed by the department including cases of the kind in question.

- (5) Husbands would have been notified in advance where those circumstances existed as specified by Administrative Instruction No. 222.

- (6) The special circumstances where husbands need not be notified in advance of assistance being provided are clearly stated in the instruction.

PARLIAMENT: PROROGATION OR DISSOLUTION

Business: Legislation

453. Hon. I. G. MEDCALF, to the Attorney General:

- (1) Is the Government proceeding with proposals which were under consideration by the previous Government for legislation to enable the business of Parliament to be carried forward and/or the existence of Committees of Parliament to be continued beyond the prorogation or dissolution of Parliament?

- (2) If so, when is it anticipated such legislation may be introduced?

Hon. J. M. BERINSON replied:

- (1) and (2) This question should have been directed to the Minister for Parliamentary and Electoral Reform. It has been referred to him with the request that he reply to the member direct.

TRAFFIC: DRIVERS

Licences: Credit Card Style

454. Hon. P. H. WELLS, to the Minister for Mines representing the Minister for Police and Emergency Services:

- (1) Is the Government considering the introduction of credit card styled driving licences?
- (2) If so, will the cards include a photograph of the licence holder?
- (3) What reports have been or will be made to the Government on card style licences?
- (4) Will the Minister either table reports on these licences or make them available to interested backbench members?
- (5) What will be the additional cost of card styled licences to both the Government and the licence holder?

Hon. PETER DOWDING replied:

- (1) The Government has not considered introduction of credit card style driving licences, at this time.

I have been advised that the Police Department has carried out investigations into various options that exist, including the possibility of incorporating a photograph of the licence holder.

Due to financial restraints, it is not proposed that this matter be further considered by the Government this financial year. Depending on the outcome of the investigations and the availability of funds in 1984-85, consideration will be given at that time.

- (2) to (6) Answered by (1).

EDUCATION: HIGH SCHOOL

Roleystone

455. Hon. NEIL OLIVER, to the Attorney General representing the Minister for Education:

Now that stage 1 of the Roleystone District high school has opened—

- (1) Is this middle school pilot scheme proving successful?
- (2) If so, when will the next stage of construction commence?
- (3) When will this be completed?
- (4) Will any transportable buildings be required if the building programme is not commenced and completed as previously scheduled?

Hon. J. M. BERINSON replied:

- (1) It is too early to comment on the success of the middle school pilot scheme.
- (2) and (3) It is not possible at present to indicate definitely when the next stage of construction will be commenced.
- (4) It is not anticipated that any temporary classroom accommodation will be required at the school in 1984. The accommodation situation will be reviewed in readiness for the commencement of the 1985 school year.

POLICE

Hyden

456. Hon. H. W. GAYFER, to the Minister for Mines representing the Minister for Police and Emergency Services:

- (1) In respect of the township of Hyden, is the Minister aware of—
 - (a) the increasing population of the town and district;
 - (b) the amenities the town has such as motel, hotel restaurant, swimming pool, drive-in theatre, sporting complex and function rooms, licensed golf club, amenities block for shire workers, CBH accommodation, primary school and numerous other facilities;
 - (c) the fact that Hyden is the centre for such districts as Woolacutty, South-East Hyden, East Hyden and Karlgarin;
 - (d) the continuing large movement of tourist traffic in and through the

town visiting Wave Rock, the Humps, Hippos Yawn and other principal Western Australian tourist attractions;

- (e) the adjacency of the town to Amax and the mining areas of Forestania; and
 - (f) the distance in time and kilometres Hyden is from the towns of Narembeen, Kondinin, Kulin and Lake Grace?
- (2) If "Yes" to (1), will the Government give urgent serious consideration to the stationing of a police officer in the township of Hyden?

(3) If not, why not?

Hon. PETER DOWDING replied:

- (1) (a) to (f) The geography and demography of Hyden is appreciated.
- (2) No.
- (3) The area is adequately policed from Kondinin where three police officers are stationed. Hyden is constantly monitored by the police planning and research section to assure provision of an equitable service to the public.

TAXATION

Withholding Tax

457. Hon. NEIL OLIVER, to the Minister for Mines representing the Minister for Housing:

Further to my question 414 of Tuesday, 20 September 1983 with regard to building societies—

- (1) Has the new tax necessitated a change in procedure with progress payments that has extended the period when builders are receiving work in progress payments from building societies in respect to certain categories of borrowers?
- (2) Are all building societies adopting these procedures, and if not, what societies are involved?
- (3) If "Yes", is this creating cash flow problems within the building industry?
- (4) If "Yes", what action will the Minister take to avoid a financial crisis among builders, subcontractors, suppliers and their wage and salary earners?

Hon. PETER DOWDING replied:

- (1) The new withholding tax which came into effect on 1 September 1983 introduced a minor change in procedure whereby the home owner needs to authorise each progress payment.
Initially this change may have delayed progress payments by a few days, but certainly has not caused any financial crisis.
- (2) Building societies have no choice but to adopt the revised procedures as required by the Commonwealth Taxation Office.
- (3) and (4) No cash flow problems within the industry are evident; however, a series of meetings are currently underway between the Housing Industry Association and financial institutions to streamline the implementation of the withholding tax so that cash flow is not affected.

INDUSTRIAL RELATIONS: DISPUTE

Pilbara: Loss of Markets

458. Hon. G. E. MASTERS, to the Minister for Industrial Relations:

- (1) Has the Minister read a report in *The Australian Financial Review* page 9 of 21 September 1983 which states that "India is reaping big benefits from the Pilbara strikes", and where it was also stated "one third of the Japanese shipping was being directed to Robe River and two thirds to India"?
- (2) Is the Government concerned that the strike has now become the most damaging one in the iron ore industry, and will result in permanent loss of overseas markets?
- (3) Has the Government been advised officially or unofficially that there is a real threat of the Hamersley and Mt. Newman projects closing down?
- (4) What employment prospects does the State Government see for those workers in other parts of the State or the metropolitan area who have left the strike torn towns or are about to leave?

Hon. D. K. DANS replied:

- (1) No.
- (2) The Government is extremely concerned at the possible implications of the strike.
- (3) In discussions I have had with representatives from both companies, the threat of closure has not been raised.

- (4) That is a question which is purely speculative.

EDUCATION

Primary School: Sawyers Valley

459. Hon. NEIL OLIVER, to the Attorney-General representing the Minister for Education:

- (1) When was the new Sawyers Valley Primary School occupied?
- (2) When is it proposed to be officially opened?
- (3) What were the final costs involved in the construction of the entire new school?
- (4) What action is proposed in relation to the old permanent buildings?

Hon. J. M. BERINSON replied:

- (1) 12 September 1983.
- (2) It is understood that the school will be contacting the Education Department shortly to request that the buildings be officially opened.
- (3) \$317 000.
- (4) It is proposed that the old house and the two Bristol classrooms remain on the site for use by the school.

TOURISM

Department: Staffing

460. Hon. P. G. PENDAL, to the Leader of the House representing the Minister for Tourism:

I refer the Minister to the report in *The West Australian* of 31 August headed "Doubt over top job in tourism", and ask—

- (1) Has he seen the report which contains the sentence that "some Tourism officers are deeply upset by the Minister's suggestion that the department is overstaffed and inefficient"?
- (2) Can he say by what number the department is overstaffed?
- (3) Can he outline the inefficiencies referred to?

Hon. D. K. DANS replied:

- (1) Yes.
- (2) and (3) As I have previously remarked, the Department of Tourism's performance in the past, considering the total lack of support and finance it received

from the previous Government, has been creditable.

The measurement of efficiency relates, of course, to the management of an organisation against its established and clearly defined objectives.

This whole matter is under review in the course of establishing the Western Australian Tourism Commission.

INDUSTRIAL RELATIONS: DISPUTE

Pilbara: Combined Union Meeting

461. Hon. G. E. MASTERS, to the Minister for Industrial Relations:

- (1) Has the Minister investigated my comments in the House regarding a reported request by the AWU to hold a combined union meeting to vote on a return to work?
- (2) If "Yes" to (1), with what result?
- (3) If "No" to (1), will the Minister make urgent representations to the unions involved supporting a combined meeting and report back to Parliament at the next sitting of the House?

Hon. D. K. DANS replied:

- (1) I have no evidence to support the member's proposition.
- (2) Not applicable.
- (3) On-going discussions have been taking place and are continuing.

EDUCATION: HIGH SCHOOLS AND PRIMARY SCHOOLS

Beldon, Marangaroo, and Padbury

462. Hon. P. H. WELLS, to the Attorney-General representing the Minister for Education:

As I asked questions 294, 308, and 330 of 1983 to enable the answering of widely spaced electorate groups, currently raising school related questions on increased use of transportable classrooms, lack of satisfactory student accommodation and teaching staff levels, overcrowding of primary and high schools, and the need for additional schools in Beldon, Padbury, and Marangaroo, will the Minister provide me with as much readily available information as possible relating to the content of those questions which has not been included in the answer to question 418 of Tuesday, 20 September 1983?

Hon. J. M. BERINSON replied:

In my response to questions 294, 308 and 330 the member was asked to consider the purposes for which he is seeking very comprehensive information.

That he wishes to be prepared for matters raised with him is appreciated but this cannot justify the expensive exercise involved.

He is advised to raise specific issues which will be answered as quickly as possible.

TRAFFIC: DRIVERS

Licence: Suspensions

463. Hon. P. H. WELLS, to the Minister for Mines representing the Minister for Police and Emergency Services:

- (1) How many people have had their drivers' licences suspended in each of the last three years?
- (2) How many drivers were under licence suspension as at 30 June 1983 and 30 June 1982?
- (3) How many people, with suspended driver's licences, were issued with special licences in each of the last three years?
- (4) How many people have been charged and convicted for driving while their licences were under suspension?
- (5) What estimate does the department make regarding the percentage of people who drive while under licence suspension?
- (6) What action is the Government contemplating regarding the problem of people driving while under licence suspension?

Hon. PETER DOWDING replied:

- (1) 1980-81—18 574
1981-82—20 110
1982-83—20 682
- (2) This information is not readily available, and to obtain such would involve considerable research and man-hours.
- (3) The number of people with suspended driver's licences who were issued with extraordinary licences in each of the last three years is—
1980-81—2 326
1981-82—2 033
1982-83—1 986

- (4) 1980-81—1 667
1981-82—1 810
1982-83—2 045

- (5) To estimate this figure would be pure conjecture.
- (6) Continuance of the present enforcement level. Every motorist stopped by police is subject to a motor driver's licence check. In addition, frequent roadside checks are carried out.

RADIO

Ethnic

464. Hon. P. H. WELLS, to the Attorney General representing the Minister for Multi-Cultural and Ethnic Affairs:

With reference to the Minister's media release, No. 64 on 11 September 1983—

- (1) What preliminary survey work has been carried out on needs and community attitudes regarding ethnic radio?
- (2) How many people were contacted, during the preliminary survey, concerning their views and needs related to ethnic radio?
- (3) Will the Minister provide details of the survey to which he refers in media release No. 64?

Hon. J. M. BERINSON replied:

- (1) In response to developments regarding ethnic broadcasting, the Multi-Cultural and Ethnic Affairs Office carried out a routine examination of the situation prevailing in Western Australia with particular reference to current policies, community needs and attitudes.
- (2) The departmental examination and report covered views expressed at a seminar held in March on "The Role of Broadcasting in a Multi-Cultural Australia"; the issues raised in a discussion paper on "The extension and development of ethnic radio"; and the views expressed by 50 individuals and 18 ethnic groups involved in broadcasting.
- (3) The departmental report contains individual personal and frank views provided in confidence and it would be breaking such confidences to make it public.

INDUSTRIAL RELATIONS: DISPUTE

Pilbara: Workers' Plight

465. Hon. G. E. MASTERS, to the Minister for Industrial Relations:

- (1) Is the Minister aware that strike affected workers in the Pilbara are becoming desperate and simply cannot afford to continue the strike?
- (2) Has the Government been advised that local ALP State members of Parliament are being bitterly criticised for not recommending a return to work and for being seen to support the more radical elements responsible for the continuation of the dispute?

Hon. D. K. DANS replied:

- (1) and (2) No.

QUESTIONS WITHOUT NOTICE

SITTING OF THE HOUSE

America's Cup: Adjournment

126. Hon. H. W. GAYFER, to the Leader of the House:

After the exhaustive night most of us have spent winning the America's Cup, does he propose calling a lay day?

Hon. D. K. DANS replied:

I am calling it a "make-and-mend day".
The answer is "No".

FUEL AND ENERGY: COAL

Contracts: Review

127. Hon. A. A. LEWIS, to the Minister for Fuel and Energy:

- (1) Will the "Committee to review all Government functions and all the services it provides" review the State Energy Commission's coal contracts?
- (2) Will the Minister refrain from acting on the writ taken out by the SEC against the Griffin Coal Mining Co. Ltd. until that review is completed?

- (3) If the committee is not going to review the coal contracts, will the Minister please explain why it is not giving its attention to an issue as important as the State's long-term power supplies?

Hon. PETER DOWDING replied:

- (1) to (3) I am not the Minister responsible for the formation or management of that committee. Therefore, the question does not encompass my portfolio.

I can assure the member that the Government is giving very serious consideration to the situation which has arisen between the SEC and the Griffin Coal Mining Co. Ltd. concerning SEC contracts. I hope the member will not require me to say again that the matter is *sub judice* and it would be quite improper of me to pre-empt any action at all in relation to that writ by discussing it in this House, and I certainly do not intend to do so.

I hope the member will take that as my final word on the dispute between the Griffin company and the SEC.

FUEL AND ENERGY

Coal: Press Statement

128. Hon. A. A. LEWIS, to the Minister for Fuel and Energy:

- (1) Did the Minister mention my name in a Press statement over the last week?
- (2) If so, is it because he is looking for a scapegoat for his own inadequacies as a Minister?

Hon. PETER DOWDING replied:

- (1) and (2) I did not mention the Hon. Sandy Lewis in a Press release. I am not in the habit of writing his Press releases although I know he goes to extraordinary lengths to get publicity for himself.

Several members interjected.

Hon. PETER DOWDING: I must say in this House what I believe to be the case; that is, that the Hon. Sandy Lewis ought to have spent his time in his party room arguing the problems that his party cre-

ated when in Government, rather than now harping about a situation created prior to the Burke Government's election.

FUEL AND ENERGY

Coal: Press Statement

129. Hon. A. A. LEWIS, to the Minister for Fuel and Energy:

Will the Minister undertake to find out how my name got into his Press release

issued over the weekend by the ABC? It was added to his Press release.

Hon. PETER DOWDING replied:

The ABC does not issue my Press releases; I am sure the member knows that. I will have the matter investigated and let him know the contents of any Press release from my office.
