

Legislative Council

Wednesday, 21 September 1983

The PRESIDENT (Hon. Clive Griffiths) took the Chair at 2.15 p.m., and read prayers.

ELECTORAL AMENDMENT BILL

Third Reading

HON. J. M. BERINSON (North Central Metropolitan—Attorney General) [2.30 p.m.]: I move—

That the Bill be now read a third time.

HON. N. F. MOORE (Lower North) [2.31 p.m.]: I do not believe the Bill should be read a third time until I have had explained to my satisfaction a matter which I raised in the debate.

Last night I argued at length about the apparent conflict between the clause which enables Aboriginal people to be transferred from the Federal roll to the State roll in an apparently compulsory way, because this is an automatic procedure, and section 45(5) of the Act which makes it voluntary for Aboriginal people to be on the State roll. I did not have explained to my satisfaction last night that there is no reason to be concerned about an inconsistency between what we are doing in respect of this Bill and the Act that we are amending.

I have spoken to people about this sort of conflict, and the concept of implied repeal has been mentioned to me. This results from a situation in which the Bill is in conflict with the Act, and when the Bill is passed and becomes part of the parent Act, the provisions of the Bill take precedence over the Act to the extent of the inconsistency between the two. I would have expected the two honourable members on the front bench opposite to know about that.

Hon. J. M. Berinson: We have a fair idea, but we still tend to be lost at this point.

Hon. N. F. MOORE: If the concept of implied repeal is to apply in this case, it could be argued that the Bill will make it compulsory for some Aboriginal people to go on the State roll, and that we are repealing the section of the Act which does not make it compulsory. That is the implied repeal. I am not speaking of an actual repeal in the sense of repealing a particular section; but because of the inconsistency between what the Government proposes in this Bill and the parent Act, the later amendment takes precedence; so, in effect, the Government is repealing that provision.

This Bill makes it compulsory for some Aboriginal people to go on the State roll. In fact, I could give the Attorney General a long list of their names. They are the ones, for example, who have been taken off the roll for not voting. They have been taken off the State roll, but they still appear on the Federal roll, so they will be put onto the State roll whether they like it or not.

Hon. J. M. Berinson: Are you saying they positively wish to stay off?

Hon. N. F. MOORE: I am not saying one way or the other. What I am saying is that the Bill makes it compulsory for them to go on.

The PRESIDENT: Order! I ask honourable members not to proceed with their audible conversations while a member is addressing the Chair. I also take the opportunity to remind honourable members that during the third reading debate on a Bill it is not appropriate to repeat the arguments that have been used in a previous stage of the proceedings. The debate on the third reading must be confined to reasons that the Bill should or should not be read a third time. They should not go over ground that has already been covered.

Hon. N. F. MOORE: I argue that the Bill should not be read a third time because of the possibility that, by passing the Bill we are in effect repealing a part of the Act, which is not included in the Bill, by the concept of implied repeal. That has been put to me by a person who understands these matters. It is an area of concern.

Hon. Peter Dowding: By a lawyer?

Hon. N. F. MOORE: Yes. The concept of implied repeal—

Hon. P. H. Lockyer: Not all lawyers are as dumb as you, thank Christ!

The PRESIDENT: Order! I ask the honourable member who just made that interjection never again to use profanity while I am in the Chair.

Hon. N. F. MOORE: If the concept of implied repeal is applicable in this case, we may very well be changing section 45(5) of the Electoral Act to remove the right of Aboriginal people to go onto the State roll voluntarily. I do not know whether that is correct—I am not a lawyer—but if that is the case I suggest the Bill should not be read a third time until I am satisfied, or the House is satisfied, that we are not causing difficulties with respect to section 45(5) and removing the right of Aboriginal people to remain off the roll if they so desire.

For those reasons, I hope, first of all, that the Attorney will provide me with an answer. If he is

unable to do so, I hope he will give an undertaking not to permit this sort of thing to happen. If there is the possibility I am correct, will he take the necessary action to ensure that the implied repeal does not happen?

I am not sure what steps the Attorney General would have to take to do that. Certainly if he wanted to change the compulsion, he should bring in a Bill to amend that section of the Act, and not do it by implication.

HON. J. M. BERINSON (North Central Metropolitan—Attorney General) [2.36 p.m.]: The honourable member started his address correctly enough by pointing out that he had argued at length a particular clause to which he again drew attention. He argued it at length yesterday, and he did so repetitiously. He tested the opinion of the Committee by way of an amendment, and at that stage the Committee rejected his amendment. I ask the House now not to allow this Bill to become diverted on a matter which was so fully considered and disposed of yesterday.

Hon. N. F. Moore: You did not answer it satisfactorily.

Hon. J. M. BERINSON: To the extent that nothing new has emerged from the honourable member's comments, I ask the House to support the Bill.

The honourable member suggests that, somehow, clause 7(a) of the Bill might impliedly repeal the existing provisions of the Act which except Aborigines from the compulsory enrolment arrangement. No such implied repeal is intended; the effect of the Bill, in my opinion, is not to produce such an implied repeal.

I confess that I find it difficult, frankly, to follow the line of argument which could lead to that result. Nothing is implied in the provisions of clause 7. It is a very explicit treatment of persons who are enrolled on the Commonwealth roll but not enrolled on the State roll at the time that the co-operative arrangement is put into effect. That is all.

Those persons will be deemed to have applied for enrolment on the State roll, and an acknowledgment to that effect will be forwarded to them. As I indicated yesterday, the way will remain open to them at that stage to apply to the registrar to have their names deleted. Under proposed section 52, I think that request would be accommodated.

I do not want to engage in all sorts of repetition as the honourable member is inviting me to do, but since the matter has again been raised, I think the least I can put on the record is the view that the proposal that a real problem of principle could

emerge depends on the proposition that there are Aborigines who positively prefer and take action to have themselves on the Commonwealth roll, where enrolment for them is voluntary, and at the same time take the positive and conscious decision not to enrol for State purposes. That is not a credible position to the extent that enrolment applies to one roll but not to the other. It is far and away the certainty that the omission to be on the State roll is a matter of omission and not of positive intent. I do not want to pursue that argument any longer, because it was covered so often yesterday.

I urge members to support the third reading of the Bill.

Question put and passed.

Bill read a third time and passed.

HIGHWAYS (LIABILITY FOR STRAYING ANIMALS) BILL

Second Reading

Debate resumed from 15 September.

HON. D. J. WORDSWORTH (South) [2.42 p.m.]: I, like other members of the House, am concerned by this legislation. Undoubtedly it is very complex, and when this House goes about supporting a decision made in the Supreme Court which has already been queried by the High Court, it is moving into a very difficult field.

I have read at some length the various reports of the Law Reform Commission of Western Australia and I must admit that they are very difficult to read. I do not know whether lawyers have greater capabilities than members of Parliament, although I certainly hope so, because the cross references in these documents, both the working party report and the final report, make it very difficult for laymen to understand the report.

As I see it, until the Supreme Court ruling of 1976, if a Western Australian motorist experienced some sort of damage or loss by hitting a straying animal, he could not claim damages unless that animal was considered dangerous or stock was being moved along a road and neglect could be proved against the person in charge of the stock. This practice came to us from very ancient English law, and although it sounds rather archaic, it is not really as stupid as it sounds.

Obviously, if a particular animal is dangerous, the owner has to take special care; an example would be a ferocious bull. A farmer, like anyone else, has to be responsible. If an animal is known to have a propensity to attack people quite readily, that farmer must look after that animal and take special care; if he does not do so, negli-

gence should be able to be proved against him by anyone who suffers damage or loss. Similarly, a person shepherding stock on the road and using the road just as any other user of a road, has to take due care. If he is negligent, it is only right that anyone hurt should be able to claim negligence.

However, if a farmer has a property adjacent to a highway and a third party leaves the gate open, it was, prior to the 1976 decision, a case of bad luck for the motorist. The motorist could not charge the farmer for negligence if a gate had been left open, because it was ruled that the farmer did not have to sit on the gate to ensure no one left it open. That is fair enough for the farmer. However, after the 1976 Supreme Court case, it would seem that the position was that the motorist should be able to use the road without fear of hitting someone's stock that had escaped because a farmer's gate had been left open.

As a motorist, I agree that is fair enough; why should not the motorist have fair rights to use the road? We are all drivers; even the farmers who have properties adjacent to roads think of themselves more as drivers than stock owners, because they consider that anyone who allows stock to stray is not a very good manager. Of course, we never think of ourselves in that way; it is always a neighbour who falls into that category.

It is argued in the Law Reform Commission report that the answer is for a farmer to take public risk insurance. Undoubtedly, most go-ahead farmers have public risk insurance; professional farmers would take out a public risk policy. I have a public risk policy on my farm. I must admit that some of my cattle have escaped onto the roads and that motorists have hit them, twice that I can recall, and the insurance company has paid out. It is interesting to note that the insurance company has paid out without having bothered to come out and inspect the fences or to check whether I was negligent in any way. I gather the argument is that, as a result of the 1976 decision, it is considered a waste of time for a company to do anything other than simply pay out.

It was not for me to question the company's action, but I think we have all had experience with insurance companies and we all realise that they do not readily pay out for no good reason unless they believe they would be wasting their time taking a case to court.

Clause 3(3) and (4) reads in part—

(3) A court shall determine the liability in tort of a person for damage caused by animals straying on to a highway solely accord-

ing to the law of Western Australia relating to liability in tort for—

- (a) negligence; or
- (b) intentional acts or omissions.

(4) In determining according to the law of Western Australia relating to liability in tort for negligence whether or not a person is liable for damage caused by animals straying on to a particular highway, a court may consider, among other matters—

I would like the Attorney to explain whether an insurance company would be concerned that I may have left a gate open, bearing in mind that, currently, if a person has public risk insurance, the company does not bother to look at the fences or to inquire whether the gate has been left open; the company simply pays out because of the 1976 decision.

Hon. J. M. Berinson: Are you concerned that if the insurance company does take this further interest, that might be in some way to your detriment?

Hon. D. J. WORDSWORTH: Yes. Reading this Bill it would seem that if a motorist hits a cow and goes to an insurance company, the company will say he has to prove negligence on the part of the stock owner before it will meet the claim; so it will look at the fences and take a few photographs of them. If it considers they are not typical of other fences in the area, it might believe something is wrong with them. In other words one must prove negligence, or intentional acts or omissions. One has to prove in court that the farmer has been negligent or has intentionally left the gate open, or that an omission occurred.

My public risk policy states that if I am negligent, or break the law, the company does not have to pay out on that policy.

Hon. J. M. Berinson: Do you have a copy of that?

Hon. D. J. WORDSWORTH: Let me give an example. All I am trying to illustrate is that I have been concerned about public risk policies, especially in relation to fire. Recently a person was successful in claiming damages against a farmer because a fire escaped from his property. I go back a few years to a case where lightning struck a tree on a farmer's property. The tree was set alight and the fire spread to a neighbouring property. The farmer on whose property the tree caught alight was responsible.

Hon. Peter Dowding: The basis of the claim was that the fire had escaped from the property, and not that the lightning had hit his tree.

Hon. D. J. WORDSWORTH: The tree was on his property.

Hon. Peter Dowding: There was a fire on his property and he did not take reasonable steps to contain it. In fact, he did not put it out.

Hon. D. J. WORDSWORTH: In other words, he was negligent.

Hon. Peter Dowding: That was not his personal liability, it was his insurer's liability. He was insured for public risk and that covered it.

Hon. P. G. Pental: Why don't you make a speech on this?

Hon. D. J. WORDSWORTH: I thank the Minister for his explanation because he is endeavouring to help.

Hon. P. G. Pental: It would be the first time.

Hon. Peter Dowding: Emmersen-Elliott was the name of the farmer.

Hon. D. J. WORDSWORTH: It was the first time a claim was made against a farmer. Until that time farmers shared the problems of their neighbours.

We had a case in Esperance where a doctor who owned a property—he did not live on it—employed a contractor to undertake some work. A fire broke out and escaped, causing damage to neighbouring properties. Several claims were made against the owner.

In another case a successful claim was made against a farmer because his children had driven in a fire danger area and a fire broke out. The Supreme Court ruled there was negligence on the farmer's part. In other words, a person cannot light a fire in a fire risk area unless he is prepared to be taken to court should the fire cause damage to neighbouring properties.

I have received advice from insurance companies on this matter. Public risk policies are designed to cover the insured against legal liability to themselves but the insured shall at all times exercise reasonable care. The insurance company cannot be deemed to meet the insurance claim if the owner has ignored the consequences of his action, and that is fair enough.

Hon. J. M. Berinson: A public risk policy would be useless if it did not cover negligence.

Hon. J. M. WORDSWORTH: The point I am making is that we are referring to levels of negligence and whether a person who is slightly negligent is covered by his public risk policy.

Hon. J. M. Berinson: I do not think that is correct. If that is the case under your policy I would suggest that you look to a different company.

Hon. D. J. WORDSWORTH: Under this Bill a person must prove negligence before he can claim. That negligence, if the insurance company is to meet a claim, must not be too great. A farmer is never quite sure whether his fences are in good order. I guess he realises they are not in good order when his stock is able to get out. In my area a fence lasts for about 15 years and it is merely a matter of time before the farmer has to replace it. When a person's fence reaches this state of disrepair it would be reasonably easy for an insurance company to prove that the fence was not in good order. In that case negligence could be proved and the claim met. At the same time the insurance company carrying the public risk could turn to the farmer concerned and say, "Negligence has been proved against you".

Hon. Peter Dowding: The issue is, who is making the claim. If it is the insured seeking to claim against his policy he must protect himself against the claim of a third party. The third party has to prove negligence. The farmer claims because he is the insuring party.

Hon. D. J. WORDSWORTH: Is that right?

Hon. Peter Dowding: So there is no issue of negligence raised with the farmer, *vis a vis* the insurance company; the issue is whether he paid his policy and whether it covers this risk. The issue of negligence is between the third party and the farmer. The case you referred to was *McWhirter v. Emmersen-Elliott*, 1960 W.A.R. 208.

Hon. D. J. WORDSWORTH: In the cases of fire I have explained to the House, I have not been led to believe that the claims were not paid by the insurance company. They probably were. I am just giving examples of claims that have recently been made on public risk policies.

Hon. Peter Dowding: Those cases raised the issues between a farmer and a third party who was claiming damages from the farmer. The issues were never litigated between the farmer and his insurers.

Hon. D. J. WORDSWORTH: The insurance companies probably do pay up. What I am trying to illustrate is that public risk insurance is extending into different fields. In previous years farmers did not receive claims against their public risk policies for fire and certainly not for straying stock.

The report from the Law Reform Commission stated that it would not cost the farmer any more. I am pointing out that insurance companies will take a second look at public risk policies as they receive more claims.

I have read the working paper of the Law Reform Commission and it is confusing in respect of stock straying onto the road because a gate has been left open. Paragraph 5.14 on page 42 of the working party's report states as follows—

As emphasised above, if the Rule is simply abrogated people responsible for the control of animals will only be liable for injury or damage caused by their animals straying on to the highway if they have not taken reasonable care to prevent that injury or damage occurring. In a locality in which reasonable care requires the erection and maintenance of gates and fences, this duty will be fulfilled by the erection of fences and gates and the taking of reasonable steps to keep these in good repair. Consequently, subject to the exceptions mentioned below, if gates are left open or fences broken through no fault of the person responsible for the control of the animals restrained by them, and as a result animals that would otherwise have been kept off the highway stray thereon, that person will not be in breach of duty and therefore will not be liable in negligence.

Of course, the rule referred to in that paragraph is the traditional English rule. If that statement is correct, the consequences are not too bad for the farmer; however, it seems to me to be in contradiction with the entire intention of this Bill. After all, we are trying to protect the motorists who drive along our roads, so that when they are involved in a major accident involving loss of life or injury, they can recover damages.

The Hon. Vic Ferry gave us some statistics regarding the number of accidents involving animals and straying stock, and it was interesting to learn that the vast majority of such accidents involve kangaroos. The Law Reform Commission report gives descriptions of 15 accidents which occurred over a period of six months. When one looks at those 15 examples, one would have to say that even after this Bill is passed, not a great number of such cases would be eligible for claim. The accidents included one involving an emu, and another involving a stray bull, 130 kilometres east of Derby—certainly, it would be doubtful if the driver could claim on that one.

Hon. Peter Dowding: It is not likely fencing will be required in that area.

Hon. D. J. WORDSWORTH: That is true; so the driver would not be able to recover damages. As I say, not all the people involved in the 15 accidents exemplified could take action to recover damages. It seems to me a vast field will remain unprotected. This Bill will pick up one or two

cases, but in no way will it make it safer for motorists to drive on country roads and, if they hit straying animals, easier to claim compensation.

Hon. Peter Dowding: Nor will it lead to a flood of money for the insurers to pay out.

Hon. D. J. WORDSWORTH: That is true; another argument is that if not many people can claim, the cost of insurance cover will not increase.

One of the proposals of the Law Reform Commission was for another form of insurance, where everyone is covered regardless of what animal is hit. Unfortunately, the commission was not given the opportunity to expand its report into this field. Perhaps that is another area we could consider; namely, whether we should establish some universal form of insurance so that, regardless of whether a driver hits a kangaroo or a straying animal which has not been fenced in adequately, he can claim for compensation.

Hon. Peter Dowding: Would not most motorists carry that sort of insurance?

Hon. D. J. WORDSWORTH: Probably. In other words, we could probably expand vehicle insurance to cover this area, rather than placing the responsibility on the farmer.

Hon. Peter Dowding: No, we leave the responsibility where it lies. However, most people are covered in the event of there being no-one against whom they can claim.

Hon. D. J. WORDSWORTH: What I am saying is that a vast area remains unprotected. For example, if a motorist hits a wild animal, he will not be able to claim; if he could not prove that the owner of the animal which was involved in the accident did not keep that animal in such a way as would prevent it from straying, the driver could not claim. If the animal strayed onto the highway, and reasonable care had been taken to prevent its straying, the motorist could not claim; finally, if a motorist could not track down the owner of the straying stock, he would not be able to claim.

So the field is wide open. Simply passing this Bill and supporting the Supreme Court decision of 1976 will not be the cure-all.

One of the interesting points to emerge from these reports is the number of developed countries which have examined this problem. To name but a few countries and States, the problem has been considered by the United Kingdom, Canada, New Zealand, and Scotland, and the States of NSW, Queensland, South Australia, and Victoria. Some of these places have endeavoured to do something and have introduced new Acts. The English Par-

liament actually moved a livestock Act in an attempt to overcome the problems. Most of those places received recommendations from their law review committees, and never acted upon them because they did not find it advisable to support a recommendation to abrogate the old English law.

So, I look at this Bill with a certain amount of concern. I know that farmers' organisations have said, "The Supreme Court has ruled on this matter, so we might as well have it put into an Act of Parliament so we all know where we stand". Nevertheless, I do not believe this is the right approach. It will be interesting to hear other speakers in this debate and the Minister in reply, because I have yet to be convinced this legislation represents the correct approach to resolving this old problem.

HON. H. W. GAYFER (Central) [3.09 p.m.]: I too am not particularly happy with the Bill before the House. I notice of the 12 people who commented on the report of the Law Reform Commission relating to stock straying onto highways, only one actually opposed the proposals of the commission. Regardless of that, I wonder how many farmers, farmers' organisations, and others who will be affected by this legislation, actually have examined the proposals of the Law Reform Commission; further, of those who did examine the proposals, I wonder how many actually understood them.

I agree with the Hon. David Wordsworth that the position is not clear and we seem to be painting ourselves into a corner in an endeavour to get away from something which possibly does not even exist. The introduction of this measure will put a serious strain on the farming community, not only financially, but also in other areas.

As far as the common practice of fencing, as referred to in the Bill, is concerned, the definition of the quality and standards of fencing will be different in each district, because each shire council will have a different opinion as to what the fencing standard should be. If a standard for fencing is introduced, will it mean eventually that shire councils will have to apply it by means of a by-law or the like? I am familiar with the Murchison and I notice that one of the recommendations of the Law Reform Commission is that signs should be erected along the roadways to indicate stock could be on the road. Of course, one can drive for hundreds of miles up there without seeing a fence on either side of the road; therefore I presume a sign will suffice.

If this Bill is agreed to, what will it entail? It seems to me that, at present, it is very open-ended in relation to insuring against one's liability, and I

am not happy with that. Even if Mr Ferry's amendment, which is on the Notice Paper is carried, I see that as being only the thin end of the wedge. As a result of this measure, farmers throughout the State will be faced with having to pay premiums which increase year by year as the maximum amount of a claim is increased when the court finds the amount which has been set is not sufficient to cover an accident which has occurred.

I can envisage the Parliament having to increase the maximum amount of insurance cover in order that it is commensurate with whatever the court may find is necessary to cover an accident which has resulted from animals straying because of inadequate fencing.

I do not believe the farming community realises the financial burden this could impose on it in the long term, and I do not believe the shires, or anybody else, realise the implications of standard fencing. Standards could alter year by year as certain improvements are made.

We have the situation of a quarter-acre block, where a pony is kept. Horses are notorious for jumping hedges, fences, and the like. If a child's pony gets out onto the road, will her parents be faced with a claim in the area of \$500 000 or \$1 million? These are frightening figures and I am concerned that the \$500 000 suggested by Mr Ferry today could be \$2 million tomorrow. It seems to be a terrific hammer to use to smash the walnut with which we are confronted.

Mr Wordsworth referred to fences destroyed by fire. This could go completely unnoticed by the owner for a considerable period. Could it be said that an owner is negligent because he did not notice the damage? I have one property with 470 kilometres of boundary fencing. I think it is a standard fence, but, if it is not, I would hate to renew that boundary, and I am only one of many. Without an aeroplane, I do not think I would be able to find out within reasonable time that fences were down.

The provisions in the Bill appear to have been arrived at by people who do not know anything about the conditions which prevail, and who have simply looked at the way in which the law shall apply. I wonder whether those people have taken into account all the recommendations made to them.

For example, as the Hon. David Wordsworth has said, the report indicates that in *Thomson v. Nix*, after reviewing the history of legislation in Western Australia in relation to fencing in farming areas and the maintenance of roads, the court concluded that, almost since the foundation of

Western Australia, conditions in this State had been different from those which in England had given rise to the rules. As a result, the court decided the rules did not apply in Western Australia and were not, therefore, part of the State's law.

The court made that decision, yet a similar court in Victoria decided the other way, and another court in South Australia decided in yet another way.

As the Hon. David Wordsworth said, other countries are looking at the proposition and, in some cases, have not made any movement in this direction. It seems to me in this case there is a rush to take action.

Page 7 of the Report on Liability for Stock Straying onto the Highway, Project No. 11, says that—

As a result, the Commission—

That is the Law Reform Commission—

—is of the opinion—

It is not positive, but it is of the opinion—

—that unless the law is reformed in the meantime the High Court will overrule *Thomson v. Nix*, should the opportunity arise, and decide that the rule still applies in Western Australia. Consequently, although *Thomson v. Nix* is apparently being followed by lower courts in Western Australia, until the law is reformed, or the High Court or the Privy Council determines the correctness of that decision, the law in Western Australia in this area will be uncertain.

Therefore, in its opinion, the High Court could overrule the *Thomson v. Nix* case, and we could get back to the status quo; that is, the old English rule.

If the law is uncertain, what does it mean? Why are we introducing the Bill? We are saying to some people, "You must go out and insure yourself, because you are liable. Your fencing has to be up to a certain standard and, therefore, we advise you that, on the introduction of this Bill and the passing of it, it is advisable you take out some sort of insurance premium to cover any negligence such as is indicated in the Bill".

If that did not apply and the rule was still undecided, if a farmer took out an insurance premium, he would still be covered in the event of negligence being proved against him. I am saying this: Once we proclaim this new Act, there will never be a chance to prove the correctness of the rule in the High Court, or the Privy Council. The rule should apply in this State. At page 21 of the report the following is stated—

However, *Thomson v. Nix* may be overruled when a sufficiently important case warrants that decision being challenged in the High Court. Therefore, to ensure that damages continue to be recoverable in such cases it would be desirable to introduce a statutory provision to this effect.

That is the Bill in front of us now, but once it is passed the rule will be gone for all time. The liability will be as provided within the framework of this Bill, and the onus of proof will be on the farmer, grazier, or whoever, from then on. Not only are we seeking to clarify that issue by the introduction of the Bill, but also we are introducing penalties to be imposed on a farmer from then on, such as standards of fencing which might be set by whatever locality he is in. These rules will alter as fencing is renewed in the various districts as time goes on, and the payments required from farmers will escalate continually. Even if Mr Ferry's amendment is passed, premiums will continue to increase. All we are doing is introducing a problem child for the farming and grazing community. This will apply not only to farmers and graziers, but also to everybody, whether they have a farm in the Darling Range or a quarter of an acre in the city.

Hon. J. M. Berinson: It is not just introducing a problem for farmers, it is introducing protection for the traveller.

Hon. H. W. GAYFER: All the Government is doing is clarifying that the farmer will be to blame if his fences are down. In that case it will be determined that the farmer is negligent.

Hon. J. M. Berinson: We are doing more. We say that if there is need to clarify the position, this will clarify it. If the position is clear, and the rule applies in this State, we say it should no longer apply.

Hon. H. W. GAYFER: The Law Reform Commission has said the rule has never been fully tested in this State, although it has been fully tested in Supreme Courts in other parts of Australia, and the decision has been abided by. But now in Australia we will have two sets of rules. This is the whole problem with lawyers, who should not have more than one arm so that we know where they are going. We always hear from them, "On the one hand . . . and on the other hand . . ." That is what has occurred in Victoria and my opinion is that the law should be uniform so that our thinking on this issue is the same throughout the land. However, this will not be the case.

Hon. J. M. Berinson: It is not now uniform.

Hon. H. W. GAYFER: In this House we are to make a judgment to apply for all time. It may be that, as we are told, we are the highest court in the land. Maybe we are a House of Review and will do the right thing. However, I maintain we are introducing a law that will saddle farmers and graziers with this problem for the rest of their lives. Insurance companies will like the situation. If I were in an insurance company I would be glad to receive premiums from every farmer and householder—particularly people like those in Kalamunda and the Darling Range. Every farmer will have to pay a premium. Others will make a fortune out of fencing, and shire councils will settle down to introduce standards for fencing. We will have by-laws for fencing.

The Law Reform Commission said at page 21 of its report—

However, *Thomson v Nix* may be overruled when a sufficiently important case warrants that decision being challenged in the High Court. Therefore, to ensure that damages continue to be recoverable in such cases it would be desirable to introduce a statutory provision to this effect.

In other words, we will sell the whole case down the drain. Parliament will take any decision away from the Supreme Court. The Supreme Court has the proper responsibility to make that decision, as it has in Victoria and South Australia. The Bill should be voted against. It is an imposition for the immediate and long term that should not be tolerated.

I doubt whether beyond those 12 commentators, it was sufficiently understood or realised by the representatives of the community that will be affected just how much they will be affected. We should put the Bill at the bottom of the Notice Paper until such time as the Attorneys General get together to obtain some degree of uniformity. In that way the Supreme Courts of the different States will be able to make their decisions, and we will have a fair degree of acceptability. We are taking the matter right out of that forum by introducing this Bill, and taking away the obligation of a Supreme Court to make a decision in respect of the old law, as against the case of *Thomson v. Nix*.

I have enumerated the problems associated with this matter. Certainly I will oppose the Bill. I am not worried that the Pastoralists and Graziers Association and the Primary Industry Association have said that the Bill is all right, or in fact anyone else has said it is all right.

If farmers knew that their chance of fully testing the old rule in a court will be taken away

from them they would protest in the city in droves. They do not realise what will be in front of them once this Bill is passed.

Somebody said by interjection, "Well, if it isn't decided and somebody runs into his stock, he is going to be up for an awful lot of money". Very well, the farmer can cover himself; but for heaven's sake, that is no different from what he will have to do under the Bill. If the farmer is wise he will be covered by a certain amount of public liability insurance. The point is that this Bill puts the whole onus of negligence onto the shoulders of the farmer.

This has not been possible in England since 1683, yet we in Western Australia have taken it on our shoulders to introduce a Bill which effectively says that the old English law is wrong. We have the effrontery to make a decision in respect of a law that has caused considerable debate for a number of years.

I do not intend to support the Bill. I will certainly make my views known when it comes to the vote on the second reading. I hope that other members of this House will take similar action.

HON. TOM KNIGHT (South) [3.30 p.m.]: I also have some doubts regarding this legislation, and my opinion is similar to that of the Hon. Mick Gayfer and the Hon. David Wordsworth. Had the case of *Thomson v. Nix* been taken to the High Court after the Supreme Court hearing, I have no doubt the decision of that court would have been overruled, following every other similar case in Australia.

On that basis I quote part of a letter from the Law Reform Commission. It reads as follows—

The Attorney in his second reading speech pointed to the uncertainty of the law in this area requiring this legislative action. The uncertainty revolves around whether the rule in *Searle v. Wallbank*, that owners or occupiers of land owe no duty to users of an adjoining highway to prevent livestock from straying thereon, applies in Western Australia. This question has largely come down to whether that rule was reasonably capable of application in the conditions of Western Australia when settled. In *Thomson v. Nix*, the Supreme Court of Western Australia decided that the rule did not apply in Western Australia. The Court did so largely by reference to the legislative history of this State showing that from the early days of the colony, the enclosure of land by fencing was a matter of common policy and accepted as a necessary part of agricultural life.

Two years later, in 1978, the High Court was given the opportunity in *SGIC v. Trigwell* of deciding whether the rule in *Searle v. Wallbank* applied in South Australia. Framing the question in terms of whether the law in *Searle v. Wallbank* was applicable in the colony of South Australia upon its settlement, the High Court by majority ruled that there was no reason to say that the rule was inapplicable in South Australia at that time, conditions not being markedly different from those existing in England.

The question then is whether that decision has cast doubts on the law in Western Australia so that legislation reform is desirable. Bearing in mind the distinction as drawn by the Supreme Court in *Thomson v. Nix*, the High Court decision is not necessarily inconsistent.

In fact, that was how the Law Reform Commission circularised the information to certain members of Parliament. It worries me that we are bringing in a law that will obviously be inconsistent and not in line with the law in other parts of Australia.

In fact, in regard to farmers and insurance companies two different sets of rules will apply. One law that covers the whole of Australia, both at State and Federal level, is the old English law as mentioned in many cases in the High Court. The fact that we will be out of line with the law in other States is emphasised by comments in a memorandum from the PIA. The last paragraph of that memorandum reads as follows—

There maybe some concern among farmers relating to this particular piece of legislation however, I would only reiterate that in fact this position has been enforced in WA since 1976 and I have reason to believe that in fact it may well be an Australia-wide approach within the near future.

I want the Attorney General to look at this matter in regard to bringing in this measure on an Australia-wide approach. As the Hon. Mick Gayfer said, we could do better by talking with the Attorneys General of other States and bringing in compatible legislation which complements each State's laws. The result will be no confusion or problems with insurance companies or farmers throughout Australia.

Hon. J. M. Berinson: Two matters are involved in that. The first is that there is no real interest element in this sort of risk; the second is that New South Wales has already abolished the rule.

Hon. TOM KNIGHT: The old English law.

Hon. J. M. Berinson: Yes.

Hon. TOM KNIGHT: What has it brought in its place; that is the point?

Hon. J. M. Berinson: The same legislation as we are proposing.

Hon. TOM KNIGHT: That has been done?

Hon. J. M. Berinson: Yes.

Hon. TOM KNIGHT: I am pleased to hear that that has been done, but several other States have not done so and I believe this matter should be looked at on an Australia-wide basis so we have legislation which complements the laws of every State. I appreciate the Attorney General's comments in this regard.

Clause 4 appears to be not favoured by the Pastoralists and Graziers Association of Western Australia, and I ask the Attorney General to look at that clause. It requires the alteration of only one word. The letter from the Pastoralists and Graziers Association reads as follows—

There are only two areas which we feel may need further consideration.

One is clause 4. The end of the clause reads as follows—

.... damage caused by animals straying on to a particular highway, a court may consider, among other matters—

The letter continues—

While we are not aware of the ramifications of the Parliament directing a court, we believe that there is a certain element of uncertainty present in the clause through the use of the word "may". We would much prefer to see the use of the word "shall" so that the clause would read:

"In determining according to the law of Western Australia relating to liability in tort for negligence whether or not a person is liable for damage caused by animals straying on to a particular highway, a court shall consider, among other matters—

We make this suggestion purely to overcome the possibility that a court in its wisdom might not believe it is worth considering the items listed in the statute for a number of reasons. Should this occur the pastoral community of Western Australia would be particularly disadvantaged. As you are no doubt aware, it is not the practice to fence roads in the pastoral areas except where the Main Roads Department, due to the frequency of traffic on some roads has deemed it necessary to fence the road reserve. By adopting the wording we have suggested, the court

would have to consider the circumstances prevailing at the time and the pastoral community would be protected in the manner which I feel the Law Reform Commission would have intended.

There is sense in the suggestion that the word "may" leaves the situation too open. One may or may not do something. The word "shall" is a direction to carry out a certain action, and I seek the Attorney General's support and consideration in respect of altering that word.

The next part of the legislation the association is concerned about is the limit on liability. The letter continues—

"An upper limit of at present \$500 000 be placed on the amount of damages recoverable in respect of any one accident, with provisions for this limit to be increased at regular intervals."

Again the letter mentions the Attorney General, and continues as follows—

The Attorney General was probably loath to restrict the Court's ability to make such awards as would be fair and just in the circumstances. We feel however that it would be appropriate to place a limit on liability even if such limit had to be qualified to prevent injustice to those who suffer injuries of an extensive nature such as in the case of a person becoming a quadriplegic through collision with an animal on the highway. The extent to which insurance premiums for public liability insurance have risen in the last three years has I feel been fueled by the very large awards made by judges to accident victims. We do commend to you the thought that it would be a very reasonable action to try to arrive at a figure which under normal circumstances would be the limit for any awards made. We have noted in fact that the Federal Government has begun to consider such a course of action and may indeed legislate in future Federal Parliamentary sessions to limit payment by courts in some circumstances.

I spoke with farmers and insurance people last weekend because I knew this Bill was coming before the House. I discovered the approximate cost of insurance is \$40 per \$100 000. I know the cost per \$100 000 usually decreases as the sum insured increases, provided an insurance agent, as the Hon. David Wordworth said, is not then made responsible for checking the fences because the cost of travelling, the physical inspection, and checking with the farmer to ensure he is meeting the requirements laid down under the insurance

policy, would result in an increase in the insurance premium.

It would seem inopportune at this stage, with the low returns on farm produce, to put added costs onto farmers. As the Hon. Mick Gayfer said, if this legislation is passed every farmer will be obliged to take out insurance. One can see the sort of money involved for the agricultural community. They will incur high costs if the fences have to reach a certain standard. A two-wire electrical fence is said to be capable of stopping any beef animal. That is all right until a power failure occurs which renders the fence useless, and the animals can walk between the two wires.

Other speakers have mentioned the problem arising with children who have ponies. A child may be renting a paddock in town. Who is responsible—the person renting the paddock? Is that person responsible for the fence and should he take out public risk insurance to cover the property? Most parents who allow their children to have a horse or animal do so because they can afford to do so. But if premiums were raised, which would increase the cost of keeping the animal, what would happen? Should we make the owner of the animal using the paddock take out a policy? This would impose heavy and harsh conditions on those children who keep a pony.

The problem as farmers see it is: Are shire councils or insurance companies going to demand a level of fencing not expected from people today? If a change in standards occurred not many farmers would escape paying for the high cost of fencing. In 1970 fencing cost about \$320 a mile including material; today the cost is \$820 a mile for labour alone. I believe the cost of fencing materials and posts doubles that figure. So it is not a small amount of money which one can thumb one's nose at, particularly if a property has to be refenced.

This Bill raises a lot of questions similar to that which need to be answered. The main point of concern to me is that in order to avoid confusion, this legislation needs to be complementary to that of other States. I am pleased something is happening in that respect. However, I believe the other points raised—the cost of insurance, the effect on children, the standard of fencing, and whether insurance companies will be responsible for checking the fences, or whether another officer will be appointed to a Government department to check the standard of fences in Western Australia—must be answered. I hope the Attorney will answer these points. Until he does so I cannot say I fully favour the legislation.

HON. I. G. MEDCALF (Metropolitan—Leader of the Opposition) [3.43 p.m.]: I felt it incumbent on me to say something about this Bill as I had a good deal to do with the Law Reform Commission report and some of the matters that preceded it. This matter goes back 10 or 11 years when the Law Reform Committee was first commissioned to look into it. I may be wrong, but I feel Mr Bertram or Mr Evans was the Attorney General when this started.

The Law Reform Commission eventually came to the conclusion it did not need to make a report because of the case of *Thomson v. Nix*, decided by Sir Lawrence Jackson in the Supreme Court. Sir Lawrence held that the old English common law decision in *Searle v. Wallbank* no longer applied in Western Australia. I remind the House that this old case held that a landowner was not liable under any circumstances if his stock strayed onto the adjoining highway; he had no liability even though he had been negligent.

I do not believe we can go back to that position anywhere in Australia today. The position in Western Australia now is that a landowner is liable if his stock strays onto the highway as a result of his negligent action or conduct. I illustrate this by a case which involved myself. I was travelling down a highway well out of Perth on one occasion, 22 miles north of a large centre. The road was sealed and there were properties on either side with stock in the paddocks. It was about 9.30 p.m. and my lights were on low beam because a utility was ahead of me. Suddenly, the utility turned to the right to go to a farm.

Sitting suspended from 3.45 to 4.00 p.m.

Hon. I. G. MEDCALF: Prior to the suspension I was describing the situation in which I found myself when travelling down the highway. I could see a tail light ahead of me because I was fairly close to that vehicle, and my lights were dimmed at the time; it was about 9.30 p.m. Suddenly the vehicle turned to the right, and I assumed the driver was going into a farm gate.

[Quorum formed.]

Hon. I. G. MEDCALF: I am sorry that my story did not attract a greater audience.

Hon. J. M. Berinson: It was so exciting we needed more time to recover.

Hon. I. G. MEDCALF: I came up closer, doing about 35 or 40 kmh because it was night and I was driving with dimmed lights, when, to my horror, I suddenly saw a large dark shape looming in front of me on the road. It had been beyond my vision because my lights were dimmed. I found it quite impossible to brake to miss this large dark shape. Then I noticed the utility which I thought

had turned right to go into a farm gate; in fact, it was turned on its side at the side of the road. It had obviously struck the shape. I then proceeded to swerve to the left, and by dint of a remarkable piece of driving, I managed to hit this shape with the right-hand side of my car instead of frontally. Unfortunately *Hansard* cannot record what my hand is about to do, but somehow I went over the top. The car did not turn over, but its right-hand side was severely damaged.

I then moved a little further to the left, becoming aware finally that what I had struck was an animal. I went on and parked a little off the road, hoping that no other car was coming along. I then found that the shape was a horse lying in the middle of the road; a large black horse. I had driven straight over its rump and rear legs. I wondered whether I should do something about the horse or the utility. Before I could do anything, the horse got up and slowly walked away to where it had come from, straight into a paddock. I saw a fence about three metres from the road and noticed that there were no wires on that section of the fence.

This was a clear case of negligence on the part of the occupier or owner of the property, assuming of course that that person was the owner of the animal, and I had no reason to doubt it. Assuming that was the case, that person was clearly liable under our law. But he would not have been liable under the old English law. I suppose no claim was made against the owner of the horse, because the damage to my car and to the other person's utility was presumably covered by our respective insurances.

The question comes down to one of insurance, and to whose liability it is when this sort of thing happens. I cannot concede that we could in this age go back to the rule of *Searle v. Wallbank*; I do not believe the old English law should apply. It was held to apply in South Australia only because one of the aspects considered by the court was the situation at the date of settlement of South Australia. It was not relevant in the case of *Thomson v. Nix*.

Clearly, we have to overcome any lingering doubts about what the law is today. This Bill is an attempt to clarify the position of the law in general. There are all sorts of aspects one could bring up in connection with this, and one has heard a number of divergent views put forward by different members, quite properly, from their experience in various walks of life and particularly in the farming industry.

I do not believe we can go back to the days of *Searle v. Wallbank*. The Law Reform Com-

mission believed there should be a limitation of \$500 000 of liability. I personally believe we must have a limitation of liability. A limitation does not increase premiums; in theory, at least, it should reduce them. If the liability increases, if the damages are very substantial, premiums must increase because the insurance companies naturally also increase the premiums to meet the claims experience. By limiting liability it seems to me we are imposing a sensible limit at this time. I support the proposal that there should be a limit of liability, as suggested by the Hon. Vic Ferry.

I give my general support to the Bill.

Debate adjourned, on motion by the Hon. A. A. Lewis.

WORKERS' COMPENSATION AND ASSISTANCE AMENDMENT BILL

Second Reading

Debate resumed from 25 August.

HON. G. E. MASTERS (West) [4.09 p.m.]: The Opposition supports this amending Bill. The Minister's second reading speech quite rightly pointed out that the intent of the Act itself is quite clear and that the recent court decisions in cases of appeal seem to have made it difficult to continue with that intent, making it necessary to introduce this legislation.

Obviously, the Act is clear in that its intention is for the Workers' Compensation Supplementary Board to have the same powers as the principle board. A recent court decision saying there was no right of appeal in cases before the supplementary board was a surprise to me, and, I guess, the Minister. This legislation will clarify the law and the proper courses of action to be taken in compensation matters.

I would like the Minister to indicate how many appeals have come forward. I do not know whether this legislation is a result of the recent court decision or whether it is something that has been considered for some time. I do not know how it will affect appeals that might be in the pipeline. Perhaps appeals have been dealt with quite wrongly.

HON. D. K. DANS (South Metropolitan—Minister for Industrial Relations) [4.11 p.m.]: I thank the member for his support of the Bill. I understand one case was taken to the court and it was found that the person had no right of appeal. That is why it was decided to introduce this Bill.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

Third Reading

Bill read a third time, on motion by the Hon. D. K. Dans (Minister for Industrial Relations), and transmitted to the Assembly.

RECREATION: ACTIVITIES

Select Committee: Motion

Debate resumed from 16 August.

HON. PETER DOWDING (North—Minister for Mines) [4.14 p.m.]: The Government does not oppose the establishment of this Select Committee. It believes that the interim sports development working party will address the problems raised by the Hon. Tom McNeil, but in broad terms the Government, being sympathetic with the terms of reference of the proposed committee, and believing that its own interim sports development working committee will adequately address them, has no wish to stand in the way of the motion.

The interim sports development working party is chaired by Professor John Bloomfield, who is unquestionably this State's best qualified person in the area of sport and sport development. He has been very involved in this issue on behalf of Governments of all political hues in State and Federal spheres. In 1978 the Court Government commissioned a report that he brought down titled, "The Development of Sport in Western Australia". The Bloomfield report is a blueprint which other Australian States have chosen to act upon.

One of the interim working party's clear terms of reference is to ensure that the interests of sport outside the metropolitan area are adequately addressed, and those concerned will ensure that these terms of reference do not receive scant attention. Indeed, country sport is singled out because of its high priority with this Government. All other terms of reference are State-wide in their concept and therefore embrace the interests of country people. The Minister does not accept that the establishment of a Select Committee will safeguard people involved in country sport or that it is necessary to pre-empt the working party. The qualifications of the working party are beyond question. I am sure the Hon. Tom McNeil would concede that. There is close liaison between the working party and the Department of Youth, Sport and Recreation. The director of the depart-

ment and one of his sports development officers are members of the working party. They were invited to join the working party through their original involvement with country sports interests.

I will briefly respond to the points made by the honourable member in regard to funding for sport. Firstly, no member of this working party is responsible for distribution of instant lottery funds. The working party itself has no money at its fingertips; that is, with the exception of travelling expenses of the country member, it asks for no fees. The honourable member should also be aware that individual country sports clubs can already make direct application for instant lottery funds.

Recently, nearly \$80 000 in direct aid was allocated from the latest round of distribution from instant lottery funds. Additionally, country interests receive continuous benefits from the community recreation facilities, which the honourable member acknowledged in his remarks.

The Government is keeping a tight rein on instant lottery funds and appreciates that it has a responsibility to see that the rein is continuous. To ensure this the Minister has asked for advice from both the working party and his department on possible new guidelines. The Government seeks to enhance the operations of the WA Sports Federation, but not to the detriment of any other party or body. To not go forward, says the Sports Federation, would be an abdication of responsibility as it provides a democratic method of reception for sports people throughout Western Australia. The Government believes it should encourage the efficiency of such interests to enable effective bureaucracy, and it will do so.

As I indicated at the outset, the Government does not oppose the establishment of this Select Committee. It takes this action because of its continuing desire to further the interests of country people in general and of sport in particular.

It must be said that the Government views existing mechanisms as sufficient to expertly and adequately achieve these aims. The Government believes some danger of confusion prevails among some sporting groups, especially considering the other committee recently set up by this House. Perhaps the honourable member should consider deferring the establishment of his proposed committee for a period in order that he may assess the Government's actions through the working party and do so in consultation with the Minister, who has invited the honourable member to act as a consultant, or to make a submission to the working party. But if the honourable member wishes to pursue the motion, the Government welcomes the

debate. It believes that the debate itself highlights the issue of sports development in country areas and members can be assured that the Minister will take steps to ensure that the Government policy caters adequately for that development.

HON. A. A. LEWIS (Lower Central) [4.21 p.m.]: I support the appointment of a Select Committee. It was interesting to hear the Minister so coldly and clinically dismiss the previous committee. There is a subtle difference between a working party set up internally and a Select Committee properly run, as I am sure this committee will be, that considers the public interest and ascertains the need in regard to sports. We are dealing with sports alone.

Departments tend to adopt the attitude of "We know all the answers", and that is one of the problems I see facing Select Committees in this place. Governments take no notice of the type of report committees offer the Parliament. We have examples already of Governments of both political colours taking absolutely no notice of the last two Select Committees that I chaired. It was not because I chaired them. The committees comprised members from both sides of the House and we did not have a dissenting voice or a dissenting report. We happened to go into the subject in far greater depth than any Minister had ever gone into it. The Minister for Sport and Recreation has the liability of having many other portfolios to handle and consequently cannot really come to grips with small issues like sport, national parks, recreation, or cultural facilities.

I wish the Hon. Tom McNeil well with his committee. I hope the Government takes a little more notice of him than it has taken of previous committees. It even got to the stage of the present Government doing exactly the opposite of what the National Parks Select Committee recommended. The Government has become an expert; it has selected, elected or appointed seven committees to go over the ground that has already been covered. The guidelines have already been put down. I hope and pray that the Government takes notice of Mr McNeil's committee's recommendations. I hope also that the opportunity is not lost for the Government. It should not stick its head in the sand and listen to its advisers, whether they be advisers appointed from outside or inside the Public Service—and there is more of the former than of the latter. The Government will not listen to reports from any member of Parliament. It is supposed to have a community interest.

It appears also that there is far too much inward looking in the department when public servants say, "We are patting ourselves on the

back. We are the greatest. Our Minister is the greatest and he says we are the greatest".

Hon. Peter Dowding: That is very true, you know.

Hon. A. A. LEWIS: With one exception: the Minister. He cannot even handle what he is doing.

Hon. Tom Stephens: Rubbish! He is doing very well.

Hon. A. A. LEWIS: The messenger boy is back. It is good to see him in his bright blue jacket.

Hon. Peter Dowding: We will see, Mr Lewis.

Hon. A. A. LEWIS: Yes, we will definitely see. We have seen the problems he has already created in Collie. I return to discussing sport, the subject of this proposed Select Committee. It is a great problem for Ministers, Governments, and public servants that people with fairly high qualifications in the sporting field such as has the Hon. Tom McNeil may dare to have a thought on a matter and put it to a department. It reflects on members of this Chamber for Ministers of both political colours to take no cognisance of reports presented to this place.

With those few words, I wish the Hon. Tom McNeil's committee all the best. I am sure the House will accept the motion. I hope we debate the results of that committee so the Government will hear what people outside the Public Service, outside the narrow groups, have to say about sport in this State.

HON. TOM McNEIL (Upper West) [4.27 p.m.]: I thank the Minister handling this motion on behalf of the Government for the comments he made. I have had discussions with Government officials regarding the formation of this Select Committee and what was considered an area of concern; namely, a possible duplication of the work currently being undertaken under the auspices of the working party on sport. However, I have not moved from my original stance in regard to such a Select Committee because I, together with every elected member of this Chamber, have a deep and genuine concern for what is going to happen to country sport, and for the difference between metropolitan-based sporting organisations and country sports people. I would like to win the support of both sides of the House, which I think and hope will eventually be the result. In trying to allay the fears expressed by the Minister, I point out that I would not like to see the matter deferred until a later date.

I realise the Government suggested to me that I go into the working party in a consultancy capacity and while I consider that an honour, and it

may be all very well to have an involvement, it would not be sufficient. The Select Committee is essential for the welfare of sport for country people; certainly there would have to be a closer interaction between them and the metropolitan area. As the Hon. Sandy Lewis said, members of Parliament are in that situation as they are elected representatives and are closer to the grass roots and know the feelings of the people they serve. They are able to see some of the problems and the reasons that the Government would accept the findings of a working party which may not fully consider the problems of country areas. However well the working party may work, and whatever good reasons and qualifications the Government's advisers may have, I do not believe that they could formulate as exhaustive a report as could a Select Committee. That is why I really believe in the formation of this committee. It will not be something which will enable us to come up with an instant answer; it will be an on-going thing. After a time the report will be handed down.

I refer to the Lewis report on sporting facilities prevailing in WA. This type of Select Committee will not only be complementary to the Lewis report, but also of inestimable value to the Government when assessing the sporting requirements of this State.

In my initial speech I pointed to the necessity to involve local government in the establishment of facilities in country areas and the benefit of involvement of an on-going nature between Treasury, local government and the sporting organisations concerned. I honestly believe that requires the attention of the Department of Youth, Sport and Recreation. In fact, the Minister made reference to the same topic in respect of Government funding and who decides the allocation of money, but it still comes back to my fear and concern that if there is insufficient representation from country areas their needs could be forgotten.

That is the reason for moving for the Select Committee. I am hopeful that both sides of the House will see the wisdom of my motion and give it the support I need.

Question put and passed.

Appointment of Select Committee

HON. TOM McNEIL (Upper West) [4.31 p.m.]: I thank members for the support they have given me. I move—

That the Select Committee on Sport and Recreation Activities in Western Australia comprise the Hons. Lyla Elliott, C. J. Bell and the mover, and that—

- (1) The Committee have power to—
 - (a) send for persons, papers and records;
 - (b) adjourn from place to place;
 - (c) sit during any adjournment of the Council.
- (2) the committee report not later than 24 November 1983.

Question put and passed.

QUESTIONS

Questions were taken at this stage.

RACING AND TROTTING: HONORARY ROYAL COMMISSION

Report: Motion

Debate resumed from 17 August.

HON. FRED McKENZIE (North-East Metropolitan) [4.55 p.m.]: I support the motion of the Hon. Graham MacKinnon. I do so after receiving advice from the Minister that the report given to me is under active consideration.

Hon. G. C. MacKinnon: You must occupy a privileged position. I have not received a copy of the report.

Hon. FRED McKENZIE: I took the trouble to ask the Minister. I am not sure if Mr MacKinnon has. I asked the Minister in the light of Mr MacKinnon's remarks, and also, because the motion contains an expression that the Government should take action to prevent the Western Australian Turf Club from proceeding with a rationalisation programme until the report has been considered. The report is under consideration and I am sure the honourable member will appreciate that, because of the length of the report, it will be some time before the Government decides on its position in respect of the recommendations contained in the report. Suffice it to say that since Mr MacKinnon moved the motion the Minister has ascertained the points raised by Mr MacKinnon in support of it. I make it clear to members that the commission did not make recommendations in relation to rationalisation. The commission from time to time did give some thought as to whether it should discuss the question of rationalisation, but in the finality the commission did not make a recommendation because it believed it to be a matter that the Western Australian Turf Club had looked at long before the commission was set up.

Since no recommendation on rationalisation has been made I believe this is a matter that the racing industry itself should look at. The com-

mission has made recommendations in respect of how the distribution of TAB funds is to be implemented in the future. Bearing in mind that only so much money is available for distribution, this action by the commission would naturally cause the Western Australian Turf Club to look at how the distribution of TAB profits can be undertaken. On the other hand the viability of the industry itself needs to be considered. Since the question of rationalisation was addressed by Mr MacKinnon, and it is contained in the motion, notwithstanding the fact that no recommendations were made on the rationalisation question, I take the opportunity to express my point of view on that matter.

During the course of the inquiry it became abundantly clear that if more funds were to be made available to the racing industry, ways and means of generating more funds through the TAB had to be devised. It was quite clear that both the Western Australian Turf Club and the WA Trotting Association were looking at the question of rationalisation simply because only so much money is available to the industry and the availability of these funds needs to be maximised. I suspect that this question has exercised the minds of members of both bodies, given the fact that they are charged with the responsibility of controlling the racing and trotting industries within the State, and rightly so. The Acts of Parliament governing the operations of the Western Australian Turf Club and the WA Trotting Association do not direct the operations of those bodies but provide certain safeguards and guidelines to be adopted so that justice and fair play may prevail.

I have noticed articles in the newspapers which suggest that the commission has recommended some form of political control. That is certainly not the case; there was never any intention on the part of the Honorary Royal Commission that political control should be exercised over either the racing industry or the trotting industry. The intention was to ensure that safeguards in respect of justice and fair play were retained and, where necessary, strengthened to assist the weak. When I talk about the weak, I refer to those subject to the control of the Western Australian Turf Club and the WA Trotting Association and the commission's intention to make sure they receive a fair deal from those bodies. That was certainly the intention of the commission.

Members must bear in mind also that The Western Australian Turf Club Act should be amended to bring it up to date. It is a very old Act and it should be looked at from time to time.

The commission was given that responsibility, and it did an excellent job.

The report is the culmination of a great deal of work and effort. The Hon. Graham MacKinnon indicated that all the members worked very hard. I am extremely grateful for the work done by the two other members of the commission, the Hon. Norman Baxter and the Hon. Graham MacKinnon. Indeed, we were fortunate to have, as chairman of the committee, the Hon. Norman Baxter because he has a sound knowledge of the racing industry, with which he has been associated for a long time. He also has some very influential friends in the trotting industry, if one may use that terminology. The Hon. Norman Baxter was of great help to the commission. As we travelled around the State we learnt a great deal. We also spent considerable time in Victoria inspecting the racecourses and trotting venues and meeting the members of the various clubs.

Hon. H. W. Gayfer: I think the word "influential" should have been "knowledgeable".

Hon. FRED McKENZIE: To be fair, I would say the people to whom I referred were both influential and knowledgeable.

Hon. G. C. MacKinnon: They did not influence our findings though, did they?

Hon. FRED McKENZIE: I would rather not go into that matter in the House. We certainly had our ups and downs; indeed, people involved in any sort of sport seem to have more downs than ups, unless they are extremely fortunate.

Hon. D. K. Dans: You win a few and lose a lot.

Hon. FRED McKENZIE: Rationalisation in the industry has occurred in many areas of the State. Unfortunately, where it has occurred, country centres have suffered. One has only to look at the country towns of Western Australia to see that, but when one is in a very competitive industry such as the gambling industry—

Hon. D. K. Dans: The thoroughbred industry.

Hon. FRED McKENZIE: —a number of organisations are competing for the gambling dollar. One must look at the industry, and what might have been good for it 50 or 60 years ago is not necessarily good for it now. The Western Australian Turf Club and the WA Trotting Association have been given the opportunity to control the racing and trotting industries; therefore, it is important they be able to examine the industries in which they are involved.

The commission looked at the position faced by the industry and, in regard to the introduction of mid-week city racing which would certainly have an effect on some of the provincial clubs which

operate mid-week also, the commission made the following recommendation in its report—

From the evidence before us we acknowledge that mid-week city racing will:

- (1) increase TAB and oncourse turnover thereby providing greater profitability for the racing and trotting industry;
- (2) increase attendance at race meetings; and
- (3) have the support of the majority of owners and trainers and race patrons.

We acknowledge there is a greater turnover mid-week when racing and trotting meetings are held within the metropolitan area of Perth, and that can be readily understood bearing in mind the number of people who live in the metropolitan area. As members would be aware, approximately 65 to 70 per cent of the population of Western Australia resides within the metropolitan area of Perth. Naturally it follows that any comment on the increased attendance at race meetings would refer to that fact.

The third matter mentioned in the quotation I have just read must be examined in conjunction with the fact that quite naturally in this State most owners, trainers, and race patrons are domiciled rather close to the city. It appears that, when programmes are conducted in the city the turnover at those meetings is much greater than is the case at a meeting at, say, Northam, Toodyay, York, or Beverley in the eastern districts or, to a lesser extent, Bunbury and Pinjarra in the south.

The Racing Restriction Act contains a provision to the effect that the Western Australian Turf Club is restricted to holding only 76 meetings a year in the metropolitan area. The WA Trotting Association may conduct a similar number of meetings in the metropolitan area. Members of the trotting industry have reached some sort of agreement that that number ought to be extended to 104. In due course, I imagine representations will be made to the Government to increase the number of trotting meetings which may be held in the metropolitan area from 76 to 104.

The Western Australian Turf Club has yet to come to grips with that problem, although it was made clear to the commission it intended to endeavour to increase the number of meetings it could hold in the metropolitan area in approximately the same way as that envisaged by the WA Trotting Association.

The reason for such an increase is to generate more income for the racing and trotting industries.

Reports have appeared in the newspapers to the effect that the Western Australian Turf Club is moving on rationalisation and reference was made to Mt. Barker, which created a considerable amount of publicity. We did not look at Mt. Barker and I do not know whether justification exists to retain the club.

Hon. D. J. Wordsworth: I shall refer to that in a few minutes.

Hon. FRED McKENZIE: I shall leave it to the Hon. David Wordsworth to tell us what he thinks about Mt. Barker. All I can say is the Western Australian Turf Club has stated it will not move to amalgamate or close any clubs until the Government has had the opportunity to study the Baxter report, as the document is termed. It would be fair for the Western Australian Turf Club and the WA Trotting Association to expect the Government to act on the report within a reasonable period.

Hon. Tom Knight: Like the next couple of weeks. Do you realise the racing season in the country starts in mid-November?

Hon. D. K. Dans: We will move as fast as we have on other Select Committee reports.

Hon. FRED McKENZIE: I would not suggest the Government should move on the report within a couple of weeks; 12 months would be closer to the mark. That would be a reasonable period within which the Government could consider the report, because it contains some far-reaching conclusions which could have a serious effect on the industry not only in the metropolitan area, but also in the country, particularly in relation to the distribution of TAB profits. Rationalisation will hinge on that issue and I expect that is one of the reasons the question of rationalisation has exercised the minds of so many people.

Hon. Tom Knight: By "rationalisation" they mean "centralisation".

Hon. FRED McKENZIE: One may call it what one likes. I suppose that is what it is. There are four clubs in the eastern districts within a radius of approximately 60 miles and it is relevant to look at the cost of maintaining the facilities on each of those courses. One should consider the costs of public attendance, the training track—one should bear in mind that each of those courses has only a few trainers—and the other fixed costs which must be of concern to the racing industry.

Hon. Tom Knight: If you look at the community effort that goes in, you see people pay to keep these things within their towns.

Hon. FRED McKENZIE: That is not really the case, because the clubs are in a very poor financial state. That was one of the reasons we realised that, of necessity, if the clubs were to remain as they are at present it would be necessary to channel more funds to them. All the clubs have that problem.

Hon. Tom Knight: That situation exists, but not at Mt. Barker.

Hon. FRED McKENZIE: They are all going to the TAB—

Hon. Tom Knight: Mt. Barker is different.

Hon. FRED McKENZIE: Mt. Barker is not in a different position.

Hon. Tom Knight: It is.

Hon. FRED McKENZIE: Mt. Barker would not survive without a distribution from the TAB.

Hon. Tom Knight: Nor would most of the big clubs, and nor would Perth.

Hon. FRED McKENZIE: I am not saying they would. As I said earlier there is just so much cake, and we must look at ways and means of increasing the cake. The committee indicated—its members may not agree now, although this is in the report—that if there were more racing in the city there would be greater profitability. The report states that if there were an increase in the TAB turnover the racing and trotting industries would witness greater profitability.

Hon. Tom Knight: But there would be fewer recreational pursuits for country people, and that is what I am on about.

Hon. FRED McKENZIE: That is another matter. I hope the Hon. Tom Knight would not suggest that the Government should interfere.

Hon. Tom Knight: I am going to say something on that.

Hon. FRED McKENZIE: I will indicate what we have done to overcome the problems. I ask the House to remember that I said the Government's role is not to interfere, but to provide guidelines thorough Acts of Parliament that will ensure that the people involved in the industry get fair play and justice.

Hon. Tom Knight: That was okay in the past until the greed factor crept in.

Hon. FRED McKENZIE: Given that there is only so much in the cake I must refer to the point at which I started. The WA Trotting Association and the Western Australian Turf Club have been given control over racing and trotting. It is up to them to take initiatives, and one of the necessary initiatives is to keep the industry viable, which means some rationalisation will need to take

place. That is probably one of the reasons for our not making specific recommendations as to which way the industry should go. I am not in a position to know what should happen to the four clubs in the eastern district. I am not aware of the costs to be met. I have the advantage of knowing the evidence put before us by trainers, owners, breeders, and other people involved in the industry, and I believe there may be too many clubs in the eastern district. I do not know which one ought to go. I will not try to sort out that one because the industry knows best.

Mr MacKinnon mentioned that only two racing tracks service the whole of the metropolitan area. Maybe we should close some country tracks and construct another track in Perth. I assure Mr Knight that the Western Australian Turf Club does not have the money to do that.

Hon. Tom Knight: That is why they rely on the Government, and that is why the Government should interfere to ensure Western Australia benefits from racing, and not just the big clubs in Perth. You control the purse.

Hon. FRED McKENZIE: I assure the member that if he wants to make himself unpopular in the racing and trotting industries he should continue to make that suggestion.

Hon. Tom Knight: In Perth?

Hon. FRED McKENZIE: Yes.

Hon. Tom Knight: I beg to differ.

Hon. FRED McKENZIE: Generally the people in the industry, whether they come from the country or the city, do not want any political interference.

Hon. Tom Knight: That was until such time as they couldn't handle it themselves.

Hon. FRED McKENZIE: The minority wanted that interference, but the majority did not. The Acts are available to regulate the industry but not tell it what to do.

Hon. Tom Knight: Won't you agree that this came about when your commission recommended a big share to the city race clubs, and that is when the eggshell burst?

Hon. FRED McKENZIE: Our inquiry went on for many months. Possibly we opened the inquiry about the time the Western Australian Turf Club was to move on this matter. I will not try to defend the turf club, but out of courtesy to it I can say I think it delayed action. Press reports have indicated that the club will now not act until the Government has had the opportunity to consider the matter. No doubt is in my mind that the club will act then to do what is in the best interests of the industry.

Hon. Tom Knight: There are two sections, the country and the city.

Hon. FRED McKENZIE: The Minister is now examining submissions he received as a result of the report. The Government will not take hasty action, and that is why I say to the Hon. Tom Knight that this matter will not be resolved in something like two weeks; it will be more like 12 months. Any decisions taken will be implemented as expeditiously as possible.

Hon. Tom Knight: Then we should abide by this decision on the books that they do nothing until a final decision is made.

Hon. FRED McKENZIE: The question of rationalisation is one best determined by the racing and trotting industries, given that the parent bodies of the industry are the Western Australian Turf Club and the WA Trotting Association. That is where the matter must be sorted out and dealt with—we should not interfere.

Hon. Neil Oliver: The turf club and the trotting association act under Acts of this Parliament, and regulations under those Acts should be set by the bringing into this Parliament of an appropriate Bill. It is not up to the clubs or to the Minister to make a decision.

Hon. FRED McKENZIE: If the member had been listening—

Hon. Neil Oliver: I have been listening all the time.

Hon. FRED McKENZIE: The member could not have been listening carefully. I have been through this point about three times, and I will not go through it again.

Hon. Neil Oliver: You didn't cover that.

Hon. FRED McKENZIE: I did cover it, but the member did not listen. I suggest he read *Hansard* to find out what I have said. I support all the recommendations of the report because I was a party to each one of them. We recommended safeguards in respect of mid-week racing; we said that it was clear a move to more mid-week racing would be likely to have a detrimental effect on some provincial clubs, and could threaten the existence of others. We continued to say—

As the WA Turf Club is currently conducting almost as many meetings as is permitted under the Racing Restriction Act it will be necessary to amend it if any additional mid-week city meetings are to be held. Furthermore, as it has the sole right to issue licences for race meetings the Racing Restriction Act, if amended, should provide an avenue of appeal for country and provin-

cial race clubs to the Minister where agreements between the various bodies cannot be reached.

We tried to include a safeguard. While we acknowledge that more racing should go to the city, because that is where the profitability is, we have said that safeguards should be built in to provide fair play and justice. I hope the Government will take that note. There ought to be some recommendations, possibly in respect of Mt. Barker, but we did not look at that club. It is reasonably close to Albany, and we looked at some of the other clubs near major regional centres.

We looked at Albany, Kalgoorlie, and Geraldton, and recommendations that should be of benefit to those types of clubs were made. Mr MacKinnon mentioned on-line TAB facilities whereby a totalisator would be on course or there would be some hook up to the TAB so that punters have access to the pool where the big money is.

Hon. Tom Knight: Which my clubs do.

Hon. FRED McKENZIE: It is not available for Eastern States betting. This matter is one I will pursue within the Government, and it seems I will obtain the support of Mr MacKinnon, Mr Knight, and others. It is an area I will consider.

Much has been said about insufficient training facilities in the metropolitan area. I will not enter into that now except to say the points were well made. Except for the question of rationalisation I support all that Mr MacKinnon said. He delivered to the House a good summary of the report.

Firstly, I am not particularly happy with the way the TAB is able to dictate to its employees. Its agents are really its employees, because they carry out the duties of employees. Secondly, the TAB can dictate to punters. It has a monopoly, and we must bear in mind that the board is composed of members from throughout the racing industry. One must come from the country, one from the trotting association, one from the city, one must be the manager of the TAB, and an appointee from the Government must be the chairman. I suppose the only person missing is someone from the betting fraternity.

Hon. Garry Kelly: Also the agents.

Hon. FRED McKENZIE: The agents should be represented as well. From the evidence presented to the commission I believe that the agents are getting a poor deal indeed. In the case of disputes they do not have any right of appeal other than to the Ombudsman, who I do not think is the appropriate person to handle disputes between the

TAB agents and the TAB. A private arbitrator should be available.

I would not want to be involved in the question of the Industrial Commission. We know from the evidence that situations involving the Industrial Commission are regarded as impossible. The Act has been changed, but in any case the proceedings can be complicated and expensive, especially if legal representation is forced upon participants. For that reason we made the simple request that in the case of disputation between the agents and the TAB a private arbitrator be given the role to determine those matters. Currently the agents do not seem to have anywhere to go.

I was quite impressed by the people who came before us; they seemed to be reasonable people. I thought they had not been given a fair deal. We met them twice, and quite a number of witnesses came forward and a lot of documentation was received.

I support the motion of Mr MacKinnon, and I will see what I can do to have the recommendations implemented. We thought, considering the present structure of the industry, that the question of distribution of profits in the manner we have suggested, which is the manner adopted in Victoria, would be the best for Western Australia. The costs the Western Australian Turf Club said it was incurring out of its own funds, moneys which were channelled into the country areas, would be taken care of. The money left would be distributed on the basis of 60 per cent for the metropolitan area, and 40 per cent for the country.

I dare say that in time the Government will make a decision based on submissions it has received and the result of the Honorary Royal Commission's deliberations. It will decide what aspects should be acted on and whether it will adopt the recommendations in full, in part, or not at all. I will endeavour to see the commission's report is adopted because the recommendations are what we thought were best in the light of the submissions received. If I have an opportunity to look at submissions received by the Government I may alter my point of view, but currently I do not intend to do so.

HON. D. J. WORDSWORTH (South) [5.46 p.m.]: I support this motion and I thank the Hon. Graham MacKinnon for including in it a clause on rationalisation.

I am not a racing man. Apart from being a lover of horses, I would not know which way they run around the race track. I do enjoy the odd day's racing when I am asked by the Chairman of the Western Australian Turf Club to join him for

lunch. I particularly enjoy going to country meetings in my electorate. Mt. Barker has a very pleasant course, and there is another at Albany. For some years we, as members of Parliament, have given a trophy to Pingrup where there is a nice, small country club.

Each club is quite different from the others. However, when a petition from 1 600 people arrived practically overnight I suddenly took a keen interest in racing. That is what happened at Mt. Barker when the locals heard there was a chance their race club might have to close down. They got out of their beds to sign the petition. I say that because I am holding a copy of the *Albany Advertiser* which has a picture of an 84-year-old man in his dressing gown in a wheel chair signing the petition. People at Mt. Barker are up in arms over the question of rationalisation, and I think they have good reason.

I read with a certain amount of interest the odd article in the paper on rationalisation and was somewhat humoured to see that Lady Jessica Lee-Steere attempted to save the Toodyay Race Club, because I knew her husband was Chairman of the club. I thought if she was on the warpath there must be something behind the talk of rationalisation.

Hon. Neil Oliver: She did very well too.

Hon. G. C. MacKinnon: Her husband is Chairman of the WATC, not of the Toodyay club.

Hon. D. J. WORDSWORTH: That is what I meant. He was attempting to do something about rationalisation but his wife was not going to let him get away with it.

It then began to affect my district and club. I got the report of the Honorary Royal Commission which normally I probably would not spend too long reading. I have already complained in the House that because it was made into an Honorary Royal Commission I had to buy copies of the report at considerable expense to send to the various clubs in my province. One of the recommendations it made concerned the Racing Restriction Act, and I refer to page 17 of the report, which states—

This Act not only restricts the number of racing and training meetings in the metropolitan area, but gives both the WA Turf Club and the WA Trotting Association very strong controls over both industries in Western Australia.

The right of the two controlling bodies to issue licenses implies the right to refuse or alter racing dates.

Despite meetings held and decisions made by provincial clubs and country clubs these bodies have no right of appeal from the overriding decisions of the WA Turf Club or the WA Trotting Association.

Most people would find that hard to believe. The Mt. Barker club wrote to the WATC on 12 May 1983 seeking a meeting with the committee of the WATC. The club wrote again on 1 June saying that it wished to meet the country clubs subcommittee. The aim of the meeting was so that the club could project itself to the WATC to gain continued support for TAB coverage and Racecourse Development Trust assistance, and be recognised as a regional club.

The PRESIDENT: Order! I ask honourable members to cease all the audible conversations so we can hear the member address the Chair.

Hon. D. J. WORDSWORTH: Instead of that happening, to their amazement they learnt before any meeting with the WATC, through various sources, including what appeared to be a series of carefully orchestrated Press releases, that the WATC was to close the Mt. Barker Turf Club. So the statement by the Honorary Royal Commission was quite correct. The WATC has the right to grant dates for meetings, and if it wants to it need not grant any dates at all.

Great development had taken place at Mt. Barker on what is called the Frost Oval, and \$300 000 had been spent in the last year or so. The money was raised by local government loan and the Shire of Plantagenet. The oval is owned by the shire and is used by that body for various purposes. It is also used by Mt. Barker Agricultural Society for its annual show, the North Mt. Barker Football Club, and the Mt. Barker Turf Club. They spent \$258 803 on building construction, \$30 000 on sewerage and \$10 500 on the water system. It is a beautifully reticulated ground which is used as a community facility. Racing on the ground helps to supply those facilities and recover the annual cost. For the people of Mt. Barker to raise this money and construct the buildings and suddenly find themselves without a racecourse is amazing.

Could they get a WATC member to see them? Not on your life. Members of the WATC attend meetings in Perth and not country meetings, and yet they decide whether meetings should take place in the country. Finally, two executive staff members of the WATC went to Mt. Barker on 6 August and met the committee and discussed rationalisation of racing in the Albany-Plantagenet district. It was reported in the newspaper as follows—

The junior vice-president of the Mt Barker club, Mr Ray Naylor, said that at the meeting it became blatantly obvious to everyone that the WATC wanted Mt Barker closed.

"The carrot they dangled in front of our faces was that our sacrifice would allow full TAB coverage to be established in Albany. But to their apparent surprise we refused the offer.

"They gave no guarantee that Albany would get TAB coverage, so that made our position clear, we considered the proposal ridiculous."

Many people now share the view that the WATC had no idea of the \$½ million racing complex developed at Frost Oval.

They contend that the WATC committee made up its mind to close the club before the meeting on August 6.

They also believe the meeting was sought purely and simply to deliver an ultimatum—amalgamate with Albany.

No-one has anything against the Albany Race Club; these clubs work well together. I have here a brochure that goes into most motel rooms in Albany during the tourist season. On one side is the Albany Racing Club, showing the racecourse, and inside is the Albany and Districts Trotting Club, showing its location and the meeting dates. Complimentary tickets to both clubs are included, and on the back of the brochure are the dates for the Mt. Barker Turf Club. The brochure says "Come to the friendliest race course in the west". That is how these clubs work together. The brochures are put into most motel rooms so any visitor to Albany can go to the tracks.

Hon. G. C. MacKinnon: That is rationalisation at its best.

Hon. D. J. WORDSWORTH: That is right. I wonder whether they could survive by themselves; they complement each other.

There is also a small facility at Denmark used largely as a training track. The number of race meetings held at Mt. Barker is considerable. It has increased from two or three 10 years ago, to seven. In 1981-82 the club broke all records for nominations for a non-provincial course, and was the first non-TAB course to conduct a nine-event programme. The club is not backward; it offers \$86 500 in stake money and attracts very good sponsors. Forty-nine races were contested at the seven race meetings. Two of the meetings were TAB-operated and the turnover was an excellent \$144 000 at the club's first full TAB meeting.

I have to admit these TAB figures do not mean a lot to me, but I understand from those in the trotting and racing game they indicate how well the club is going. The club has very few costs; that is the great thing about it. The facility belongs to the shire, the grounds are cut and mown, and the club pays \$1 000 to the shire for the rent of the oval. Most work is voluntary.

The building just completed comprises a tote, kitchen and dining facility, bar and viewing area, and judges', commentators', and video rooms. Extensions have been built to the jockeys' room and parking facilities have been provided. Further extensions are contemplated by way of a double-brick jockeys' room and a modern double-brick stewards' and administration building. New horse stalls have been constructed and the club has a fine 1 600 metre reticulated turf track.

All this will go by the board if the WATC has its way. The district is staggered by that prospect. Like me, the local people have never realised the significance of the Racing Restriction Act.

I was amazed or amused to read an article in the *Sunday Independent* in "Maumill on Sunday". I do not know whether he is a racing commentator. There is a little picture of him with a cigarette in his mouth, or perhaps it is a pencil for writing down tips.

Hon. G. C. MacKinnon: He is an expert on some obscure sexual activities.

Hon. D. J. WORDSWORTH: Is he? I will quote him nevertheless because of some of the comments he made in this article under the heading "Close the bush race tracks!" The article appeared on 3 July and states—

The boring old cry of "give country racing more money" was raised again and is no answer.

We all know that just about every facet of racing needs more money. We do not need a royal commission to tell us that.

I think he is referring to the members of this House. The article continued—

But why bleed city racing to prop up racing in some country centres which have small populations and no race horses in training in the region?

Of course, that is a load of rubbish. In Mt. Barker there are some 70 horses in training, and 14 trainers. They have won some of the most prominent races in the State, so it cannot be said that there is no training in these regions. Further in the article the following appeared—

What's really needed in country racing is for existing finance to be well spent.

This man is suggesting that we should close some of the smaller race clubs and put the money into the bigger ones. He went on to talk of big training and racing centres like Kalgoorlie, Albany, Bunbury, Geraldton, Pinjarra, and Northam, which fill a vital role, and he said—

...but the minor race courses and clubs are sucking up dollars to maintain facilities which are rarely used.

How do they get the facilities? It is not at a great cost. The allocation from the Racecourse Development Fund was \$35 000, which comes out at less than 10 per cent of the cost of the new facilities. The article continued—

It's time to combine the minor clubs under regional associations to provide more dates for mid-week city racing.

It is rather interesting that the Mt. Barker club is competing successfully with city racing because it holds races on a Saturday. It can do that. It does not come into this mid-week racing. Finally, Maumill says, and I am sure members of this Chamber will be interested to hear this—

Diehards in a few country centres will scream their lungs out at the suggestion that a few racecourses in bush towns should be closed. Let them scream. For too long a noisy minority has used the imbalance of power in the Legislative Council to get their own way.

The Legislative Council comes into it again.

Hon. D. K. Dans: It has always been around.

Hon. D. J. WORDSWORTH: Maumill continued—

There is an urgent need for a sensible, non-partisan rationalisation of country racing and facilities.

I can assure him that members will still ramp in the Legislative Council if the WATC starts closing down these sorts of race clubs because they play a vitally important part in the country life of my electorate. These people cannot come to Perth, which is 300 kilometres away; they cannot travel that far to a race meeting; but they can enjoy the facilities provided in these towns. They conduct very good meetings. The facilities might not be as sophisticated as they are in the city, but nevertheless they are as much as can be provided in country areas, and there is no reason that we should lose them. They also supply the facilities for training horses, so that when the better horses come up in our country circuits they go into the city and win some of the major prizes.

I support the motion.

Debate adjourned, on motion by the Hon. Margaret McAleer.

ADJOURNMENT OF THE HOUSE: SPECIAL

HON. D. K. DANS (South Metropolitan—Leader of the House) [5.48 p.m.]: I move—

That the House at its rising adjourn until Tuesday, 27 September.

Question put and passed.

ADJOURNMENT OF THE HOUSE: ORDINARY

HON. D. K. DANS (South Metropolitan—Leader of the House) [5.49 p.m.]: I move—

That the House do now adjourn.

Electoral: Postal Ballots

HON. NEIL OLIVER (West) [5.50 p.m.]: I draw to the attention of the House a very serious abuse of an electoral system and the prostitution of the constitutions of two unions. I refer to an article which appeared in *The West Australian* newspaper on page 3. It is headed "Rigging of polls alleged" and it reads—

The Federal Government will investigate allegations that two trade union elections were rigged after postal ballots had been tampered with as they passed through Australia Post. The Employment and Industrial Relations Minister, Mr Willis, said yesterday that if the allegations proved to be true the culprits would be brought to justice.

That is a profound statement. I hope the Minister will take seriously all the allegations, and determine if there is a possibility of a conviction for interfering with Australia Post. It is a very serious offence.

Hon. D. K. Dans: By anyone, not just by enemies.

Hon. NEIL OLIVER: The article continued—

It was alleged that mail workers signed statements to the effect that a NSW trade union official had organised a ring inside Sydney mail centres, misdirecting voting papers in transit.

It goes on to say—

The statements said that stolen papers were collected by the union official or his agents, filled in and sent to the returning officer.

Hon. N. F. Moore: This sounds like what we were talking about last night.

Hon. NEIL OLIVER: To continue—

Mr Willis said during question time in Parliament yesterday that activities of this kind carried fines of \$500 or 6 months' gaol.

Stealing mail carried a seven year prison term.

I will make further inquiries; and I hope that the Leader of the House, Mr Dans, will make further inquiries. I hope and trust that the unions, which are not named in this article, are not affiliated with the Australian Labor Party. I will ask a question at a future time to ascertain just what unions are referred to in the article. The abuse of postal votes was brought up previously in an Electoral Act inquiry by the Hon. Justice Kay, a Judge of the District Court of Western Australia.

Hon. Peter Dowding: He is not an "Honourable".

Hon. NEIL OLIVER: The honourable member who interjected, who is a member of the Bar of the Supreme Court of Western Australia, should have respect for the judiciary.

Hon. Peter Dowding: I have, but he is not "Honourable".

Hon. NEIL OLIVER: It makes no difference to the substance of what I have to say. He had this to say on page 20 of his report—

The majority opinion was that postal voting is open to abuse. There is no doubt that the potential exists as soon as ballot papers or related documents leave the control of the Electoral Department.

Hon. Peter Dowding: But he found no evidence.

Hon. NEIL OLIVER: Judge Kay said—

Although no concrete evidence can be produced—

Hon. Peter Dowding: No evidence.

Hon. NEIL OLIVER: To continue—

—that any malpractice has occurred in connection with postal voting in hospitals, there is quite substantial circumstantial evidence in reference to voting in the elections in the Kimberleys in February and December 1977 for one to come to the conclusion that malpractice occurred.

Hon. Peter Dowding: There was, in fact, no finding of fact at all.

Hon. NEIL OLIVER: Look, I am suprised that the Minister should be objecting, because I am only quoting from page 20 of the report of the inquiry. If he is disagreeing with the findings of his honour, he may do so, but I am very surprised

that the Minister should take a different line from the line that I am taking. I would have thought he would be very concerned about the statement in the Press this morning, and its investigation. If the Minister is laughing about it, he can laugh to his heart's content. If he believes that a member of a union who pays his dues and who has the right to record his vote should not have that vote interfered with, and the Minister wants to laugh about that—he can keep laughing because nobody else will be laughing.

One group of people who will not be laughing—and Mr Dans will agree with that—is the lay people in these unions. They will not consider it is a joke at all. What I am drawing to the attention of the Minister and the Government is the fact that there is an ability to abuse postal votes. I hope that the Government will examine this matter and call for information from the Minister for Employment and Industrial Relations (Mr Willis) and ascertain what is the outcome of these inquiries if they are held *in camera*. I hope that Mr Dans who, in his capacity as Minister for Industrial Relations in Western Australia, may have a rapport with Mr Willis, might be able to gather more information on this case. If a valid vote, while passing through Australia Post, can be intercepted and interfered with in such a manner that it does not record the wishes of the member of that particular union, that is a serious state of affairs.

This shows what can happen to postal votes in our State election in Western Australia. I know that the Government and the Opposition are in agreement on this matter; we would not wish to see any elector in Western Australia deprived of a vote.

We have heard much about voting and voting rights. Let us hope that the Government is not interested in assisting anybody else to deprive another person of his vote. I bring this to the attention of the House, and I trust that the Leader of the House will respond in the manner in which I have brought it to his attention. At some future date, when I have an opportunity to ask questions in the House, I will ask the Leader of the House what investigations have been carried out, and if the information will be made available to the members.

HON. D. K. DANS (South Metropolitan—Leader of the House) [5.57 p.m.]: I note

what the Hon. Neil Oliver has said. I am sure that if an offence has been committed in the Sydney Mail Exchange, any subsequent prosecution will not be heard *in camera*, and the people, if found guilty of the offence, will feel the full force of the law. However, I fail to appreciate the relationship between the Kimberley in Western Australia and the Redfern Mail Exchange. They seem to be miles and poles apart.

There is no cast iron situation anywhere in the world. Where there is a will, there is a way. If

people want to engage in malpractice, if people want to burgle Fort Knox, they can. I am sure that speaking on adjournment debates in this Chamber will not prevent this happening. I give an undertaking to the honourable member that I will obtain as much information as I can and to pass it on to him.

Question put and passed.

House adjourned at 6.00 p.m.

QUESTIONS ON NOTICE

HEALTH: TOBACCO

Franchise Tax: Revenue and Sales

430. Hon. I. G. MEDCALF, to the Attorney General representing the Treasurer:

(1) Since the Government increased the franchise licence fee on tobacco products in July of this year, has there been any indication of—

- (a) a drop in the sales of cigarettes;
- (b) an increase in revenue to the Government?

(2) If so, in either case, would the Minister please supply particulars?

Hon. Peter Dowding for Hon. J. M. BERINSON replied:

(1) (a) As the licence fee paid to Government is based solely on the value of tobacco products sold, and not on the number of cigarettes sold, the information to answer this part of the question is not available to me;

(b) yes.

(2) The revenue received in August was \$4.35 million compared with a payment of \$2.74 million in June.

However, the August payment includes sales for June at the old rate and sales for July at the increased rate.

431. *This question was postponed.*

EDUCATION: HIGH SCHOOL

Warwick: Year 9/10 Block

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

Is there any reason the building of the year 9/10 block at the Warwick High School cannot be brought forward for an immediate start, rather than the proposal to start in November 1983 as part of the stage 3/4 building programme?

Hon. Peter Dowding for Hon. J. M. BERINSON replied:

For any building programme scheduled under the forthcoming Budget, spending can commence only after the works programme has been presented to Parliament.

TOURISM

Queensland Tourist and Travel Corporation

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

Will the Minister make inquiries to ascertain whether it is correct that the Labor Party in Queensland is currently pursuing a course in favour of disbanding the Queensland Tourist and Travel Corporation, which is a QANGO?

Hon. D. K. DANS replied:

The Minister has no knowledge of intentions alleged by the member. The member should know that the WA Government's task is to frame policies for Western Australia—not Queensland.

EDUCATION: HIGH SCHOOL

Warwick: Toilet Facilities

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

(1) Is the Minister aware that an expected 50 per cent increase of students at the Warwick High School in the 1984 school year will mean that the current toilet facilities will have to cater for around 110 students per unit?

(2) Will the Minister ensure that the toilet units in the stage 3/4 building programme that is to commence in November will be ready for the 1984 school year?

Hon. J. M. BERINSON replied:

(1) Information that enrolments will increase from 598 at present to approximately 860 in 1984 is known. This increase has largely come about because of demands from parents for the school to enrol upper school students at year 11 from 1984.

(2) Transportable toilets are to be supplied in the near future and will remain on site until permanent facilities are ready.

RIVER: TONE

Salinity

435. Hon. W. N. STRETCH, to the Leader of the House representing the Minister for Water Resources:

Can the Minister provide figures to demonstrate any change in the salinity levels in the Tone River water, following the introduction of clearing restrictions in that river's catchment area?

Hon. D. K. DANS replied:

Water in the Tone River has been sampled since April 1978. The annual average total salts content has ranged between 1320 and 7910 milligrams per litre.

Because of the large variations in stream flow from year to year, no trends in respect to salinity levels have been detected.

It should be noted that the clearing controls are not expected to reduce the salinity in the Tone River. They were imposed to limit the salinity increase to that expected to occur as a consequence of past clearing.

436. *This question was postponed.*

EDUCATION: HIGH SCHOOL

Warwick: Transportable Classrooms

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

- (1) How many transportable units is the Government expecting to install at the Warwick High School for the 1984 school year?
- (2) What is the expected costs associated with these transportable units to—
 - (a) prepare the site;
 - (b) transport and set up for use by students in the 1984 school year; and
 - (c) remove at the end of the year or when no longer required?
- (3) What is the capital cost of transportable units planned to be used at the Warwick High School in 1984?

Hon. J. M. BERINSON replied:

- (1) to (3) The Warwick High School is expecting a substantial building programme to house upper school students which it is permitted to enrol at year 11

for 1984. As is the case with all high schools which have advanced through this phase, the building programme is undertaken during that year so that when years 11 and 12 are attending all the specialist facilities required are in one place.

The usual practice of the past is to provide temporary accommodation during the building programme. Questions concerning actual costs of this exercise should be referred to the Minister for Works.

HEALTH: CANCER

Register: Categories

438. Hon. H. W. GAYFER, to the Attorney General representing the Minister for Health:

In view of the fact (reference question 259 asked on Wednesday, 24 August 1983 re WA Cancer Register) that breast cancer is shown to be the most prevalent of all the cancers in Western Australia, what steps are being taken to step up the research into the causes of breast cancer in this State, in order that proper advice regarding prevention can be given to young women?

Hon. Peter Dowding for Hon. J. M. BERINSON replied:

The incidence of breast cancer in Western Australian women is a matter for concern; however, research into the causes is a matter which is almost certainly beyond our resources.

A great deal of work is being done and this has been outlined in a letter from the Director of the Cancer Council which has been made available to the Minister for Health. A copy of this letter and a copy of a report by Doctors Fleming, Armstrong, and Sheiner on the comparative epidemiology of benign breast lumps and breast cancer in Western Australia, will be forwarded to the honourable member.

TOURISM

Department: QANGO

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

- (1) Was the Premier correctly reported in *The West Australian* of Thursday, 15

September 1983, which report talked about a "new crackdown on the proliferation of Government agencies (or QANGOS)"?

- (2) In view of this, does he still intend to proceed with his plan to convert the Department of Tourism into a QANGO?

Hon. D. K. DANS replied:

- (1) On 15 September 1983 I was correctly reported as saying that unnecessary agencies would be abolished, amalgamated, or brought under the control of special sunset legislation.
- (2) The Government is to pursue its plan to establish the Western Australian tourism commission, which has received overwhelming support from the tourism industry at all levels.

RECREATION

Western Australian Sports Federation: Referendum

440. Hon. TOM McNEIL, to the Minister for Mines representing the Minister for Sport and Recreation:

Further to question 384 of Thursday, 15 September 1983—

- (1) What is the membership of each of the 82 amateur and professional State sporting associations affiliated with the WA Sports Federation?
- (2) Was any referendum regarding tobacco company advertising carried out amongst the 360 000 members of the WA Sports Federation?
- (3) If "Yes" to (2)—
 - (a) when was the referendum carried out;
 - (b) what was the wording of the referendum;
 - (c) how many metropolitan branches of each association voted, and which ones were they; and
 - (d) how many country branches of each association voted, and which ones were they?
- (4) If "No" to (2)—
 - (a) who were the people who gave the overwhelming support to

the banning of cigarette advertising in 1979;

- (b) what advice were the delegates given that they were expected to vote on such an important issue; and
- (c) as the opinion of the WA Sports Federation will play a major part in the Government's sports policy, what importance does the Government place on an executive vote taken without any substantiation by members?

Hon. PETER DOWDING replied:

- (1) to (4) As the WA Sports Federation is an autonomous body representing 82 State sporting associations, the WA Government is not privy to detailed information regarding the federation's deliberations.

However, I will request the federation to provide the information and advise the member in writing.

EDUCATION: HIGH SCHOOL

Warwick: Transportable Classrooms

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

In connection with the area at the Warwick High School that is to be cleared for transportable units—

- (1) Does the Education Department intend to prepare playing fields in this area once the transportable units are removed?
- (2) If not, what does the department intend to do with this area?

Hon. Peter Dowding for Hon. J. M. BERINSON replied:

- (1) and (2) In keeping with usual practices, areas used for temporary buildings are restored to their previous use or modified in keeping with the wishes of the school and parents.

EDUCATION: PRIMARY SCHOOL

Middle Swan

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

I refer to the Middle Swan Primary School and to my letter to the Minister for Education of 29 March 1983 to which no reply has been received other than an acknowledgement advising that the matter was under consideration—

- (1) Is the Minister aware of the contribution to the school of over \$20 000 made by the Parents and Citizens Association?
- (2) When can it be anticipated that the sealing of the parking area, prepared by the parents, will be completed?

Hon. Peter Dowding for Hon. J. M. BERINSON replied:

Regretfully the honourable member's letter of 29 March concerning a bore and reticulation at this school has been overlooked and a reply will be provided as soon as possible. It is expected that the school may be connected to a source of water from a bore being developed nearby. The answer is as follows—

- (1) and (2) Contributions made by parents to school facilities are appreciated.

Requests for minor works funding should be made by the school principal to the regional minor works committee.

TOURISM

Commission: Sunset Legislation

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

I refer to the Minister's statement published in *The West Australian* of 15 September 1983 in which he spoke of bringing QANGOS under the control of special sunset legislation, and ask—

- (1) Will his proposed tourism commission be made the subject of sunset legislation?
- (2) If so, what will be the specific date or other form of the sunset clause?

- (3) If "No" to (1), does he propose the new commission will be a different kind of QANGO from those currently in existence?

Hon. D. K. DANS replied:

- (1) No.
- (2) Not applicable.
- (3) Please refer to the reply to question 439.

RAILWAYS

Busselton-Nannup

444. Hon. W. N. STRETCH, to the Minister for Mines representing the Minister for Transport:

Is it the Government's intention to close down the Nannup-Busselton railway line?

Hon. PETER DOWDING replied:

No. However, if the Government or any other Government took a decision in respect to the deregulation of timber the future of this line would need to be considered.

HEALTH: TOBACCO

Smoking: Market Research Surveys

445. Hon. P. H. WELLS, to the Attorney General representing the Minister for Health:

- (1) What market research surveys have been conducted by or for the Government to test public opinion on smoking?
- (2) On what date was each of these surveys conducted?
- (3) How many respondents were surveyed in each of these studies?
- (4) Did the survey questions concentrate solely on smoking or were other subjects included?
- (5) If questionnaires included subjects other than smoking, what were these subjects?
- (6) What was the cost of each survey carried out?
- (7) Will the Minister table a complete copy of questions asked in these surveys?
- (8) Will the Minister table a complete copy of the results and reports of each survey?
- (9) How many future smoking surveys are planned, and what is their estimated cost?

Hon. Peter Dowding for Hon. J. M. BERINSON replied:

- (1) Three surveys, two undertaken by R. J. Donovan & Associates Pty. Ltd. and one by Chadwick Martin Consultants Pty. Ltd.
- (2) The two surveys by R. J. Donovan & Associates were conducted over a five-day period. The first was conducted from 3-7 August 1983, the second from 31 August-4 September 1983.

The survey undertaken by Chadwick Martin Consultants Pty. Ltd. was undertaken on Wednesday, 7 September 1983.

- (3) For both surveys by R. J. Donovan & Associates, 404 individuals were randomly selected to form the sample population.

Chadwick Martin Consultants surveyed 160 respondents.

- (4) The survey questions concentrated solely on smoking.
- (5) Not applicable.
- (6) Survey 1—(sample 404)—\$3 950
Survey 2—(sample 404)—\$3 950
Survey 3—(sample 160)—\$1 600.
- (7) and (8) The surveys are part of a series which is not yet complete. When the series has been completed, the results will be made available.

- (9) The future smoking surveys will include not only market research to test the public opinion, but also surveys to measure smoking behaviour among children and adults.

Already a survey of approximately 30 000 Western Australian school children has been undertaken to gather baseline data to measure the effect of the Government's smoking and health campaign and future smoking habits of children.

Data on the smoking habits of Western Australian adults and children will be collected over a period of time. The exact cost of these surveys is not yet available.

Two further public opinion surveys are to be undertaken by R. J. Donovan & Associates at a cost of approximately \$3 950 per survey.

TOURISM

Commission: QANGO

446. Hon. P. G. PENDAL, to the Minister for Mines representing the Minister for Economic Development and Technology:

- (1) Is it correct that the Minister has made a number of public statements critical of the large number of QANGOs existing in Western Australia?
- (2) Does he favour the idea of turning the Department of Tourism into a commission?
- (3) If not, would he be prepared to discuss the matter with his colleague, the Minister for Tourism, to see if some other form can be given to the new tourist authority so that it does not become a QANGO?

Hon. PETER DOWDING replied:

- (1) Yes.
- (2) This is a matter which does not fall within the ambit of my portfolio and if the member is seeking further information, he should direct his question to the Minister for Tourism.
- (3) Answered by (2).

HOUSING: INTEREST RATES

Reduction: New Loans

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

I refer to the recent reduction in interest rates and the announcement initially by permanent building societies that the rates will only apply to new loan applications—

- (1) Why was it proposed by some societies that the reduced interest rate only apply to new loans?
- (2) Have "at call" and "term" deposit rates been adjusted, and if so, by what societies?
- (3) Is it correct to state that building societies on quarterly adjustments gain some additional revenue from a decline of interest rates in the money market and banking system?
- (4) If so, why does the reduction not only apply to all purchasers with existing mortgages, and why have not some building societies passed these reductions on?

- (5) What building societies have not reduced the interest rates for people with existing mortgages?

Hon. PETER DOWDING replied:

- (1) to (5) The matter of housing interest rates charged by permanent building societies is a complex one, and particularly so whilst the general market rates remain volatile.

At a meeting the Minister for Housing had with representatives of permanent building societies on 12 September 1983, he asked the societies to provide guidelines as soon as possible as to how the disparity between interest charged on new owner-occupier loans and existing loans was to be eliminated.

Four out of the eight permanent societies have announced interest rate reductions on existing loan accounts.

The societies which reduced the interest rate on new loans in the first instance did so as a means of restoring home buyer confidence to provide a much needed stimulus to the home building industry.

Investor interest rates offered by the various building societies are a matter of their own business practices.

LIQUOR: LICENCES

Moratorium

448. Hon. P. H. WELLS, to the Leader of the House representing the Minister for Employment and Administrative Services:

What estimated effect does the Government expect the liquor licence moratorium to have on the value of a liquor licence?

Hon. D. K. DANS replied:

It is not possible at this stage to determine what effect the moratorium may have on the value of a liquor licence.

EDUCATION: PRIMARY SCHOOL

Glen Forrest

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

I refer to the final stage of the Glen Forrest Primary School which was completed this year—

- (1) What was the final cost?

- (2) Is the department satisfied with the playing fields?

- (3) If not, what additional works are proposed to ensure that the playing fields are brought up to an acceptable standard?

Hon. Peter Dowding for Hon. J. M. BERINSON replied:

- (1) At 30 June 1983, \$835 763 had been expended and there are still some minor expenses yet to be met.

- (2) and (3) No complaints have been brought to attention concerning these grounds and the school should be aware that the growing time for grass is just commencing.

WATER RESOURCES: DAM

Wellington: Salinity

450. Hon. W. N. STRETCH, to the Leader of the House representing the Minister for Water Resources:

Will the Minister give details of the salinity levels of the Wellington Dam water as supplied to towns in the great southern region for the following periods—

- (a) August-September 1983;
(b) April-May 1983; and
(c) August-September 1982?

Hon. D. K. DANS replied:

The salinity in terms of total salts as measured at the water supply offtake at Wellington Dam ranged from—

- (a) A maximum of 839 milligrams per litre and a minimum of 482 milligrams per litre; the maximum reading was recorded on 1 August 1983 and the minimum reading on 16 September 1983;
(b) a maximum of 718 milligrams per litre and a minimum of 669 milligrams per litre; the maximum reading was recorded on 31 May 1983 and the minimum reading on 5 April 1983;
(c) a maximum of 681 milligrams per litre and a minimum of 612 milligrams per litre; the maximum reading was recorded on 28 September 1982 and the minimum reading on 24 August 1982.

The actual salinity of water supplied to towns in the great southern region dur-

ing the above periods varied from the above figures because of the blending of the Wellington Dam water with that from local reservoirs.

TAXATION

Withholding Tax

451. Hon. NEIL OLIVER, to the Minister for Mines representing the Minister for Housing: Further to my question 388 of Thursday, 15 September 1983—

- (1) Is the State Housing Commission also deducting 10 per cent of payments to contractors for amounts under \$10 000 to those contractors who have not been granted exemptions?
- (2) If so, under what section of the Act is the commission authorised to make these deductions?
- (3) Have any of these deductions already been remitted to the Australian Taxation Office?

Hon. PETER DOWDING replied:

- (1) No.
- (2) and (3) Not Applicable.

LIQUOR: LICENCES

Clubs

452. Hon. P. H. WELLS, to the Leader of the House representing the Minister for Employment and Administrative Services:

- (1) How many liquor licences have been issued and are current in the following categories:
 - (a) football clubs;
 - (b) cricket clubs;
 - (c) bowling clubs;
 - (d) recreation clubs;
 - (e) general sporting clubs;
 - (f) business associations and clubs;
 - (g) ethnic associations and clubs; and
 - (h) other?
- (2) How many liquor licences, issued to the clubs listed above, are on a restricted basis?
- (3) How many liquor licence applications, received prior to the moratorium, have not yet been issued?

- (4) What effect does the moratorium have on applications for variations to currently held licences?

Hon. D. K. DANS replied:

- (1) (a) to (h) The information as to the various categories is not readily available. The Licensing Court does not classify clubs according to their objects.

The number of club licences current at 30 June 1983 was 330.

- (2) None.
- (3) 48.
- (4) None.

QUESTIONS WITHOUT NOTICE

MINING: COAL

Griffin Coal Mining Co. Ltd.: Writ

120. Hon. A. A. LEWIS, to the Minister for Mines:

In respect of the writ issued by the State Energy Commission against the Griffin Coal Mining Co. Ltd. does the Minister approve of it?

Hon. PETER DOWDING replied:

In case I do not answer the question clearly perhaps the member might like to clarify it at a later stage. I was aware of the intention to issue a writ but I am not aware of the terms of it, I did not see the document setting out the copy of the statement of claim before it was issued.

MINING: COAL

Griffin Coal Mining Co. Ltd.: Writ

121. Hon. A. A. LEWIS, to the Minister for Mines:

Further to my previous question did the commissioners see the terms of reference of the writ before it was issued?

Hon. PETER DOWDING replied:

The commissioners and the Board of Commissioners of the SEC are two different things. The assistant commissioner of the SEC certainly had discussions with a number of members on the board, and I cannot say whether the commissioners themselves or the board of commissioners saw the statement of claim prior to its issue.

The question of litigation has been the subject of discussions over a period. There has, in the past, been litigation between the SEC and the Griffin company; and the Board of Commissioners, I am sure, has been kept apprised of progress in relation to the dispute between the Griffin company and the SEC.

The member should know that at my invitation the boards of both the SEC and the Griffin company have now met to discuss the situation and action between the relevant parties is proceeding at a reasonable level.

MINING: COAL

Griffin Coal Mining Co. Ltd.: Writ

122. Hon. A. A. LEWIS, to the Minister for Mines:

I have a further question on the same subject and I thank the Minister for clarifying the situation.

Has he heard that there may be a suit for damages against the SEC because of the contents of the writ issued against the Griffin company?

Hon. PETER DOWDING replied:

A person cannot sue for damages arising out of a statement of claim. Apart from anything else, a statement of claim is a privileged document, and any allegations contained therein are privileged. I do not think it is appropriate to discuss this particular case, because it is *sub judice*. It is not resolved; it is an ongoing dispute concerning State instrumentalities and a company with probably one of the largest contracts in Western Australia. I do not believe that we should be debating the matter in this House. However, there is no question of a statement of claim giving rise in this issue to a claim for damages.

MINING: COAL

Griffin Coal Mining Co. Ltd.: Writ.

123. Hon. A. A. LEWIS, to the Minister for Mines:

Would the Minister admit that the writ was issued to get the SEC off the hook to make possible the purchase of Collie coal at a reduced price and in reduced quantities?

The PRESIDENT: Order! I will not accept that question.

FUEL AND ENERGY: GAS

Pipeline: Compensation

124. Hon. C. J. BELL, to the Minister for Fuel and Energy:

- (1) Is the Minister aware of a protest action by a group of farmers in the Serpentine area with regard to the passage through their properties of the gas pipeline?
- (2) If so, what is his intention in regard to coming to some arrangement with these people?

Hon. PETER DOWDING replied:

- (1) and (2) I am not aware of a protest action. I am aware that during the course of building this major construction work there have been "hiccups". There have been occasions when people felt the way in which the contract has proceeded has not been to their liking, or that the compensation offered them has not been sufficient. I merely make the point that the member who asked the question is a member of the party which, when in Government, made the determination to set up the pipeline project and the parameters which now operate in relation to the current contract were set during the course of that Government's determination. So if he has any complaints at a political level he should address them to his own members.

It is important to know that both the SEC and I are anxious to ensure the project is of minimal disruption to the people through whose property the pipeline progresses. A major engineering work like this will interfere to some extent with the rights of property holders, because it involves entry onto their land, digging the trench, laying the pipeline, filling in the trench, and making good. Compensation procedures are in place to meet the demands of people who are thus affected.

I understand the SEC has been at some pains to ensure that persons through whose property the pipeline progresses are consulted, included in full discussions, given a full indication of the course of work that will occur on their property, and given good warning when it is to occur.

In a pipeline project as massive as this, I suppose it is unreasonable to expect things to go according to Hoyle from the beginning to the end. However, I can assure the member—if he cares to listen to my answer, he could take this message back to his constituents—that there is a genuine attempt by the commission to ensure that property holders suffer only minimal disruption and that their claims are met as soon as possible. I understand the difficulty that has occurred with his constituents relates to the level of compensation. This is an issue about which one must be reasonably practical. Set parameters are laid down.

Hon. A. A. Lewis: This is a second reading speech.

Hon. PETER DOWDING: If I do not answer a question, the Hon. A. A. Lewis becomes hysterical, as is his wont. I am just trying to give the member the full information in answer to his question. The parameters in which compensation is paid are clearly set down, and it would be quite wrong for the contractors to the SEC to seek to negotiate levels of compensation which are unique in the area to which the member is referring. The SEC is not a money market machine; it is not a means of boosting one's cash flow. However, compensation will be paid for the damage and inconvenience suffered by land-holders. With that warning, I say to the member that if he has any specific problems he wishes to raise on behalf of any of his constituents concerning the passage of this pipeline, and draws them to my attention, I will ensure they receive urgent attention as a matter of priority.

MINING: COAL

Collie: South Fremantle Power Station

125. Hon. A. A. LEWIS, to the Minister for Mines:

How does the Minister reconcile his answer given to me in this place last week in which he said the Government was endeavouring to use as much Collie coal in the South Fremantle power station, with his answer given in the other place today that the weekly deliv-

eries to the South Fremantle power station were nil?

Hon. PETER DOWDING replied:

I think the member is taking what might be described as a macro view of the problem. The previous Government set in place a policy by virtue of the "take or pay" commitment to gas from the North-West Shelf development, which involved a clear—

Hon. A. A. Lewis: You either misled me or the other place.

Hon. PETER DOWDING: The problem of the Hon. A. A. Lewis is that he does not listen.

The PRESIDENT: Order!

Hon. PETER DOWDING: If the honourable member had bothered to take much of an interest in this issue when it was really being debated—that is, at a time when the decisions were being made—he would know perfectly well that a level of generation would have to be achieved by the use of gas. It is intended that gas should displace oil, and not coal; it is intended to maintain the coal deliveries currently accepted by the SEC. The difficulty is that I think the Hon. A. A. Lewis is now mischievously going around trying to build up a situation of concern in the Collie area that somehow or other—

Hon. A. A. Lewis: If you ever went down there you would see the situation for yourself.

Hon. PETER DOWDING: I am talking about the member's mischievousness, not the concern of other people.

Hon. A. A. Lewis: Other people have a genuine concern; they are concerned about you.

The PRESIDENT: Order! I ask the honourable member who has asked the question to stop interjecting while it is being answered, and I recommend that the Minister take note of the comments I have made previously in regard to making questions as brief as possible and make his answers as brief as possible.