Legislative Council

Tuesday, 22 November 1983

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

THE LATE MR TOM HARTREY

Condolence: Motion

HON. D. K. DANS (South Metropolitan—Leader of the House) [4.31 p.m.]: I move, without notice, the following condolence motion—

> That this House expresses its deep regret at the death of Mr T. A. Hartrey, B.A., LL.B., M.B.E., a former member of the Legislative Assembly from 1971 to 1977, places on record its appreciation of his long and meritorious public service, and tenders its profound sympathy to his widow and the members of his family in their bereavement.

It is with deep regret that I move this motion occasioned by the death of Mr Thomas Augustine Hartrey.

As most members in this House would be aware, Tom was elected to the Twenty-seventh Parliament as the Labor member for Boulder-Dundas in February 1971 and served as an Assembly member until he retired in the year 1977.

Tom Hartrey commenced his career in 1919 as a schoolteacher and he became a legal practitioner in 1938. During the years 1942 to 1945 he served with the RAAF.

I am sure that honourable members who knew Tom, would agree with my comment that he was what one could call a "raconteur"—but in the serious vein—and was not only a scholar but a gentleman.

Our sympathy is conveyed to his widow, Charmaine, his son, Hayden, and to the rest of his family.

HON. G. E. MASTERS (West) [4.33 p.m.]: On behalf of the Opposition, I support the remarks of the Leader of the Government. I also express our condolences and deepest sympathy to Mr Hartrey's family.

Tom Hartrey was one of the true personalities of Parliament and certainly of the goldfields. I only knew Mr Hartrey as a member of Parliament and I can say that, as far as the Opposition members are concerned, he had our deepest and most profound respect. He was a man with a great sense of humour, who respected Parliament and its traditions, and he will be missed by all. I record our sympathy and condolences to his family, and our extreme sorrow.

HON. A. A. LEWIS (Lower Central) [4.34 p.m.]: I join with the Leader of the House and Mr Masters in this tribute to Mr Hartrey. Along with the Hon. Jim Brown and the Hon. H. W. Gayfer, I served in the Assembly with Mr Hartrey. He was a man who gave unstintingly of his time and effort, no matter to which party one belonged. If one had a problem with a Bill or a legal matter, Tom was always there to give advice. In the House he was perceptive of errors in Bills. His words were accepted by the Opposition and the Government alike when dealing with legal angles of Bills because all members respected his legal knowledge. This is a great loss, and I express my sympathy to his family.

HON. D. J. WORDSWORTH (South) [4.35 p.m.]: I wish to pay tribute to the late Mr Tom Hartrey, not only for his contribution in the House. His was always a very wise contribution; he was the last of the great men who could quote Greek philosophers in debate. Outside the Parliament he was indeed a friend to all, as has been said by Mr Lewis. If one ever had legal doubts Tom would spend the time of day to help one out. I was greatly indebted to him when I had difficulties with the parliamentary superannuation trustees. He gave me the greatest support I received at that time and I was grateful for his advice.

I would like to express my sympathy to his widow, Charmaine, and to his family.

THE PRESIDENT (Hon. Clive Griffiths): Before putting the motion I also wish to pay tribute to the late Tom Hartrey. He was a great man, a great member of Parliament and it was a privilege to have had the opportunity of knowing this fine gentleman.

I extend my sympathy to his widow and family and call upon members to join me in passing this motion by standing and observing one minute's silence.

Question passed, members standing.

FUEL AND ENERGY: NATURAL GAS

Energy Advisory Council Report: Ministerial Statement

HON. PETER DOWDING (North—Minister for Fuel and Energy) [4.37 p.m.]: I seek leave to make a statement to the House on the subject of the Energy Advisory Council's work party report on natural gas production in Western Australia.

Leave granted.

Hon. PETER DOWDING: The work party was set up to review the present status of the exploration and development of the State's natural gas resources and to investigate the outlook for future development. This is an important study, considering that Western Australia has a very large identified gas resource and has the potential for further large gas discoveries in the next 25 years.

However, until new markets are available or new gas development is linked to the establishment of an industry, there will be little incentive for companies to explore specifically for these undiscovered resources. Nevertheless, gas discoveries are likely to continue as a by-product of the search for oil.

To encourage the continued exploration and development of our natural gas resources, the work party has made a number of recommendations, including—

> Making every effort to expand gas markets within Western Australia, the Eastern States and overseas;
>
> the expansion of sales of State Energy Commission contract gas from the North-West Shelf to achieve the take-or-pay commitment, while minimising the need to burn gas in power stations, at the same time securing the maximum practical substitution of imported oil by gas;
>
> levelling the price of State Energy Commission contract gas to stimulate its substitution for oil, and linking the price of natural gas to the price of alternative fuels;
>
> clear guidelines formulated by the State and Commonwealth Governments for the approval of future LNG exports so that potential explorers are guaranteed by markets when they become available;
>
> the periodic assessment of the economic feasibility of constructing a trans-continental pipeline or shipping LNG to the Eastern States; and
>
> a comprehensive study to assess the potential for serious interruption to gas supplies from the North-West Shelf, the consequences of such interruption; and the possibility of securing backup supplies.

In publishing the report, the State Government commends it to Western Australians interested in energy matters.

The State Energy Commission has endorsed the report, which will assist in the formulation of policies in respect of natural gas that are designed to serve the best interests of the State and the gas industry.

I point out to the members of the House that a task force comprising representatives of all the joint venture participants in the North-West Shelf project, the Department of Resources Development and the Energy Commission has been established.

The task force has examined closely, and costed, all processes and avenues for utilising North-West Shelf Gas and has also had the advantage of the worldwide experience and specialist expertise of the North-West Shelf participants. The task force has also looked at mineral processing applications as well as a wide variety of petrochemical processes utilising the natural gas as a feed stock. The task force has been given fresh emphasis by the Government and is continuing in its work.

Additionally, the Government is in very close contact with individual participant companies in the North-West Shelf, including BHP, and is also in touch with other major Australian companies with interests in natural gas processing.

I table the report.

The report was tabled (see paper No. 500).

HIGHWAYS (LIABILITY FOR STRAYING ANIMALS) BILL

Assent

Message from the Governor received and read notifying assent to the Bill.

HEALTH: TOBACCO

Advertising: Petitions

On motions by the Hon. D. J. Wordsworth, the following petition bearing the signatures of four persons was received, read, and ordered to lie upon the Table of the House—

> TO:
>
> The Honourable the President and the Honourable Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.
>
> We, the undersigned are school teachers and we believe that education programmes alone are ineffective in discouraging children from smoking and only by combining education with legislation to ban tobacco advertising can we expect that the uptake of smoking by children will be significantly reduced.
>
> Your petitioners therefore humbly pray that you will give this matter earnest con-

sideration and your petitioners, as in duty bound, will ever pray.

(See paper No. 501.)

A similar petition was presented by the Hon. J. M. Brown (10 persons).

(See paper No. 502.)

ELECTORAL

Referendum: Petition

On motions by the Hon. Garry Kelly, the following petition bearing the signatures of 23 persons was received, read, and ordered to lie upon the Table of the House—

TO:

The Honourable the President and Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled:

We the undersigned electors of Western Australia desire that the State Electoral System be reformed so as to incorporate the principle of "one person-one vote-one value".

We specifically request the reform of the Legislative Council of Western Australia to achieve:

1. A reduction in the number of Legislative Councillors from 34 to 22.
2. The retirement of half of the Members of the Legislative Council at each general election (ie. simultaneous elections).
3. The election of Legislative Councillors according to a system of proportional representation such as currently operates in Senate elections.

And that the above reforms be decided by the people voting at a referendum.

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

(See paper No. 503.)

QUESTIONS

Questions were taken at this stage.

FRUIT AND VEGETABLE INDUSTRY: SELECT COMMITTEE

Report: Motion

HON. P. H. LOCKYER (Lower North) [4.56 p.m.]: I seek leave to present an interim report from the Select Committee inquiring into the fruit and vegetable industry.

Leave granted.

Hon. P. H. LOCKYER: I am directed to report that the Select Committee requests that the date fixed for the presentation of its report be extended from Wednesday, 30 November 1983, until Wednesday, 9 May 1984, and I move—

That the report do lie upon the Table and be adopted and agreed to.

Question put and passed.

(See paper No. 504.)

CORONERS AMENDMENT BILL

Introduction and First Reading

Bill introduced, on motion by the Hon. J. M. Berinson (Attorney General), and read a first time.

Second Reading

HON. J. M. BERINSON (North Central Metropolitan—Attorney General) [4.59 p.m.]: I move—

That the Bill be now read a second time.

This Bill proposes to give a coroner an express power to forbid the publication of the name of any witness or of any person referred to in the course of an inquest. Power to vary or revoke such an order is also given.

It is arguable that at common law a coroner already has the power to order suppression. This question, however, is not free from doubt. All other Australian States and New Zealand have given their coroners an express power to prohibit the publication of names, and some have allowed other parts of the evidence as well to be suppressed.

As a general proposition, an inquest should be open to the public, and publication of its proceedings allowed. Nonetheless, some discretion in the coroner is clearly justified.

In particular, where death has occurred, publicity given to a person who is a witness or whose name is referred to in evidence at the inquest may cause considerable anxiety and embarrassment.

Where it is found that no fault can be attached to that person such publicity may well be seen as unfair and unnecessary.

The amendment will allow a coroner, in such circumstances, to order suppression of the person's name for the period of the inquest and to confirm or revoke that order thereafter.

Penalty provisions are included in the Bill to cover the case where an order of the coroner has been breached.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. G. E. Masters.

LEGISLATIVE COUNCIL REFORM BILL

Order Discharged

HON. D. K. DANS (South Metropolitan—Leader of the House) [5.02 p.m.]: I move—

> That the Order of the Day for the second reading of the Legislative Council Reform Bill be discharged and that the Bill be withdrawn.

Motion put and passed.

Order discharged.

ACTS AMENDMENT (PARLIAMENT) BILL

Second Reading

HON. J. M. BERINSON (North Central Metropolitan—Attorney General) [5.03 p.m.]: I move—

> That the Bill be now read a second time.

This Bill provides for the resolution of deadlocks between the two Houses of this Parliament. At present the Western Australian Constitution has no machinery for this purpose.

Before becoming law this reform must receive the approval of the electors of Western Australia at referendum. It is another measure on which the Government, for its part, is prepared to let the people decide.

Mr President, in one important sense, self-Government came too early to Western Australia. If our Constitution had been framed after the Westminster model for the resolution of deadlocks was established in 1911, that pattern, no doubt, would have been adopted. As it is, Western Australia has remained at the 1890 stage of British constitutional development, while the Westminster model has vigorously moved forward. It is time for this State to catch up.

Of the Australian bicameral Parliaments, only Tasmania and Western Australia are without any constitutional arrangements for the resolution of deadlocks. All others have some mechanism, however cumbersome these may be. For example, in South Australia the Assembly may be dissolved if the Council rejects or unacceptably amends a Bill. If the Assembly again passes the Bill, and the Council persists with its rejection or unacceptable amendment, the Governor may within six months dissolve both Houses.

In Victoria, rejection, unacceptable amendment, or delay by the Council may lead to the dissolution of the Assembly. If after the election, the Assembly again passes the Bill and the Council persists in its obstruction, the Governor may dissolve the Council. Disagreement beyond the second dissolution may lead to a joint sitting.

The New South Wales Constitution makes different arrangements for money Bills than it does for other types of Bills. A money Bill may go directly to the Governor from the Assembly if the NSW Legislative Council has rejected, unacceptably amended, or failed to pass such a Bill. With other Bills, the period required to create a deadlock is five months. Three consecutive steps may then follow to resolve the problem, leading in the end to an Assembly resolution to put the matter to a referendum.

In the Australian Constitution, if the Senate twice rejects or unacceptably amends a Bill with three months intervening, the Governor General may dissolve both Houses simultaneously, provided there are more than six months left in the term of office of the House of Representatives. Further disagreement may be resolved by a joint sitting.

All the upper Houses to which I have referred can reject but not amend, money Bills. With the exception of New South Wales, exercise of the power to reject money Bills forces the Government in the lower House to an election.

By contrast with the position elsewhere in Australia our Constitution has no machinery at all to deal with a deadlock between Houses. The threat which that poses to the stability and efficiency of government will be obvious.

When our Houses disagree the most that can be done, by way of our Standing Orders, is to arrange for a conference of managers appointed by each House. I understand that there have been 121 conferences between the two Houses, but this is no guide as to the number of disagreements which have actually occurred.

A conference does not even arise unless both Houses agree to it so that Bills which are flatly rejected or allowed to lapse do not even get to the conference stage. Approximately 20 per cent of conferences have failed to reach agreement; but again, that does not mean that the word "success" can be applied to the remainder.

In a situation where the managers from the Legislative Council are in a position of strength, they can and have driven very hard bargains. Many Governments in Western Australia have been faced at a conference with either accepting substantial amendments to their Bills or having nothing at all. No provision has existed to resolve such conflicts in any other way.

The activity of the Legislative Council increases with the election of a Labor Government.

It is virtually inactive when non-Labor Governments are in office. The number of conferences which become necessary follow the same rise-and-fall pattern as outright rejections.

Conferences in the period of recent Governments have been as follows:

> Hawke A.L.P. Government—6 Years = 15 conferences
>
> Brand Liberal Government—12 Years = 7 conferences
>
> Tonkin A.L.P. Government—3 Years = 4 conferences
>
> Court/O'Connor Liberal Government—9 Years = nil conferences

There is no guarantee in the existing arrangement that a dispute will be resolved at all.

To date, there have been at least 14 attempts either to sort out the intransigencies over pressing requests on money Bills or to introduce some form of deadlock resolution machinery. In every case, genuine reform has been avoided. In particular, the Legislative Council has been very forceful in preserving its influence over money Bills. There are very good reasons why an upper House should not have such power at all. Without the power to raise and to spend money a Government simply cannot govern. Control of this power is the power of life and death over the Government.

The present constitutional authority of an unqualified right to reject money Bills is the greatest power the Legislative Council has over the Executive and the Legislative Assembly. The fact that this power has not actually been used in Western Australia has not prevented the Legislative Council from fully exploiting this immense threat.

As the Commonwealth events of 1975 clearly illustrate, the power over supply has the potential to create such grave instability as to threaten the constitutional framework. If the Legislative Council continues to possess such unbridled powers, there is no guarantee that future members of the Legislative Council will not seek to further assert themselves.

Constitutions must be inherently capable of stable operation. That is not now the case in this State. It is basic to the Westminster system that the Assembly creates the Government. Should the Assembly indicate that it has lost confidence in the Government, an election follows. By contrast, a vote of no confidence passed in the Legislative Council has no effect. It is only by the indirect power over supply that the Legislative Council can assume the same power as the Assembly. Should the Legislative Council refuse supply, the only way out is for the Assembly to be dissolved, even though it maintains its confidence in the Government. This is unacceptable.

Tasmania has a Constitution which is similar to ours in many respects. A royal Commission into the question of deadlock resolving machinery for Tasmania reported last year. Most submissions to that commission advocated that the Legislative Council hold a suspensory veto only over money Bills. The commissioners said—

> The sole justification for the Council keeping such a power that is potentially so destructive of workable and effective Government, is that it is a "safeguard" to be used on rare occasions. But any attempt to describe the occasions when it could be used results in general vagueness denoted by terms such as "corruption", "moral integrity" and—in the Commonwealth sphere—"reprehensible conduct".

We all recognise these accusations as the stuff of Opposition. The fact is that, in the supply crisis in Western Australia in 1973, and in the Commonwealth situations of 1974 and 1975, the content of the actual Supply Bills was not the reason for the threats of rejection. Rejecting supply was simply seized on as an indirect method of dismissing a Government.

The Tasmanian commissioners summed up their findings about the power of the Legislative Council over supply as follows—

> We are of the view that the existence of this power has done more to create tensions and ill feeling between the Houses than any other aspect of the Constitution and that the case for the removal of the power far outweighs any arguments for its retention.
>
> We also believe that the character of the upper House as an independent Chamber will be strengthened if the Legislative Council forgoes its power to force a Government to the people by refusing supply.

If we have a proper constitutional framework for the resolution of deadlocks, the constitutional problems of the past in Western Australia will become less significant.

The proposals before us are designed to supplement the present deficient arrangements. There is no reason why conferences of managers should not continue to assist the Houses to resolve their differences. What the Government wishes to add, with the approval of the electors, is a constitutionally guaranteed way to resolve deadlocks. If conferences fail, other avenues will be available.

Mr President, the scheme of the Bill, with respect to money Bills, is as follows.

A deadlock over a money Bill can arise if the Legislative Council rejects, fails to pass, or requests amendments unacceptable to the Assembly. If agreement has not been reached over such a Bill within one month of its transmission from the Assembly to the Council, the Governor may assent to the Bill if the Assembly presents it to him.

The Council retains the power to request amendments, to defer, to reject, to examine, to reveal to the public areas of dissatisfaction, and to represent the views of those affected by the Bill. In fact, it may perform all of the functions for which it is said to be designed, except it may not ultimately refuse supply. Loan, tax, and appropriations together form essential interdependent components of the Budget process. Recent conventions dealing with the Senate power over supply have met interminable difficulties in attempting to distinguish between various components of supply. Constitutional dispute in Western Australia over what aspects of supply may or may not be amended by the Legislative Council has been a sizeable portion of the endemic conflict between the Houses that this Bill is designed to reduce.

The phrase "ordinary annual service" is used instead of "the ordinary annual services" to allow the deadlock resolution machinery to apply to the several Bills in a Budget and to apply if a Government chose to present several different money Bills in a year; for example, a mini-budget, or the like. Just as the existing Constitution guards against the insidious practice of tacking other matters onto money Bills so, too, do these proposed reforms.

With respect to other general legislation, the Constitution grants the Legislative Council power equal to that of the Legislative Assembly. The Legislative Assembly might traditionally have the initiative in bringing forward new policies, but the Legislative Council has the upper hand in preventing these policies being put into effect or forcing their modification on a reluctant Government. The whole constitutional structure is weighted in favour of restraint above innovation. When in Western Australia we add to these constitutional powers of the Legislative Council the fact that the Chamber has a permanent non-Labor majority, it becomes clear why history indicates a persistent anti-Labor bias in the decisions of the Council.

The record in WA shows that the Legislative Council has found that the idea of an impartial House of Review is almost impossible to separate from party politics. The figures are quite clear. With reference to the various periods of Government and Bills rejected, the position is as follows—

Government	Period	Bills rejected
Hawke	6 years	20
Brand	12 years	1
Tonkin	3 years	21
Court/O'Connor	9 years	0
Burke	8 months	2

The rate of amendments and conferences follows a similar pattern.

Several members interjected.

Hon. P. G. Pendal: He has included this one.

Hon. J. M. BERINSON: I expect the Minister whom I am representing is referring to the tobacco Bill, which was amended out of existence.

Several members interjected.

Hon. J. M. BERINSON: Mr President, when the upper House is democratically elected, the electors of Western Australia will be capable of making the party composition of the Council the same or different from the Assembly. Democratic elections in these circumstances can produce muffled results where the Houses end up controlled by opposing parties—each claiming to represent the people. Only the people can finally decide between such counterclaims. At the moment the people's decision must wait until the next election. This is unfair to a Government whose election promises have been thwarted and which therefore has little to show for its period in office.

The scheme for the resolution of deadlocks over general Bills is as follows: If the Legislative Assembly passes a Bill and the Legislative Council rejects, fails to pass, or makes amendments unacceptable to the Legislative Assembly and, after an interval of three months this pattern is repeated, a deadlock has arisen. "Fails to pass" can be defined by the failure of the Legislative Council to return a Bill to the Assembly within two months. Two alternative procedures are proposed. The Assembly may resolve that a Bill in dispute be decided by the electors voting at a referendum.

Nothing could be more democratic than a referendum. It is only proper that if the electors vote, "Yes", the Bill is considered to have passed both Houses and may be assented to by the Governor.

In addition, Western Australia has a special need for a referendum alternative to resolve a deadlock which could easily arise over proposals for constitutional change. An election cannot bring about certain important constitutional changes here. Another advantage of resolving a deadlock in this way is that there is minimum dis-

ruption. The term for which the Parliament was elected continues uninterrupted.

Some matters, however, are not really suited to referenda. Legislation can be complex and involve the careful weighing of conflicting demands, which in some cases would make unrealistic demands on the time and expertise of electors. Some situations could arise where resolution of a deadlock by referendum would be inappropriate.

If a Government were faced with a hostile upper House and deadlocks had been created on a number of Bills, the prospect of an endless series of referenda does not seem to be the wisest way of proceeding. Accordingly, the Assembly may resolve to settle the matter by an election.

Not later than a month after this resolution, the Governor may dissolve the Legislative Assembly and the Legislative Council simultaneously. If, after the double dissolution, the Assembly again passes the Bill or Bills which caused the deadlock, assent may be given by the Governor as if both the Assembly and the Council had passed the measure.

Various conditions restrict or determine the operation of the machinery. A double dissolution may not occur within six months of the expiration of the term of the Legislative Assembly. An absolute majority will continue to be necessary for certain categories of Bill. The events of 1975 in Canberra dictate the need for time periods in the machinery to commence from the day the Bill is transmitted to the Council. Delivery to an officer of the other House constitutes the transmittal.

To provide flexibility a referendum may be held in conjunction with the next election. In the event of a double dissolution, the elector will vote in three elections instead of the normal two. An elector will vote for a member of the Legislative Assembly, for an MLC to serve for six years and, thirdly for an MLC to serve for three years.

It may be appropriate at this place to note that strong upper Houses tend to go with Federal Constitutions where the power of the constituting States is sought to be protected. The Australian Senate is powerful because it is part of a Federal Constitution. That is also the position in the USA.

However, the Legislative Council is not the upper House of a federation; yet the power of the Legislative Council is far more threatening than the Australian Senate. The Legislative Council is an upper House in a Westminster style system of responsible Government and, as such, the Government can and ought to be responsible only to one master—the Assembly.

The proposed reform combines the best features of the New South Wales and Commonwealth Constitutions. It seriously addresses the question of providing a clear and streamlined procedure and introduces the concept of alternative pathways so that a Government may choose the most appropriate method. The circumstances in Tasmania are different from those in Western Australia, even though there are close constitutional parallels.

Tasmania's upper House has its own rather special character and it would be inappropriate to attempt to apply all of the recommendations of the Tasmanian Royal Commission to the Western Australian Constitution. The Royal Commissioners, Mr Beumont, QC, Professor Zines, and the Hon. C. Fenton, took submissions from some of the best constitutional sources available in the country.

Our Bill incorporates the principal features of their recommendations—namely, two alternative pathways are available for a Government that wishes to resolve a deadlock. The people can be consulted directly—either at a referendum or at an election. In the special case of money Bills, responsible and stable government requires that such Bills be subject only to a suspensory veto.

In the recent State election, the Government specifically promised electoral reform of this Council. The Council itself rejected a Bill for that purpose a couple of weeks ago. The Bill now before us is designed for a situation which that rejection creates. Without an effective deadlock resolution provision, important and sincerely made election promises can be turned into nonsense.

This Parliament Bill is like the recently defeated electoral reform Bill—it cannot become law unless it is approved by the people of this State. Let us ask the people if they would like our State Constitution to contain these sensible deadlock resolution provisions. The Government, for its part, is prepared to let the people decide.

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

LOTTERIES (CONTROL) AMENDMENT BILL (No. 2)

Second Reading

Debate resumed from 17 November.

HON. A. A. LEWIS (Lower Central) [5.24 p.m.]: I will not hold up the House for long on this Bill but I draw to its attention that when this Act was introduced by the previous Minister for Recreation, several members pointed out that some traps may be involved. Of course, that was a Government of my own colour and it did not

listen. I do not expect this Government to listen any harder.

It was the finding of the Select Committee on Cultural and Recreational Facilities that lotteries of any kind, whether soccer pools or Instant Lotteries, tend to have a cyclical pattern. We took evidence in Victoria and found that the TAB moneys going from some areas of TAB into sport and recreation had nosedived with the introduction of Instant Lotteries. Therefore, the department had many problems even financing its ongoing costs.

The Instant Lottery will probably do the same thing. This Government and the previous Government should have created a trust fund for this money and, instead of allocating $2 million, $5 million, $6 million or $7 million, it should have paid this money into a fund and kept those funds invested. This could then be fed back into the system without opening a Pandora's box.

It seems that the Instant Lottery has become a treasure trove between culture and sports, and money is being poured out. Probably if the money had been given into the control of the Department of Youth, Sport and Recreation and the Arts Council of WA, it would have been allocated using a series of priorities.

The Hon. Graham MacKinnon took great exception to the Minister having control of these funds rather than the department.

Hon. G. C. MacKinnon: I still do.

Hon. A. A. LEWIS: So do I. I remember raising this subject in the last Parliament, and I wonder where the people who are trying to run sports, recreational or cultural groups will go. Those groups have had their appetites whetted by all this money being thrown around. It now appears that because the Government considers they are getting too much—that is a Government budgetary decision with which I will not argue because the Government must control that area—many companies and groups will be short of money, having had their hopes raised. We should be looking at some better system.

I am not asking the Minister to give an assurance on this but, with the assistance of the Treasurer, I suggest we look at a system whereby the money can be channelled into sporting and cultural activities without those groups having to be at the whim of any lottery. As times get hard, money from lotteries will decrease and automatically the opera and ballet companies and sporting institutions will fall on hard times because the money will not be available for them.

I thank the Minister and the Minister in another place for the explanation which has been given. However, it says nothing about where we shall find the money if the sales of Instant Lottery fall below a certain level.

The PRESIDENT: Order! There is far too much audible conversation and I ask honourable members to refrain.

Hon. A. A. LEWIS: That level, of course, is somewhere between $25 million and $30 million annual turnover.

It seems to me that by having a fund administered by the Department of Youth, Sport and Recreation or the Arts Council, some consistency could be maintained in allocations. Although I shall not continue with that point today, in the future I believe Instant Lotteries should be channelled to a trust fund with the Government topping it up if necessary. The Government would be saved from putting the money from Consolidated Revenue into the various organisations and those organisations would know that if they encouraged people to participate in that type of lottery they would get some kickback. The alternative is to pay the full amount into Consolidated Revenue and the Government would pay realistic amounts to the various groups concerned.

I have great sympathy for any Government which deals with arts and sports groups when trying to establish what is a "realistic amount". I know the members of the Select Committee had that problem also.

The Select Committee made a number of recommendations. The Government should look at those recommendations and consider them. I do not say all of those recommendations are right, but far more thought has been accorded them than has been given to some of the *ad hoc* ministerial decisions which have involved allocating money to various bodies. I do not blame this Government for that; I blame the previous Government and the previous Minister who liked to throw money around—I do not say this accusingly—to make a big fellow of himself. The present Minister has done the sums and the action which has been taken in respect of *Artlook* and the Fremantle Arts Centre was the reverse of the Select Committee's recommendation. I would like to know the reasons for that, and I hope at some stage the Government will indicate the position.

I will support the Bill. The Government should give far greater attention in the future to the allocation of these funds. Some method should be devised by which control of this money is taken out of the hands of the Minister, because the societies with which he agrees may be given patronage and those bodies may not be the ones selected by the

WA Arts Council or the Department for Youth, Sport and Recreation for allocation of funds.

Question put and passed.

Bill read a second time.

In Committee, etc.

Bill passed through the 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 (Leader of the House), and passed.

SMALL CLAIMS TRIBUNALS AMENDMENT BILL

Second Reading

Debate resumed from 15 November.

HON. P. H. WELLS (North Metropolitan) [5.35 p.m.]: Some of the provisions in the Bill tend to change the status of these bodies from that of the Small Claims Tribunal to small claims courts. If it is not the intention to adhere to the principle inherent in the establishment of the Small Claims Tribunals in the early days, which was that there should be some cheap method to deal with small claims, then the Government should be honest and indicate that is the situation. However, I do not believe the Government intends that to be the case, and I suspect its activities in some of these areas are unintentional. Therefore, I hope the Government will consider the issues I shall raise.

The Small Claims Tribunal was introduced into this State in January 1975 after the legislation was passed in 1974. It followed the introduction of Small Claims Tribunals in Queensland in April 1973, in Victoria in November 1973, and in New South Wales in April 1974. From reading the relevant second reading speeches, it appears in each of those cases the tribunals were introduced by Liberal Governments.

The research entered into at the time the Small Claims Tribunals were established was very wide-ranging and included an examination of the operations of the Consumer Council in the United Kingdom and the developments and experience in dealing with small claims in Manchester. The work of the Small Claims Court in the United States of America was examined, as was the report of the Law Reform Commission in the ACT. Civil claims actions in the Court of Petty Sessions were considered also.

As a result, a great movement throughout Australia focused attention on the establishment of Small Claims Tribunals to arbitrate on disputes in a speedy, informal, and cheap manner in order that an answer could be arrived at which would preserve the natural rights of the parties concerned. Words similar to those I have just used appeared in a description of the role of tribunals when they were first introduced.

It was considered that many people, particularly elderly people, needed an alternative method to settle disputes and that the Small Claims Tribunal would be the answer.

I shall quote an extract from *Choice* magazine of September 1974 which reads as follows—

> The procedure, too, is relaxed: some Tribunals are held sitting around a coffee table rather than in the traditional court atmosphere.

It says also—

> Small Claims Tribunals are designed to fill this void. They are designed to be informal, quick and inexpensive. The right of appeal from them is very limited so that a company cannot use its superior financial resources to exhaust an individual by appeals. The laws of evidence are relaxed so that even hearsay evidence can be given.

The provisions in the Bill before us tend to move away from the initial objectives of the tribunal as it was established under the Acts in the States to which I have referred. Incidentally, under the legislation in Queensland the maximum amount of claims to be settled by the tribunal was $450, and in Victoria and New South Wales the maximum was $500. The only State where the maximum amount has kept pace with inflation is Queensland where at present it is $1 500.

The legislation before us seeks to increase the maximum amount to $2 000. The reason the maximum amount of $500 was established initially was that was the sum with which one could initiate a creditor's action in a bankruptcy court. That amount has been increased to $1 000 and it should probably be higher, because that relates to a figure arrived at in 1980.

Hon. J. M. Berinson: Do you know when Queensland increased its maximum rate to $1 500?

Hon. P. H. WELLS: I believe that occurred in 1980. The maximum amount of $1 500 is based on the fact that, according to advice from the Reserve Bank, the purchasing power today of the maximum of $500 set in 1974, is $280. As the amount is to be increased from $500 to $2 000, which is four times the original amount, the equivalent of the amount laid down under the Act

when it was passed would be $720. I make that point to illustrate that we are moving away from the original intent of the legislation.

In Victoria, the amount is being increased to $3 000, and in New South Wales it is the same. On that basis, $2 000 is not in line with the intentions of the Government when it first introduced the legislation. We are dealing not only in terms of real money, but also in the cost of goods today. Something that costs $1 000 today would have been worth much less when the Act was originally introduced. Although I question those matters, I do not take issue with them.

The Bill makes provision for the reduction of the retiring age for referees from 75 to 65 years of age. It is interesting that when the legislation was introduced by the Court Government, the age was to be set at 70 years, and the late Mr Hartrey suggested in the lower House that the Government would obtain advantage by making the age 75 as the Government would be able to attract the right sort of person for the job. He convinced the Government that 75 would be a more realistic age. The Liberal Government of the day accepted the advice of the Labor Party in Opposition, and it amended the Bill to provide for 75 years. It is interesting that now the age will be reduced from 75 to 65 years.

The original argument was that the Government should not exclude retired magistrates from the job, as they are people with a fair amount of experience. I am always concerned when we decide to have a maximum age. We tend to retire people and get rid of them when they may have something to contribute.

I first came into contact with Mr Hartrey when I went to Kalgoorlie. He had a fair amount of wisdom, and that wisdom was shown in relation to two clauses of the original Bill. His suggestions were accepted by the Government of the day. I wonder whether the arguments that he put in 1974 have any meaning today. He argued that the Government could exclude, because of his age, the type of person who would willingly do the job.

My second matter of concern relates to the period in which a claim may be lodged.

Hon. D. K. Dans: What clause?

Hon. P. H. WELLS: I refer to clause 6, dealing with section 16. The original intention was that the period should be two years from the date of contract or the delivery of services. To support that argument, I quote from a report in *The West Australian* of 1 November 1975. Amongst other things, it dealt with the then Bill in the following terms—

> Claims could be referred to the tribunal only for a period of two years after the date of contract.

The wording of the provision in Western Australia followed almost word for word that in New South Wales. I spoke to the registrar of the tribunal in New South Wales today, and he advised me that the only difference between the wording in the New South Wales legislation and ours is the word "contract". That word has been removed, and the words "the claim" have been inserted in section 16. This Bill is designed to remove the words "the claim", but those words were inserted at the instigation of the late Mr Hartrey when the legislation was originally debated in the Assembly.

Mr Hartrey believed that the period of the dispute relating to a contract may well have excluded a person with a three-year contract from making a claim in the first year. The intention was that the period should be two years from the date of the service, but because a contract may run for 10 years, during which time the contractor may be required to deliver a service every day, a dispute may arise after five years and the contractor may have broken the contract. The date of the dispute would be the date when the service was not delivered.

It is clear that the original intention was that the date for the claim would be two years from the date of the cessation of the delivery of the services. The amendment in this Bill indicates that the period will run, not from the date of the service, but from the date from which the dispute arises.

It is clear from the response of the Minister in another place that he understands it was the intention that if a person bought a product and after 10 years found something wrong with it, the period would run for two years from that time. When the original Bill was debated, the suggestion was made that the contract could run for 30 years and that, after a dispute arose, the period would run for another two years. However, the present Government would not accept that. Mr Bertram, who was handling the Bill for the Labor Party in another place, suggested that the period be extended to six years. Mr Hartrey said he could not accept that period; he believed that two years was the correct one. That is why we have the difficulty in terms of the interpretation.

This Bill suggests that the time period should extend from the period of the dispute, which could involve 10 years or 30 years.

It could be suggested that more power will be provided under this Bill, because it was envisaged

originally that people would apply to the small claims' court, but they would not be excluded from going to an ordinary court. In other words, if the period were greater than two years from the time of the claim, a person would still have the right under the Act to take his case to an ordinary Local Court. On reading the Limitation Act, I find that the period is six years. In fact, section 38 (1) (c) (v) and (vi) provides—

(v) All other actions founded on any simple contract, including a contract implied in law;

(vi) All other actions founded on tort;

Six years.

I assume that a person who had not made a claim to the Small Claims Tribunal within two years would have the advantage of making a claim in the Local Court within six years. In fact, as one reads the Act, one finds that the tribunal is a simple court because the person claiming puts forward his case without representation, and the referee arbitrates.

Under this legislation, one has the choice of making a claim to the Small Claims Tribunal in the first two years, or taking it to the court in the first instance. When the referee makes a decision, that can not be filed in the Local Court.

As I see it, after 10 years or 20 years, a person wishing to make a claim will have a longer period available to him than is available in relation to other courts.

Hon. D. K. Dans: Are you sure of that, Mr Wells?

Hon. P. H. WELLS: First of all, I have read the speech of the Minister in another place and I know what he understands it to mean. If the Leader of the House has read the Committee debate in another place, he would be aware of the situation.

Hon. D. K. Dans: I do not particularly read his speech that way.

Hon. P. H. WELLS: He clearly says what the time is to be, and why.

Hon. D. K. Dans: Would it actually exceed the Statute of limitations?

Hon. P. H. WELLS: I am not saying he said it exceeds that time. My reading of the Bill is that the increase from two years to six years will apply to the start of the dispute. It was put to me that the reason the Government has put forward this amendment is that a person may well have bought a safe and used it for 10 years, and in that tenth year a thief with a sledgehammer came along in the night, banged the safe on the head, and it fell apart, leaving the way open to the owner of the safe to say that this was not the product he thought he had bought!

Hon. D. K. Dans: That would be ordinary wear and tear!

Hon. P. H. WELLS: The referee would not consider that to be the case. Perhaps the Leader could explain why the Government needs to have the period extended from two to six years. The New South Wales legislation provides for a two-year period. The only difference in the two sections is that in NSW the provision is in two parts, and the term "the claims" and the word "contract" are not included in our legislation. Those words were removed at the request of Mr Hartrey to overcome his doubts at the time, although the Minister said then that he did not see the difference between the wording, but to accommodate the Opposition the Government would agree to the change.

So this change from two to six years in clause 16 is unacceptable to us, and I request the Government to give further consideration to this change. I would rather we retain the Act as it is, because surely retailers have a right to have some cut-off point, remembering this sort of thing does not cover the warranty period. The term referred to here is "implied warranty", which will involve the referee determining whether that warranty fairly relates to the amount of money paid for the goods.

I have no objection to the clause in the Bill to give the tribunal power to issue a certificate related to summonses. This appears to be tidying up an area involving some doubt and causing some consumers to pay certain moneys.

Clause 2 relates to the separate commencement dates for four separate clauses—clauses 7, 8, 11, and 12—which are to come into operation on a date to be proclaimed. Does this relate to other amendments involving the Local Courts Act? For instance, does this relate to the certificate mentioned in clause 7 and clause 8 which will enable the referee to transfer cases involving amounts greater than $1 000 and $2 000 to a Local Court?

Mind you, Mr President, this is an area involving some concern for me. I recognise that the present Act gives the referee some liberty in deciding that a case might be too complicated and should be referred by him to another court. The situation was put to me that if a person lost some goods during an air trip and then made a claim on the airline, the airline could say that the person's ticket did not involve any definition of "goods". The person might then take the case to the Small Claims Tribunal, where the referee might well say that the decision he might make on the case could

involve millions of dollars, so he would therefore consider it a test case and refer it to another court. The Bill gives him certain liberties to make such decisions where cases involve amounts in excess of $1 000.

We could now face the situation where a person will go along to the tribunal expecting it to be an inexpensive exercise without any great legal costs, but could find that because it was an interesting case the referee, without his approval, could refer it to a Local Court. This might be all right for an airline company, because it could face the loss of many millions of dollars and so would be prepared to fight an expensive law case. The consumer would find himself involved in litigation with which he did not wish to proceed. I assume the referee has been very sensitive in this area in the past, but this change could be to the detriment of some consumers. They already have the right to go to a Local Court if the referee refuses to make a decision on their case.

Clause 9 involves a great change to the present Act, because it is proposed for the first time that a person will be able to bring along a number of people to the tribunal. This will greatly damage the character of the tribunal. It was originally argued that the tribunal would be a place where no professional advocacy would be found; no legal people would be involved. It is now proposed that relatives and friends of any party to the proceedings can come along. I suppose that is reasonable because I gather some people are rather nervous. However, the clause goes on to say that the officers of the Department of Consumer Affairs may be present at the proceedings unless the tribunal otherwise orders. I would have thought the officers of the Department of Consumer Affairs were professional advocates.

Hon. D. K. Dans: They are not advocates. If you think about it, it is pretty obvious.

Hon. P. H. WELLS: I am providing questions for the Leader to answer. In all tribunals around Australia, the covering legislation states that there should not be a lot of other people brought before the tribunal and that only those people who are to provide evidence should be present.

Regulation 4, under the date of 7 March 1975, reads—

> 4. A party to a proceeding before a Small Claims Tribunal who wishes to be represented by an agent shall lodge with the registrar, before the hearing of the proceeding, a statement in writing which—
>
> (a) specifies the proceeding;
>
> (b) sets out the reasons why the party wishes to be represented by an agent;
>
> (c) sets out the name and occupation of the proposed agent; and
>
> (d) states that the proposed agent has sufficient knowledge of the issue in dispute and is vested with sufficient authority to bind the party.

Sitting suspended from 6.00 to 8.30 p.m.

Hon. P. H. WELLS: Prior to the tea suspension the Attorney-General asked when Queensland set its maximum at $1 500, and I said I would check my file. I have had an opportunity to go through my papers, and it appears that Queensland set that maximum on 1 November 1982. Victoria will increase its maximum from $1 500 to $3 000 next year, and New South Wales went to the maximum of $3 000 on 1 October this year. I have given a report of figures prepared by an officer of the Reserve Bank, which indicate that the maximum of $1 500 is the proper amount in real terms compared with $500 in 1974.

One can make a comparison with the cost of a copy of *The West Australian* which in 1975 cost 8c and today costs 30c, which represents an approximate increase of 375 per cent which in the area of this measure would mean the maximum should be $1 875. The end result is that $2 000 could be an acceptable level.

The legislation before us was introduced in 1975 and was gazetted on 21 January 1975. Six Bills, including the one before us, have been introduced to amend the original legislation; the first in 1975, the second in 1976, the third and fourth in 1978, the fifth in 1981 and, of course, the sixth this year. It involves an area about which members have consistently asked questions.

Clause 10 will insert a new section 34A to provide that the referee may give reasons in writing for an order made by the tribunal, and I have no objection to such a provision. It seems it will be a useful provision.

Clause 11 provides that a new section 35 be substituted which provides that the tribunal may award costs. I understand from the second reading speech that the costs may not exceed $100. The clause provides that the costs may be awarded where the tribunal is of the opinion that because of exceptional circumstances an injustice would be done if costs were not allowed to a party. I am not aware of the level of Local Court costs, but I am led to believe the maximum is $100. I assume the term "exceptional circumstances" means that although the concept of the Small Claims Tribunal does not allow for costs to be awarded, costs can be awarded but only sparingly. Earlier provisions indicate the tribunal is meant to be a cheap court.

Clause 12 deals with the area of regulations. I want to know whether the regulations under this legislation will be affected by further amendments to the Local Court regulations.

I will sum up the areas of my concern. The provisions of section 16 were introduced into Parliament on 31 October 1974 by Mr Grayden, the then Minister for Labour and Industry, who said at that time—

> A claim shall be eligible for jurisdiction by the tribunal if the contract was made no longer than two years before the day on which the claim is referred to the small claims tribunal.

Similar words were used by the *The West Australian* when it referred to the two-year period after a contract was entered into, and a contract according to the definition in the Bill is a verbal or oral agreement.

I accept the Government's explanation of clause 6, to amend section 16. Perhaps because the original provision was in the middle of the first Bill, it did not get a thorough examination by the department concerned as it should have, which has put the tribunal in the position of having to seek a direction about the time from which a claim can start. The evidence shows it was the intent of Parliament that it was either from the delivery of the goods or from the time the dispute occurred and the contract was broken, which could be a number of years after the contract was initially entered into. It seems the intention of clause 6 is to make the provision clear in regard to the commencment date, and I believe that date should be as was originally intended when the legislation was first introduced. Most people in the field believe that date is two years from the original sale. The Government should not pass this clause, and should come back with better wording to clarify this point.

Prior to the tea suspension I asked whether the Statute of limitations affects this Bill, and I accept the argument that it affects all Bills. I am not a lawyer so I must accept that argument. The Statute of limitations sets six years as the period in which action can be taken. However, actions in the Small Claims Tribunal must be taken within two years. It seeems that because of the nature of the tribunal—the intention is that it handles small matters—the period in which action must be taken is two years instead of six, and perhaps that is the reason for setting the $2 000 limit. However, this is an area which deserves further examination by the Government, and it is certainly one I will argue during the Committee stage. I will argue to retain the status quo.

Why will referees of the tribunal be required to retire at 65 years of age instead of 75? It was the Hon. Clive Griffiths who on 26 November 1974 moved to have the retiring age increased from 70 to 75 years of age. At that time he said—

> I have moved this amendment because I understand it has been the experience in other States that very often it is difficult to obtain the services of a referee. As many magistrates retire at 70 years of age there is no reason why the Government could not appoint such people to the position of referee until they reach the age of 75 years. A man who acts as a magistrate up to the age of 70 in many instances still has many years of active life during which time he could render valuable service in the capacity of a referee.

The Hon. Graham MacKinnon was at that time the Minister handling the Bill in this Chamber, and I ask the now Leader of the House this question: What has changed in regard to this measure since 1974?

Hon. Kay Hallahan: The level of unemployment.

Hon. P. H. WELLS: Magistrates have a great deal of experience and would be useful in the sensitive area of small claims. In 1974 the Labor Party accepted the suggestion that the retiring age of a referee should be increased from 70 to 75 years of age to accommodate the people of the day, and that provision served the tribunal well.

All of a sudden this Government has decided that magistrates should not be appointed as referees if they are more than 65 years of age. Are there plenty of unemployed magistrates?

Hon. Kay Hallahan: I did not say that.

Hon. P. H. WELLS: I will be interested to witness the change that takes place with this decrease in the age at which a person is eligible to hold office as a referee.

Hon. G. C. MacKinnon: It would be an ideal job for an experienced exparliamentarian of 76 years of age.

Hon. D. K. Dans: That is just about the long and short of it.

The PRESIDENT: Order!

Hon. P. H. WELLS: I gather from the interjection just made that a number of people could be after a position.

Hon. G. C. MacKinnon: I have got to the stage where I can think of only one.

Hon. P. H. WELLS: Looking across Australia, and particularly at those States which have a Small Claims Tribunal—and excepting South

Australia which incorporates a small claims tribunal within the Local Court—we note they have filled a definite need. The late Tom Hartrey said that a lot of the small claims people are pests to lawyers. His colourful words, as reported in *Hansard*, described the clogging up of the courts by these cases.

The Labor Party welcomed the tribunal because it met a need, but it opposed the extension period to six years which was suggested by one of its members originally. I can see no reason that clause 6 of the Bill should allow such an extension, when the current provision allows adequate time.

HON. I. G. PRATT (Lower West) [8.47 p.m.]: I have some reservations about the amendments the Government proposes because I feel they tend to change the whole meaning of the Small Claims Tribunal. I will not go into the generalities of that at this stage, but I do wish to put a proposition to the Leader of the House regarding the Government's proposal in this Bill to change from a two-year limit the period within which a claim must be referred to the tribunal.

I accept there is a need to have some referral after the two-year period, because I would imagine that all of us, Government members, Opposition members or anyone else, would prefer to have disputes settled by agreement and negotiation rather than by referral to a tribunal or a court.

It is quite possible that an aggrieved person who endeavours to settle a dispute by negotiation could find that the negotiations in which he is involved take him beyond the two-year period. It may well be that a person could find he has a case for dispute and has tried to settle that dispute in the two-year period without resorting to a court or, in this case a tribunal; but the case could take over two years and he could find he has lost his right to go to the tribunal when he had done the honest and sincere thing in trying to negotiate to obtain a solution to his problem.

I have had a situation with one of my constituents in which this could have happened. It was a case which involved the purchase of a carpet. The daughter of my constituent spilt some water on the carpet and the carpet changed colour. I think it went from green to yellow. They went to the people they bought the carpet from and informed them of the problem. The carpet people said "It could not happen, you must have stained the carpet". However, inspected the carpet but said "No, you dropped something on the carpet, and stained it". The purchasers said "Then if we have stained it you can shampoo it and see if you can get some stain out of it". The people who sold the carpet agreed and when they tried to shampoo the carpet, it changed colour as soon as water was put on it.

This problem could have taken some considerable number of weeks from the time complaint was made until something was done. The carpet people said they would have to check up on the purchasers' behalf with their Eastern States agent. The people in the Eastern States were contacted and they said the same thing as the agents. They said "It could not possibly happen, you have stained it". Correspondence took place and they said someone would visit Western Australia as soon as possible to inspect the carpet. After some time they did come and inspect the carpet and the same thing took place. They said "No, it could not possibly be correct, you must have stained it". They went through the process of testing again and said that they would come back and make a decision on how it could happen.

This is a matter which could have been referred to the Small Claims Tribunal. In this case it took about nine months to occur. If the water had been spilt on the carpet 18 months after its purchase, the real problem then would have arisen six months before the end of the expiration of the period in which the claim could go to the Small Claims Tribunal. My constituent had been trying to do the right thing in negotiating to settle the problem, but that could have taken him out of the claim period, and therefore he would have lost his ability to go to the Small Claims Tribunal.

I accept that there is a need for this legislation to have provision for a person who has a complaint or problem within the two-year period to proceed with that claim before the Small Claims Tribunal if that claim has not been settled within the period.

I suggest to the Leader of the House that instead of proceeding with the amendment he look at the problem in reality and accept that we have a Small Claims Tribunal which has in its operation a limited ability for people who do not want to get involved in the whole court procedure. I think two years is a reasonable time, but let us have a proposition of leaving the two-year provision in the Bill and providing a requirement that the dispute has to be notified within two years, but the actual claim could then be made within perhaps another two years, to allow for a period of negotiation. As I said at the beginning of my comments, we would like to have disputes settled by negotiation and agreement rather than by a court process.

I think that proposition would be quite an equitable one, and I cannot see how the Government could not accept it. It leaves what was in the Act and also allows the proposition the Government put to us that there should be a reasonable time after the actual dispute arises. I think that is something to look at. It is not realistic to look at the problem 20 or 30 years later. Let us look at the problem we want to settle in a realistic way. I ask the Government to give consideration to my proposition. The Committee stage can be handled tomorrow and the Government could have a serious look at my proposition, because I believe it does answer the problem.

HON. G. C. MacKINNON (South-West) [8.50 p.m.]: While I have a great deal of sympathy for the Hon. Ian Pratt's case, I must remind the House that bad cases make bad laws. One has to be extremely careful when one looks at cases as complex and difficult as the one he cited which would have necessitated a court case and the use of legal aid. We must remember that bad cases make bad laws.

I support the Hon. Peter Wells on the basis that this Bill is really a bad law to cope with bad cases. It is legislation not meant to set up another court, it is meant to set up a way around or a short, quick solution to easy problems. In that sense the original proposition to make the period date from the claim instead of from the contract is believed now to be a mistake. It should have been limited to the two-year period after the contract was signed. After that it should be a matter for the courts.

We ought to ensure that the Small Claims Tribunal looks after those sorts of easy matters that could be resolved by discussion and a bit of firm direction from the person in charge.

I think the matter raised by the Hon. Ian Pratt is one which ought to be given serious consideration when trying to find ways or means of overcoming a particular problem. Nevertheless, I remain unconvinced that the period in which matters could go to the Small Claims Tribunal should run on for the number of years which may be needed for the resolution of an issue or dispute. A claim could in fact run on, and I point out that this tribunal was not meant to take the place of a court. It was always meant to be a place to go for a quick decision and more serious matters were to be dealt with in the normal course of events.

I fear if we come up with another amendment, the Small Claims Tribunal will become just another of the normal courts of the land. That was not its intention in the first place. I think we ought to reconsider the matter and ensure that the original intention, which was a good one—to save costly litigation—is adopted. We ought to discuss that and make sure we are adhering to the original proposition, which resulted in the establishment of the Small Claims Tribunal.

HON. D. K. DANS (South Metropolitan—Leader of the House) [8.54 p.m.]: Firstly, let me put some of the assertions to rest. This is Small Claims Tribunal legislation and there is no intention to make it a small claims court as the Hon. Peter Wells has suggested. The reason for this amending Bill is the Small Claims Tribunal has been in existence since 1974 or 1975 and the time has come for the Act to be amended. The amendments are in line with the Government's observations. The referees now have experience behind them and we have considered what would be more appropriate to meet the problems of the Small Claims Tribunal in 1983. Of course, we wish to meet the needs of people who have experienced the Small Claims Tribunal.

The Hon. Peter Wells seems to say—I am amazed by his comments when we consider the area he represents—that we should make it more difficult for the ordinary person who cannot afford to go to court to go before the Small Claims Tribunal. I hope he is not saying that, but that is what he appears to be saying. Let us deal with the first point, which deals with the question of the reduction of the age from 75 to 65 years.

In this day and age, and with the climate we live in, there is no problem in getting people who are qualified—and I am not necessarily referring to magistrates because they do not usually continue to the age of 70 years. Many retire reasonably early—to do this job. I think the age of 65 years is appropriate in the year 1983. In fact, my party makes it impossible for me to continue in Parliament after the age of 65 years.

Hon. V. J. Ferry: A waste of talent.

Hon. D. K. DANS: It may be, but by the same token, in the not-too-distant future any forward-looking party would move for that age to be 60 years. Many people in private enterprise in this country receive the golden handshake at 55 years.

Hon. G. E. Masters: Good fishing at Rottnest at the age of 60 years!

Hon. D. K. DANS: Indeed not too many people work beyond the age of 60 years, and the question of the lowering of the age to 65 is in keeping with what has happened in the community in general.

Mr Wells paid particular attention to other States, and I well appreciate the great deal of research he does. I remind him the Bill we are dealing with affects Western Australians. We might perhaps draw on the experiences of New South

Wales and Victoria, but the crux of the matter is that this Bill deals with Western Australians. Mr Wells put forward the argument that there is no difference between the New South Wales and the Western Australian Acts; that is not correct. The New South Wales Act refers to a period of two years from the date of contract, and the Western Australian Act refers to two years from the date the claim arises.

Hon. P. H. Wells interjected.

Hon. D. K. DANS: Never mind what Mr Hartrey said; I understood the member's argument. We can discuss this in the Committee stage.

The differences in the Acts make it inappropriate to compare New South Wales with Western Australia. Mr Wells claims it was never intended to give the Small Claims Tribunal the same time limitations as the Local Courts. If one were able to equate Western Australia with New South Wales, that situation would be correct, but the comparison cannot be made. The problem is one of establishing when a claim arises. This is the difficulty that has been encountered by the referees, and we have taken that point from the referees' report and brought it to the Parliament. Clause 6 seeks to overcome this difficulty. It is not suggested that the period permitted by the Bill in which a claim may be brought should extend beyond the period of six years specified in the Limitations Act. I could not imagine some of the long bows that were drawn in relation to periods of 20 years to 30 years.

Hon. I. G. Pratt: Was it not accepted in another place that it was longer than six years?

Hon. D. K. DANS: I am in this place, and my reading of the Bill and the advice I have taken is that this Bill would not override the Limitations Act. I do not see how it can, despite what may have been said in another place; they are not always right.

Opposition members: Hooray!

Hon. I. G. Pratt: Was that not said by the Minister responsible for the Act?

Hon. D. K. DANS: I am saying I cannot see a Bill of this nature overriding the Limitations Act; that is not its intention.

Hon. I. G. Pratt: Do we have your assurance on that?

Hon. D. K. DANS: I am on record now and we will be able to discuss it in the Committee stage shortly. I do not know how this Bill could override the Limitations Act. I have taken some advice from the legal people in the Department of Consumer Affairs, and they say it is not the intention of the Bill to do that. I received that advice a matter of an hour or two ago.

The Bill focuses on the issue in dispute—the effectiveness of the product or the failure to perform a service with due care. If the dispute is that the goods are defective, the question arises as to when the defect occurred, not when the consumer became aware of it. In the same way, if there is a want of care in performing the service, it relates to when it occurred and not when the consumer noticed it. Like Mr Pratt, I have not had a claim before the tribunal, but my electorate secretary had one and I was nearly driven mad before the matter was cleaned up.

I suppose I could go on answering the problems and the tilting at windmills of Mr Wells, but it would be more appropriate to deal with them in the Committee stage. It is a fairly simple and innocuous Bill, and all it seeks to do is to bring up to date the Small Claims Tribunals legislation that has performed a very useful role in society in the nine years since 1974, based on the experience of those people who have been sitting as referees, the experience of the Department of Consumer Affairs, and the information put to the Government, and to the previous Government, by people who appeared before the tribunal.

I commend the Bill to the House.

Question put and passed.

Bill read a second time.

In Committee

The Chairman of Committees (the Hon. D. J. Wordsworth) in the Chair; the Hon. D. K. Dans (Leader of the House) in charge of the Bill.

Clauses 1 to 5 put and passed.

Clause 6: Section 16 amended—

Hon. P. H. WELLS: I can understand the department seeking some clearer guidance in this area because, as has been mentioned in the debate, some doubt exists in the minds of those administering this Act as to when the period of dispute commences. I accept that some clarity is needed in this matter. I suggest the problem developed because of the insertion of the words "the claim". If some doubt did not exist in the minds of officers of the department this amendment would not be before us.

I did not follow the Leader of the House completely when he said the claim related to the time it occurred and not when the consumer became aware of it. Surely the consumer must become aware of the claim in order to present it. Under this amendment, when a consumer becomes aware something is wrong with a product, he then has a

dispute with the original retailer. As I understand it, he then has a period in which to lodge the claim arising under section 16 of the Act. That is where we propose to insert the words "the issue in dispute in that claim". Clearly, the Minister's intention is to make clear that the period will be from the date a person finds a fault and raises the case; that raises a dispute with the retailer, wholesaler, or manufacturer. Obviously some doubt exists in relation to the intention under which other Acts operate and under which I believe this Act was intended to operate, in that we are talking about two years from the date of the contract or the date of sale.

I accept the Leader of the House's advice that the Statute of limitations would take effect and the maximum period for any claim would be six years from the date on which the appliance was serviced. That is, if I buy a video, the Statute of limitations would apply in six years from that date. This Bill is saying that if after six years I find something wrong, I have another two years in which to do something about it. If I accept what the Leader of the House says, if the period is beyond six years and the dispute has been carried forward with the referee, the retailer can plead the Statute of limitations. I believe it was intended that the Small Claims Tribunal should deal with matters arising in the first two years. It deals with claims involving less money than do the ordinary courts and it is also intended that it should deal with a shorter period of time. That is the way other Small Claims Tribunals operate. Unless some lawyer gets caught up in a matter before the tribunal, it is unlikely a challenge will be taken to the High Court to clarify the legislation, because the amounts are small.

The effect of this Bill is that it takes the present two-year period and extends it to a maximum of six years under the Limitation Act.

Hon. D. K. Dans: It does not do that at all.

Hon. P. H. WELLS: In that case I am anxious to know what it does; I would like to know what effect the Statute of limitations has on this clause. Does it mean that the maximum period is six years, or does it mean that it is extended by another two years?

Hon. D. K. DANS: Mr Wells is still interpreting this clause to mean that the time period is two years from the point when the dispute arises.

Hon. P. H. Wells: That is what it says—the issue in dispute.

Hon. D. K. DANS: That is not the issue in dispute. Let us go back to the Statute of limitations. In a normal court of law one can lodge a claim within the six-year period, but this Bill is saying a person has two years from the date on which the issue arises. Is that the question Mr Wells was posing to me?

Hon. P. H. Wells: Yes, the time when the claim starts.

Hon. D. K. DANS: From the date of issue of the claim one has two years—not six years as under the Statute of limitations. I hope that answers the member's question.

Hon. A. A. LEWIS: Unfortunately the Leader of the House has me confused now. I am sorry for him.

Hon. D. K. Dans: You do not have to be sorry for me.

Hon. A. A. LEWIS: I am sorry he is confused. Let us get down to the basic, simple idea. Let us suppose I buy a video from the Leader of the House, who is a tradesperson or retailer.

Hon. J. M. Brown: On a Sunday.

Hon. D. K. Dans: I follow.

Hon. A. A. LEWIS: The Minister, as a retailer, gives me a warranty for 12 months. After 11 months I find something wrong with that video. I have then two years to make a claim under the Small Claims Tribunal. Am I explaining myself clearly?

Hon. D. K. Dans: I can follow that.

Hon. A. A. LEWIS: After 11 months I find a defect; I then have another two years in which to lodge a claim with the Small Claims Tribunal. Is that what the Minister is saying?

Hon. D. K. Dans: I have just been handed legal advice. Yes, what you are saying is correct.

Hon. A. A. LEWIS: If that is the case, why do we need warranties at all? Will we see warranties disappear altogether? I am looking at a businesslike transaction. Will anybody give a 12 months' warranty, or a two years' warranty, if he knows that a month before the warranty expires, if a defect occurs the consumer can still claim in two years' time? Or will retailers give no warranties whatsoever with the sale of goods? This is fairly important in the retail trade. With no warranty at all it does not matter when the defect occurs because consumers have no warranty. As I understand it, they would have only two years under this legislation; there is an automatic two-year warranty.

Hon. D. K. DANS: Without Mr Glanville telling me, the question of a warranty and the question of this Bill are two different things. If one were to buy something with a warranty for 12 months, if the defect occurred after 12 months

and one day, one would simply be out of warranty.

Hon. A. A. Lewis: What about 11 months?

Hon. D. K. DANS: As I am advised, the issue in dispute then would be a breach of the express warranty, because the warranty was for 12 months, and that is the issue in dispute. I think the member mentioned a video. That would be the position if that particular video went on the blink prior to the expiry of the 12-month period.

Let us be realistic about that. Before going to the Small Claims Tribunal, if the person went along to the people who issued the warranty, surely they would honour it? I should imagine they would. I have never found any difficulty with reputable tradespeople, and only reputable people issue warranties. One would have no claim before the Small Claims Tribunal because the vendor, through the manufacturer, would honour the warranty.

Hon. A. A. Lewis: What if the warranty had expired?

Hon. D. K. DANS: Then one would have no claim before the Small Claims Tribunal or any other tribunal, because the goods would be out of warranty. I think the member can understand what I am saying.

Hon. A. A. Lewis: I am with you, but may I just interject? If the claim is put in, as I understand it, one has two years. Say 11 months have passed. There is two years 11 months before the claim must be lodged, according to the way I read the Bill. That puts a businessman into a situation where he does not know what his claims really are.

Hon. D. K. DANS: It would be two years from the date of the dispute, as we covered in the problem that Mr Pratt put to us. One would not wait for two years. I would be horrified if a person's video broke down 11 months after purchase, and he waited for two years and then went along to the vendor and said, "Eleven months after I bought this video it broke down". Say this happened 18 months afterwards; many people say the law is an ass, but it is not that big an ass. It just would not be on. As I said earlier, if the video broke down after 11 months, the issue in dispute would be a breach of an expressed warranty. If it happened after the warranty period, surely there is no need to go along to the Small Claims Tribunal. I understand all people who have gone before the Small Claims Tribunal have presented normal, run of the mill cases—leaking roofs, defective work done on an extension, or claims for other work which has not been performed satisfactorily.

When we are dealing with things like this, I sometimes wonder if this is a land of crooks and rogues. Most business people and tradespeople are extremely fair. In the individual competitive world we live in today it would be fatal not to be so. The member knows as well as I do that the rogues are quickly found out. One's name does not even have to be published in a list, it passes by word of mouth. When there are extreme cases the Press is attracted, and that is possibly the worst thing that could happen to a firm. Most claims coming to the Small Claims Tribunal would involve a person claiming he has done a good job, and the other person claiming for a variety of reasons that he has not. This system has worked admirably on both sides. Many people who go to the Small Claims Tribunal come away feeling a little dissatisfied. I will come to that a little later, because I have had that experience pretty close to me. There is nothing in this Bill to suggest anything dramatic will be changed.

To get back to the Bill, Mr Wells raised a very valid point about there being some doubt in the mind of the referee. That has not come to us from just one referee, but from a number. They want the matter clarified so that they can do the job better; it is as simple as that. It is not an extended legal argument between myself and the rest of the Committee. That is all the referees are seeking. I suppose the Hon. Sandy Lewis used the extreme example of a video because I am told they have a great failure rate. I have just bought one for my wife, so I hope I do not have the same result.

Hon. A. A. LEWIS: I thank the Minister for his assurances, but I happen to look at it from the other side. I have dealt with both the Small Claims Tribunal and the Department of Consumer Affairs. As a businessman, one often hears about a failure from an officer in those departments. The client does not notify the dealer of anything wrong. I can understand the Leader quite willingly supporting this amendment, but I am not going to thrash this point. This is something else which will add costs to goods and services.

As a small businessman, and not one of those involved with huge amounts of money, I know what these things cost the small businessman. I am very worried that his faith in the Act and my faith in him will be shattered when it comes to reality. There are many questions that I as a businessman would like answered. The Minister and his adviser have attempted to tell us what will happen in the future, but it is worrying to see what is happening in small business. This is an added burden. When one receives a letter from the Department of Consumer Affairs or from the

Small Claims Tribunal one tends to pay because of the time it takes to front up to them.

I will give an example of a 15-year-old tractor which was sold second hand. The person who bought the tractor, with no warranties implied or given, went to the Department of Consumer Affairs because the generator on this tractor had cost $76 to repair. I simply wrote out a cheque and sent it off because it would have cost me far more to front up to Perth and argue the case with the people who were attacking me as a small businessman. These are the sorts of things which Governments—not this one particularly but all Governments—do not realise. The people working for departments do not realise this is the case with small businessmen. It is a fact of life, and I accept the Leader's answers because they are given in good faith. I just want to warn him that this is the sort of thing which will happen more and more in the future. This is the third Bill of this type virtually in as many days. The small businessman is going further and further down the drain.

Hon. D. K. DANS: I have taken on board what the Hon. Sandy Lewis has said, but the Small Claims Tribunal has been in existence now some nine or more years. It does allow people—who otherwise could not do so without a great deal of expense—to have a perceived wrong righted, or what they think may be a wrong righted. I have found small businessmen have welcomed the existence of the Small Claims Tribunal because a great number of problems have been adjusted in that arena. I think it deals with some 1 600 claims a year.

The other side of the coin is that it is far cheaper to go to the Small Claims Tribunal than to have a fairly strong person get one into a legal tangle and go to every court in the land. While I take on board what the member has said about the businessman being the great sufferer in terms of time and money, all clause 6 does is amend section 16. I refer members to the wording of clause 6. The effect of this provision is to crystallise the commencing date from which the two-year period runs. The position is crystal clear to me. Section 16 says—

> . . . does not have jurisdiction with respect to such a claim if the claim arose earlier than two years before the day on which the claim was referred to a Small Claims Tribunal.

In practice it may be difficult to determine when the claim arose as distinct from when the issue in dispute first arose.

I cannot give any explanation other than that. Even I could understand that, as I could understand the exercise with the video.

Hon. P. H. WELLS: The Minister for Consumer Affairs indicated previously that the period of two years ran from the time the alleged defect was discovered by the purchaser. We are debating two situations. One is that the period should commence from the point of sale and the other is it should commence from the point when the defect was identified.

In the first case, if the two-year period commences from the point at which the sale is made, a person has, from the point of sale, two years within which to identify any defect. I do not refer here to cases where goods are under warranty. I agree with the Leader of the House that if a warranty is involved, we are talking about the issue of that warranty.

Let us take the case of a person who purchases, say, a large table which costs in excess of $1 000. Such a sum would come within the ambit of the Small Claims Tribunal. If my understanding of the first case is correct—that is, the person has two years from the point the contract is entered into or the sale is made—any defect in that table which is not under warranty, other than an implied warranty under the Trade Practices and Descriptions Act, would have to be advised within two years from the point of sale.

However, that is not what the provision in the Bill says. Under the provisions of the Limitation Act, if I buy an item and, four years after purchase, detect a defect in it, and I then negotiate with the person from whom I bought the item for a further 18 to 19 months, then bring the matter before the Small Claims Tribunal before a period of six years has elapsed, the claim is legal within the meaning of the legislation. I say that, because the claim would be made within two years of discovering the defect.

Section 16 of the Small Claims Tribunals Act refers to ". . . jurisdiction with respect to such a claim if the claim arose earlier than two years before the day on which the claim was referred to a Small Claims Tribunal". Therefore, if one day before the Limitation Act takes effect, I go to the Small Claims Tribunal and say, "Four years after I purchased this table I found the legs were not straight", that claim would be eligible. I understand the Minister for Consumer Affairs is saying that such a sitution would not come within the ambit of the Small Claims Tribunal.

Hon. Peter Dowding: Would you care to take a legal opinion on that?

Hon. P. H. WELLS: I am always happy to have a legal opinion, although I am careful about accepting free legal opinions.

Hon. Peter Dowding: I will charge you! The opinion is that you are wrong.

Hon. P. H. WELLS: I would be happy for the Minister for Mines to tell me the position. Which of the two cases I have put forward is correct?

Clause put and passed.

Clauses 7 to 12 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by the Hon. D. K. Dans (Leader of the House), and passed.

WESTERN AUSTRALIAN TOURISM COMMISSION BILL

Second Reading

Debate resumed from 17 November.

HON. P. G. PENDAL (South Central Metropolitan) [9.38 p.m.]: You, Sir, would recall the old story about the man who married the widow with 12 children and, after having done so, he made the observation, "There does not seem to be very much left for me to do". In some respects, that is the situation in which I find myself in being the Opposition spokesman on tourism on a Bill which so far has had a great deal of exposure in another place and, indeed, has been the subject of widespread discussion throughout the community generally.

Not only have the contents of this Bill to establish a Western Australian tourism commission been debated widely, but so too has its fate. Indeed you, Sir, would be aware that the fate of the Bill has been predicted by a number of people, albeit most inaccurately.

Indeed, the story has been put around that this is one of the Bills which will be defeated by the Opposition in this House. On Friday of last week I was telephoned by a radio reporter and asked why the Opposition intended to defeat the Bill. As I am the Opposition spokesman on tourism, I was a little surprised that people assumed they knew the Opposition's attitude without in fact knowing it.

Hon. D. K. Dans: Some days I wish I was the Minister for Tourism!

Hon. P. G. PENDAL: The Leader of the House lost his chance in February or March.

Never at any stage has the Opposition said or hinted that it would reject this Bill. It said that it would support the Bill's general thrust; it would query very closely the high level of Government involvement that the Bill envisages; and it would seek or consider seeking a number of helpful and positive amendments.

The first comment is that the Bill cannot be said in any way to conflict with any statements, policy or otherwise, made by the Australian Labor Party prior to the election in February of this year. The reason one can say that is that the ALP did not have a policy on tourism prior to the 1983 State election.

Hon. D. K. Dans: That was an oversight.

Hon. P. G. PENDAL: That in itself is a curious situation when we consider the great deal of verbal attention that has been paid to the subject by the Premier since the Government has taken office and since he has taken over the portfolio of Tourism.

The second comment is that, to a large extent, one would expect any discussion on tourism to be largely devoid of party political differences. It is worth pointing out that, had the previous Government remained in office, it too would have brought major legislative suggestions to the Parliament to revise the Tourist Act of 1973. In fact, at page 25 of the Liberal Party's 1983 policy document we made this commitment—

> To update the Tourist Act in line with changes in the industry and to authorise new approaches to tourist development.

That document went on to commit the then Government to a number of things, among which was the increase in financial help to country tourist bureaus and regional travel associations. We also pledged to continue the policy to appoint more regional tourist officers, and I am happy to say these are matters which the present Government has continued to support and expand in the time it has been in office. I commend the Government for having done that.

There are some puzzles to which, to this day, I have not received satisfactory answers. For example, the Bill supposedly commits the Government to a greater level of support for internal Western Australian tourist development, yet the Budget figures that are currently tabled before the House would indicate the reverse. For example, last year the O'Connor Government Budget, introduced on 13 October, allocated an amount of $424 000 for grants and advances for tourist facilities, on top of which it allocated an amount of $263 000 for country tourist bureaus.

Of the total amount of $687 000 only $485 000 was actually spent during the financial year, yet this year in Mr Burke's first Budget as Treasurer,

$649 000 was allocated for those two purposes, which means that these grants have actually been cut by the new Government. More specifically, it means that whereas $687 000 was allocated by the previous Government for those two purposes an amount of only $649 000 has been allocated by the Burke Government. In anyone's language or mathematics, that amounts to a cut of $38 000 at a time when the Government is suggesting that it is increasing—indeed it is in other fields—the total Budget for tourist development. I want some clarification of that figure by the Minister because it means a Government that was and is committed via this legislation to increase funds for tourist facilities has decreased them quite substantially.

I now turn some attention to the form that the new tourist authority of this State is intended to take. I mentioned earlier that the ALP went into the general election this year without a specific tourism policy, and therefore it had no self-imposed shackles in this regard. I want to examine one policy item to which the Government has committed itself, and indeed has focused a lot of public attention on; that is, in its own words, the war to be waged on QANGOs or unnecessary statutory Government bodies. Every member of this House would be aware that both the Premier and the Deputy Premier have developed a high profile campaign against QANGOs, and they have done so with a great deal of fervour.

I ask members: Are they not just a little curious that we shoud now be asked to create a giant new QANGO? We are to abolish a department and replace it with what the Government has until now regarded as its number one enemy, the QANGO.

One asks why that is and what explanation the Government may have for taking that course of action. Are we to take it that this will be a "good" QANGO, whereas the butt of the criticisms in the past eight or nine months has been towards what might be called "bad" QANGOs? I put it to the House that, to say the least, it is astonishing that we should at the very time the Government has committed itself to clean up this area and abolish QANGOs on a wholesale basis, be asked to take major legislative action to create a new one.

Extending that argument, if I may be so bold as to make only one prediction: The creation of the new WA tourist commission and the abolition of the current Department of Tourism will not bring a single, solitary extra tourist into Western Australia: any politician, whether he is on the Government or Opposition side of the House who believes otherwise also probably still believes that he can find fairies at the bottom of the garden. I put it to the House that we would be kidding ourselves if we believed that; it is no more than tinsel, and, as time goes on, I believe it will be seen for what it is. I also find it regrettable that any of us should pretend to the public of this State that the mere change in the name of a body will make any difference at all.

Hon. D. K. Dans: It is more than a change in the name.

Hon. P. G. PENDAL: As members of this House, the Deputy President (Hon. John Williams), and people involved in the tourist, travel, or hospitality industry as a whole in this State know, the only way that tourism will be permitted to find its correct level is to allow those with the expertise in the private sector to make an unfettered pursuit of the best tourist horizons that this State can find for itself.

The discussion on the form of the new authority—that is, its form as a QANGO—leads me to the area of costs which members of this House should examine. The Government's initial claims were that the creation of a separate and independent commission would immediately save the State in the vicinity of $600 000 over a full 12-month period.

I made the comment in August this year, and I repeat it now, that if it were possible to save that $600 000 in administration costs by the establishment of a tourist commission, it is equally possible that that $600 000 could also be saved by maintaining the current structure of the Department of Tourism.

Therefore I ask: Where are the savings to be achieved, and in precisely what area? No-one disputes—I certainly do not—the good sense of the current Government in trying to cut costs. That is commendable. I made reference to that earlier. But again, one could not be satisfied or fobbed off by the answers we were given in the past, when there were inadequate explanations of how that $600 000 is to be saved to the taxpayers of this State.

My informed guess on the matter is that to arrive at that figure of $600 000 the Government merely looked at the staff which the Departmen of Tourism currently employs in the eastern capitals of Melbourne, Sydney, Adelaide, and Brisbane did a quick calculation, and said, "Here we have got $650 000"—I do not think that that is coincidental—"in payments to about 38 staff members to whom we can give the chopper". I believe that was what was intended until the Government became aware that these 38 people were not Eastern States people, but in fact were people of this State employed by the Depart-

ment of Tourism and sent out of WA on behalf of the Government to those Eastern States capitals in order to drum up tourist business for WA. If after all that, the Government has acknowledged that a mistake was made in that assessment, I commend it for making that acknowledgment.

However, we are still left with the puzzle, taking the Government's own figures, of just how that $600 000 will be saved. We have seen the increase of about 35 per cent in the overall Budget allocation this year for the current Department of Tourism. I commend the Government for that, and I especially commend it because the Budget for advertising and promotional work has been more than doubled. I make no bones about saying that that is money well spent.

Having said that, I repeat my earlier comment—that any justification for a commission as outlined in this Bill based on the saving of $600 000, is non-existent. That is especially the case if it is considered that since the Bill was introduced into another place the Government has added in the order of $130 000 to the expenses of the proposed tourism commission by advertising for the new full-time chairman, a new full-time general manager, and, as I recall it, a new full-time director of planning or finance. If these appointments are justified, one wonders whether we should not give Mr Noel Semmens a couple of years' back pay for having done the work that one assumes is envisaged for the new chairman, general manager and director of planning or finance.

I now turn to the overall thrust of the Bill. To be blunt, it involves a very heavy dose of Government involvement in a field which until now has been healthily free of both political and bureaucratic involvement. I put it to the House that the contents of the Bill give a very clear signal to the private sector that the public tourism sector will become the predominant force in the tourist industry in this State.

The Government's own words are that the private sector has "a" key role to play, not "the" key role; not the overriding or predominant role, merely one role amongst many. For those who feel, referring to earlier comments I made, that the Opposition should throw out the Bill, I say "No", we should not do that. Indeed, we should let the people see what a concerted dose of Government involvement can do to an otherwise thriving industry in this State.

The first one-third of the entire Bill is taken up with the creation of the very type of bureaucracy which the Minister for Tourism has pledged to cut out. In effect, he pledges to interest himself in planting a petunia that everyone will admire. I suggest he may well end up having planted a poison ivy that has the potential to strangle and under-nourish everything with which it comes into contact in the next five years.

For example, the commission—again these are the Government's words—will "improve and develop tourist facilities", and later, "acquire, lease or otherwise deal in and dispose of real and personal property", not only in WA but also in other States and, conceivably, overseas.

The proposed commission will be allowed to construct, establish, maintain and operate its own tourist facilities. It will be allowed to market travel not only in the sense of doing that legitimately through the Adelaide or Brisbane offices or any other office, but indeed it will be allowed to market travel within Western Australia. In that respect alone it will become a major competitor with all the private agents, and approximately 500 are scattered throughout Western Australia.

As well, this Bill will permit the commission to appoint agents—again the Government's own words—in Western Australia to compete with private travel companies. It does more in that it will be allowed, again in the Government's words, to demand and receive fees for acting as a travel agent.

Mr Deputy President (Hon. John Williams), one wonders whether the ghost of the recent SGIO Bill is still lingering in this Chamber. I ask whether the new tourism commission will be able to compete and whether it is intended that it should compete on an equal footing with those sections of the private sector with which it will be in direct competition in the areas I have mentioned. For example, in those areas is it intended that the new commission will pay the same rates, taxes, and charges that are paid by private companies to all three spheres of Government?

Once again, there are questions that to me must stand out like a sore toe to anyone who reads the Bill. Also, why is it necessary to give the commission the power to make loans to Ministers of the Crown? Which Ministers and for what purpose? The Bill will actually permit the commission to help form companies that will operate tourist facilities. As well, it will be allowed to acquire and dispose of shares in any company. I think that members should be quite clear on this matter. The Government is taking the private sector for a ride and I believe the private sector has been sold a pup. All that aside, nonetheless I take the view that the Government has made its own bed and it now must lie in it.

I am sure that the Minister handling the Bill, being a practical fellow, would accept that the

Government will want to reap the rewards and, conversely, need to accept the odium of its decision to involve the Government of this State in this area of the private economy to the extent envisaged in the Bill. Therefore, the Opposition intends to support the second reading on that basis and with those qualifications. It will, however, be seeking to move what I would believe is an important amendment, but an amendment that in no way takes away the Government's right to legislate in this particular matter. During the Committee stage the Opposition will seek to have a sunset clause inserted as new clause 34. The sunset clause will give to the commission a life span in the first instance of 10 years. You, Mr Deputy President (Hon. John Williams), will be aware, along with other members, that the Australian Labor Party has in the past shown itself to be quite amenable to the sunset clause principle.

Indeed, there has been some tendency of late to have a bipartisan approach to sunset clauses in this State on this topic. In 1980 the former Government used the sunset principle when it amended the Industrial Lands Development Authority Act. The Opposition's attempt to insert the new clause 34 on this occasion is understood to give the tourism commission a 10-year life span in the first instance so that in the year 1993, which may seem an awful long way in the distance, this Act will need to come back to the Parliament if the tourism commission is to continue with its operations.

I wish to make an observation about the principle of the sunset clause that we seek to insert, because many people mistakenly have seen the intent of sunset clauses to be automatic self-destruct mechanisms of Government bodies. That is not my understanding of what a sunset clause should do. Members will be aware that it is a device used freely in many States of the United States of America. It is a device which is used to keep in check Government agencies and to keep them up to scratch and not with the direct intention of killing QANGOs.

No-one would deny that the proposed commission, going as it will be into the open marketplace and using as it will do Government, and therefore taxpayers' funds, needs to be kept on its toes as much as any other Government agency for which we have legislated in the past. Even this Government would accept that it is a fair and reasonable proposition that whatever form this new tourist authority takes, it should be kept on its toes because it will be dealing with large amounts of taxpayers' money.

In conclusion I would like to make the following comment. Of course, much has been said in recent months about the impact of Western Australia's success in the America's Cup on the tourist and hospitality industries in this State. With or without the America's Cup, we acknowledge that the State does stand, as the Minister believes, on the threshold of a new era of economic development via the tourist industry. Increased leisure time, increased affluence, and that very human desire to know what is on the other horizon, will be the great guarantor that the tourist industry in this State will continue to grow.

We, on this side of the House, would obviously prefer to see only a limited direct role for Government on the one hand and a dominant role for the private sector in bringing about that growth on the other hand. I freely acknowledge the Government's undoubted interest in ensuring that the State maximises the potential we know to be there. We merely take a different view of the way in which that potential should be tapped. We see it largely as the job of the private sector. In that respect, Western Australia's success in the America's Cup was seen to sum up that attitude in its entirety. A private entrepreneur saw a goal and he pursued it. He put his own money, and the money of his supporters, into achieving it and he took all the attendant risks—

Hon. D. K. Dans: And the money of the public.

Hon. P. G. PENDAL: —providing he could at the same time reap all the attendant benefits that were to flow from it. The important message is that, as confirmed by the Leader of the House, was that the entrepreneur was left free of the shackles of the Government of the day. It was for that reason the man succeeded and succeeded in such a spectacular way. Heaven forbid that that sort of activity would ever be pursued by a Government agency!

With those reservations and our signalled intention to seek the insertion of a sunset clause, the Opposition supports the Bill.

THE HON. V. J. FERRY (South-West) [10.12 p.m.]: The Hon. Phillip Pendal has made a very effective contribution to the debate on this Bill. I do not propose to traverse a great deal of the ground he has adequately covered and I commend him for his detailed coverage of the proposition. However, there are a number of observations I would care to mention.

I agree with the Hon. Phil Pendal that the Western Australian tourist commission will do little more than what can be done in this State under the present structure. It will be able to do a number of things that perhaps cannot be done at the present time, but by and large I think they

could be handled adequately under the present structure.

In my experience the Western Australian Department of Tourism, with all its facets, has served the State very well in the past. I pay tribute to all those associated with the Department of Tourism and I pay a special tribute to the many volunteers—public minded citizens—throughout the length and breadth of this State who have promoted tourism within their own localities. Many of these volunteers have given up a great part of their lives to help the tourist industry in their regions and I commend them for the work they have done. It is curious that this Bill does not appear to make any mention of those volunteers. In my reading of the Minister's second reading speech I could find no acknowledgment of the host of volunteers throughout Western Australia who have assisted us, as Western Australians, in promoting tourism within our own towns. I find that quite odd.

This Bill will grant great powers to the Minister for Tourism. It is proposed to furnish the commission itself with extremely wide powers, but a very telling provision is contained in the proposed legislation where it states, "The Minister may from time to time give directions to the Commission with respect to its objects, powers and duties, either generally or with respect to a particular matter, and the Commission shall give effect to those directions". Notwithstanding the fact that we are setting up a Western Australian tourism commission, giving it tremendous power to do many things, it will obviously be at the whim and direction of the Minister in charge of that portfolio, whoever he or she may be.

It should not go without passing observation that the present Minister for Tourism happens to be the Premier. He is an extremely busy administrator and with all the goodwill in the world I find it a little curious that the Premier should take this unto himself amongst his other duties. I can recall the time when Mr John Tonkin was Premier of this State and he gave an undertaking in regard to the portfolio of Education. Mr Tonkin, in fact handled the portfolio of education among his other duties, but only for a very few months. It was not very long before he realised the extent of the imposition he had placed upon himself. Notwithstanding his desire to assist education in this State, he found it impractical to give his best attention to this portfolio. As a consequence, we had a succession of Ministers for Education, which did harm to the department because of the administrative shuffles which went on over a period. In two years or thereabouts there were about five Ministers for Education.

Here we have a situation where the present Premier is also Minister for Tourism. I suggest that he may have the goodwill of the portfolio at heart but he is a busy Premier, as any Premier is, and I feel that the portfolio is perhaps beyond the care and attention he would like to give it. It could be that he needs to reassign this portfolio.

The proposed commission will be strongly committed to addressing and fulfilling its objectives, according to the Minister introducing the Bill. He stated that it would involve itself in close working relationships with the private sector. Certainly there are ways of working with the private sector. There is no doubt about that, and in many cases it can be very helpful. However, I am concerned that Governments have a habit of leaning on the private sector from time to time when perhaps it is better that they should not do so.

The Minister said the organisation will encourage financial investment in the tourist industry by way of direct involvement, or in the form of participation and assistance. That reinforces what I mentioned a moment ago with regard to the influence of Government on the private sector. It can be extremely helpful in providing guarantees and financial assistance for particular projects or cases. It can also steer a concern along a path it might not otherwise have taken. If, as a consequence, things turn sour in the financial undertakings of that concern, the Government is left holding the proposition and trying to salvage what it can from the scenario. There are apparent dangers.

I return to the local scene and refer to the volunteers and these paid staff members of some of the bureaus throughout Western Australia, particularly those in the country districts. They are dedicated and they help the local scene. I wonder at the reason that this Bill does not contain some reference to the way in which the Government proposes to support those volunteers who have carried the flag so admirably to this time. I am sure they will continue to do so provided they are given the right encouragement. However, I sound a note of warning; if they find they are being obstructed in some way by Government interference or interference from the Western Australian tourism commission, their enthusiasm may wane and we will be the losers. It may be that through the commission, backed by the Government, more paid staff will be appointed to run the bureaus throughout the State. If that is the case, the Government will be obliged to find the extra money.

It is quite apparent that if this commission is to make its mark it will be obliged to financially support a number of projects, bureaus, or regions

very heavily indeed. The commitment given will be in the form of grants or guarantees. That will cost the Government a great deal of money. The Hon. Phillip Pendal pointed out that seemingly there had been some reduction in these forms of assistance by the Government of the day. Let us hope with the establishment of this commission that the Government will back its judgment and attain its objective of providing the necessary funds. Instead of having a paper tiger, let us hope the Government will make the commission work for Western Australia.

I believe the Government is inclined to the view that it will help larger entrepreneurs rather than smaller ones throughout the country. There is nothing wrong with that, but there could be an overemphasis on this line of development. Once again, I mention the many tourist attractions through the State. We cannot put all our eggs in one, two or even three baskets; we must spread them through the community so there is a better balance.

I can find no reference to assistance to the regional associations which have fairly recently come into prominence in this State. People come from various organisations and local committees and band together as a group, thus becoming a very effective force in their regions. Definitions of other bodies are given in the Bill but there is no mention of these associations.

As the Hon. Phil Pendal did previously, I commend the appointment of regional tourist officers. That system was commenced by the previous Government and the present Government has continued it, thus ensuring continuity of guidance and assistance for the people throughout the State.

I wish to refer to two or three tourist attractions in the south-west of the State. The caves of the south-west are a particularly important tourist attraction and I mention specifically the Yallingup caves vested in the Busselton Tourist Bureau. The Mammoth cave, the Jewel cave, and the Lake cave are vested in the Augusta-Margaret River Tourist Bureau. I query whether the Western Australian tourism commission will decide that it needs to take a more direct action in the administration and conduct of these tourist attractions. I hope it will leave them as they are, under the control of the tourist bureaus. The bureaus have done, and are doing, an extremely effective job over the years. The commission should get alongside those bureaus and assist them. It should not take them over, lean on them heavily, or make them do things in a way which experience has shown the bureaus is not the best way. I hope that the commission will encourage the local bureaus to improve facilities for visitors and improve lighting and facilities in the caves. However this cannot be done without a great deal of money. The local people should be allowed to continue to operate as they have done, with pride in what they are doing.

I refer finally to a hypothetical case of, say, a tourist attraction such as a bird farm which may be flourishing and profitable. I hope the Government, through its commission, would not take the opportunity of muscling in and saying it wants 10 per cent, 15 per cent, or 25 per cent of the action, or whatever it feels is desirable, just because it is a profitable undertaking.

The Government is taking a slice of the action in diamond ventures and has indicated it will take 10 per cent of other outfits. I hope this sort of activity does not occur in the tourist industry but that the development of tourism will be left largely to the private sector.

Having said that in his explanation of the legislation, the Minister has said also that the commission intends to take fairly strong action to promote tourism. That is a two-edged sword, and I wonder what the balance will be for this exercise. I hope it will help Western Australia.

HON. G. C. MacKINNON (South-West) [10.27 p.m.]: I am afraid that, based on three years' experience as Minister for Tourism, my attitude to this legislation is infinitely more vicious than that of my friend. I regard it as an exercise for the Government to find a few more jobs for the boys and little else. The phrases with which the Minister started his speech—"the development of tourism presents a great challenge," "the challenge lies in developing the industry", etc.—are typical of the phrases used by all Ministers for Tourism since I became a member of Parliament; and that includes me. Tourism is an untapped resource from which someone with a little energy could make a name for himself, only to find that it is not the activity of the tourist energy which brings business, it is advertising which must be paid for, attractions within close range of destination, reasonable air fare rates, and allowing the department to operate.

According to the Government this piece of legislation is designed to save $600 000. I take it that means $600 000 less for the department. This department has been starved of funds in its advertising programme for many years. The year 1979 was a disappointment from a tourism point of view for several reasons. Firstly, wholehearted support is needed and the Australian Labor Party, for reasons of its own, gave that exercise very limited support.

Hon. D. K. Dans: I went to every function but I would not dress up.

Hon. G. C. MacKINNON: The Leader of the House was one of the better members. The other aspect was the oil problem, which stopped people travelling across Australia in their caravans; we also had the age-old problem of the internal air fares.

One can now take a trip from Sydney, spend a week in Los Angeles, and visit Disneyland, cheaper than one can come from Sydney to spend a week in Perth, staying in commensurate hotels. Where do the people from the eastern coasts go? There are 13 million of them. What about coming to Western Australia? We do not have the funds to advertise adequately, and that is about all.

Last week an American, Gary Jobson, was here. What did he say? He said, "It's too far; it's too isolated; and when you get here the gorges are another 1 000 miles away. The wildflowers are a couple of hundred miles away". These are the difficulties, not the management.

During his speech, Mr Dans said there was almost unanimous support. Unanimous from whom? I rang half a dozen of the more experienced people involved in the tourist industry in this State, and not one of them had a good word for the legislation. I will not mention their names. Of all the Governments it has been my experience to live with, this is the one most dedicated to political patronage.

Only last week, I sat in a bar listening to a couple of boastful Australian Labor Party drivers, and I learned a fair amount about another cruel exercise by the Government in respect of the drivers in the Government garage. That is another exercise of flagrant expenditure and a waste of money, and it is an absolutely blatant use of political patronage. The drivers were not telling me; they were talking in the bar.

I understand from the drivers and from what I have heard in rumours—it was terribly difficult, because they were all terrified to say anything—that even the erstwhile foreman had been moved sideways and superannuated early because he had the temerity to speak out about one of the favourite drivers. That situation is worth investigating; and this exercise relating to the tourist commission is the same.

I believe what the tourist people told me. They are country and city operators in the tourist industry, and they said that the people who wrote the report are of little or no substance. I do not know whether that is true, but I advise the Minister handling this Bill that, almost Australia-wide, people have the conviction that the Western Australian Department of Tourism under Noel Semmens was the best in Australia. It was playing poker with a limited hand and with limited funds; but it was regarded by the professionals in the tourist industry, both private and Government, as the best in Australia. It ran the best shows when it went to the east and to other parts of the world. In "The Face of Western Australia" and "A Taste of Western Australia" it had the best audiovisual shows in the world. They were of world class, and they were developed by the department in Western Australia. They were shot and put together by Shepherd Baker Studios Pty. Ltd., which is a Western Australian company. I am aware that a number of members, including you, Mr President, have seen the film, and it is absolutely magnificent.

I had the pleasure of taking a bit of a risk which gained some recognition lately by sending that audiovisual to America when the KA-5 was trying to win the America's Cup. The show gained accolades in America.

The department has, on a very limited budget, run a superb tourist department in a State of 1.25 million people or a few more, in a huge area which is very expansive and difficult to reach.

I will give some examples of what I mean. I met a lady of Jewish extraction in Acapulco who ran a very high-class tourist service from New York. It was her practice to ring people and invite them to travel in her party, and such was her reputation that she had no difficulty in obtaining sufficient numbers. She had every intention of bringing a planeload of tourists to Western Australia for the Miss Universe presentation, but it did not eventuate because, even with the up-market clientele, she was unable to raise the numbers for such a long trip.

One recalls Bob Hope in that memorable concert at the Concert Hall when he said, "When you are here the next step is the moon". That indicates the sort of problem with which the department has worked. Now it is to be overthrown by a whim, apparently put forward by a Mr Goodrich, the newly-discovered adviser on tourism. God knows where he came from! I never heard of him in the three years I was the Minister for Tourism. I do not even know the names of the three fellows who wrote the report.

For no reason that I can find or that I have been given, the department will be converted to a commission. Why? No model has been given of a commission which has been outstandingly successful in similar circumstances. There is a commission in Canberra which runs the Commonwealth department.

Hon. D. K. Dans: Highly successful.

Hon. G. C. MacKINNON: That is a matter of opinion. Tourism in Australia leaves much to be desired, for a variety of reasons. I am sure that if the commission were modelled more on a private industry enterprise it might be better.

It is not generally understood that a State tourism department is totally different from any other private tourist show. For instance, if one is running a travel agency or a travel service in the suburbs or the city, people walk in and one can say, "Right, there is Bali". Bali is generally regarded in the industry as the best value in the world. I do not know what the fare to Bali is now, but it was $400 a week or so ago. What is the commission on that—$10 or $20—nothing! The agent gains nothing unless he sends the tourists to Bali by the jumbo load. The agents do not care where the people take their holidays. Singapore is glamorous; Hong Kong is good shopping; Bali is romantic. They are all different. A traveller can have boys waiting on him, do shopping, enjoy pleasant weather, and all the rest of it.

On the other hand, the State departments, whichever they may be—the Tasmanian, New South Wales, Queensland, or whatever—are trying all the time to sell holidays within those States. They are not selling holidays *per se*; they are selling leisure time in the States they represent. Members of the ALP would know Mike Barnard and his uncle very well. I was amazed when Mike Barnard opened a Tasmanian office in Perth. I would not have thought Perth provided enough traffic to warrant that office. Tasmania is a popular tourist destination, although it is not the best in Australia. The best two destinations are the only ones to which the overseas tourists go. One of them is Sydney, and since the Wran people got into power there, it is not as good. The other one is Ayers Rock, which has now been given to the Aborigines. They are the two main destinations in Australia; but the Barrier Reef and Tasmania run a reasonable second.

The Department of Tourism of Western Australia owns property in every capital city in Australia, with the exception of Hobart. We have staff in each of those places. With the exception of Queensland, our properties are absolutely ideally situated. No criticism can be raised against the management of the Western Australian Department of Tourism for the location of its offices. The one in Sydney is a peak spot, as are the offices in Melbourne and Adelaide. They are all first class. The Brisbane office is not as good, because we were late into the field and we had to go upstairs. As far as I am aware, we are still looking to go in on the ground floor in Brisbane. We own houses in each of those places, and the managers live in those houses. We are selling holidays into Western Australia.

We are not competing with anyone. We are not meant to be our own travel agents. This legislation is designed for no other purpose than to further the aims of the ALP and political patronage, so that the Labor Party can put its people onto the commission.

I am sure Mr Pendal will mention the fact that we do not know the proposed structure of the commission. I gather it will have a separate chairman and manager. The chairman ought to be part-time, as there is not enough work for him to be a full-time chairman. That is not possible. Who will be the general manager? I do not know. The commission will have a finance man, but will he understand the intricacies of the travel business? I do not know. I do know that the people with experience and training who are working for the department now will be going. I gather Noel Semmens will be moved along to some other job, and all his experience will be lost. He ran a very good operation.

Len Hitchen interrupted his career in the Department of Labour and Industry to move over to the Department of Tourism at my insistence, because he was the best applicant for the job. I had great difficulty in removing him from the Department of Labour and Industry. I understand he is about to have his career disrupted to satisfy the absolutely crazy yearning for the bestowal of political patronage by this Government, and for no other reason. On the ground of efficiency, Len Hitchen could not be put aside. He could not be put aside on the ground of personality. He could not be put aside on the ground of lack of ability or education. There can be no reason other than the Government's wanting to put one of its own people in that position. Len Hitchen is a first-class athlete and a very good fellow. He could cope with the difficulties of travel, and the business requires much travel.

Members can understand why I am not too hot on this legislation. There is no reason for it. We have heard no talk of greater efficiency, and no proof of greater efficiency. The Government cannot tell us that the best run show is run by a commission and not by a manager. Nobody has tried to say that; but I can find no other explanation.

I contacted people who are closely involved with the travel business. They are in private enterprise, and they have no reason to love the department or to hate it. Not one of them said to me, "It's a great idea". The only way that the Government can claim the Bill has unanimous

support is among the friends of the Government. Certainly the support is not found among the people who own the businesses.

One of the people I rang has Australia-wide contacts. He is in touch with people in the industry from one end of Australia to the other. He knows the Eastern States scene; he knows the attitude of the Eastern States people to this State's department.

There are problems in a department which is reasonably limited. When managers change, various changes are made; and on average the reports have not been good. However, I can find no model for this change of pattern, and I can find no purpose in this change of pattern other than the one I have mentioned.

It is laughable to talk about economy because, again, from a careful examination, I would judge this Government to be the most extravagant in my experience. Look at cars alone; this Government has almost replaced and doubled the entire fleet. Someone in this Chamber told me that.

Hon. D. K. Dans: I wish that were true.

Hon. G. C. MacKINNON: There can be only one possible reason for this Bill, which is that it is a further effort in this Government's continuation of political patronage. No doubt its members think this is good business because it is probably gathering an awful lot of support among those who look for this sort of thing. This is a reward for those who helped the ALP over the last three or four years. It is also an indication that the Government is ready to cast aside efficient and dedicated people. This to me is the height of cruelty. Still, I do not intend to vote against this legislation.

Despite what the Government has said about my handling of this matter, it is not correct. I was Minister for Tourism for three years, and that is the longest ministerial service by one Minister the department has experienced since its formation. It has had close to a Minister a year. I do not think anyone opposite looked at that aspect when considering these changes. The department has had no ministerial stability; it has had none of that sort of continuity of management. Over the last few years it has received ministerial direction from Mr Laurence, Mr Barry MacKinnon, Mr Alan Ridge, and me. These almost yearly changes have made things difficult for the department.

Hon. Kay Hallahan: It will be a very improved situation now.

Hon. G. C. MacKINNON: I refer back to a point Mr Ferry made. I took over the Education portfolio after three years of Labor administration. The department had had a good spell with Mr Lewis, I think for a period of about six years. Then the Labor Premier (Mr Tonkin) took on the job. As is usual when a Premier takes on that sort of job in the first flush of enthusiasm, the day-to-day operation of the department proved a little too difficult for him. It was not that Mr Tonkin did not have the capability and did not try very hard, but the Premier who does this shows his inexperience. Mr Tonkin was inexperienced in that role. What happened was that in three years the Education Department had three Ministers: Mr Tonkin, Mr Tom Evans, and Mr Jerry Dolan. The result was that the department ran itself—there was no option. When I took over the portfolio in 1974 it was a department in effect running itself.

I only hope the Hon. Kay Hallahan is right and that the proposed commission does have firm but sympathetic control—continuous ministerial control. At present it has no ministerial control; it probably has ministerial adviser control. It is probably being run by Mr Goodrich.

Hon. D. J. Wordsworth: The last time I went to a tourism conference in Katanning the Premier, who is the Minister, didn't turn up. His brother, Terry, did.

Hon. G. C. MacKINNON: This is what Mr Ferry was warning us about. Perhaps the Hon. Kay Hallahan has been shown to be wrong already.

Hon. Kay Hallahan: I think not.

Hon. G. C. MacKINNON: Perhaps she did not hear the experience of Mr Wordsworth.

I have posed a number of questions, perhaps a little more passionately than others, but then as one who feels he has a sort of proprietorial interest in the department, having at one time been its Minister for three years, I feel I am entitled to do this. I like the department. I found it a happy and well run department whose members showed they had good morale and spirit. As my colleague quietly suggests, it has been a very effective department. From what I have heard, I think it is now a department with a literally shattered morale. The proposed commission will have a difficult job to build it up again. How many of its senior and experienced people such as Semmens, Hitchen, Watling, and Jones will go? How many branch managers will go?

I recently saw a report to the effect that the department did not have sufficient liaison with the private agencies. What utter rubbish. The department has a field officer in every State. As a matter of fact, the department led the way for the other States—this may be of interest to the Hon. Kay Hallahan and the Hon. Margaret McAleer—in the appointment of females to these

positions in open competition. These officers have travelled the State contacting the ordinary people who are out in the field selling travel—the travel agents and small businesses. As Minister, I saw some very good pieces of equipment purchased that enabled these field officers to show slides and films very graphically on television-size screens about trips available in this State. The officers in each State have this equipment and they visit all the travel agents throughout the States on a regular basis and leave different material and restock them with brochures. To say there is no contact with the community of travel agents is just so much rubbish; yet it has been said by people who expect to be believed.

I am sorry to say that the speech given by Mr Dans when introducing the Bill contained more half-truths and genuine falsehoods than anything I have heard him deliver in the past. Perhaps the reason is that the speech was not prepared by the department but by a ministerial adviser—an inexperienced one at that, one inexperienced not only in the business of the department but also in the business of Government.

The Minister made many statements, one of which I agree with; namely that the industry ought to provide a lot of money to the State. But many other comments were not true. For the Minister to have said that the Bill has the unanimous support of the industry is the greatest fib of all. That comment just does not hold up to any examination. The Minister could pick up any phone book, go through the yellow pages, and ring a dozen people involved in the industry; I am sure he would find the majority would have no comprehension of the need for this legislation. Neither have I.

HON. D. K. DANS (South Metropolitan—Leader of the House) [10.54 p.m.]: I have listened to a great deal tonight, some of which I can remember and some of which I have written down, and all of which I will try to answer where appropriate. Undoubtedly some of the points raised are best left to the Committee stage.

To begin with, Mr Pendal said that the Labor Party had no comprehensive tourism policy, and he may be correct. However, prior to the election the ALP held a number of meetings and luncheons—some in the cabinet dining room in Parliament House—for leading members of the tourist industry in Western Australia. At those luncheons, the setting up of a tourist commission was fully canvassed. I was present at the time, although I readily admit that tourism is not one of the things in which I am vitally interested. However, to say that the commission is being set up to provide jobs for the boys is a statement I must refute.

I do not know the ministerial adviser, Mr Brett Goodrich, very well. I have spoken to him perhaps on two or three occasions. I certainly do not know where he was employed prior to becoming a ministerial adviser, and I do not think I should have to know that. I certainly know he is not a party political supporter of ours; in fact I think he tends the other way.

Despite what Mr MacKinnon had to say, this Bill was researched and discussed with the tourist industry, particularly with the private sector, and it received overwhelming endorsement.

Hon. G. C. MacKinnon: I could not find it.

Hon. D. K. DANS: When we are dealing with organisations—whether it be the Confederation of Western Australian Industry, the Trades and Labor Council, or the Primary Industry Association—we can always go back to them the next day and find a couple of people who will give a counter view. I will give an indication of the groups who have endorsed this Bill: The Perth Chamber of Commerce, the Western Australian Confederation of Industry, and the Western Australian Tourism Industry Association. I do not know the people who belong to the last body, but I imagine they would be the local tourist agents.

Hon. G. C. MacKinnon: Three of whose leading members I rang.

Hon. D. K. DANS: The Bill was endorsed also by the Western Australian Accommodation Council, the Country Tourist Association, and many individual private companies. Not one negative reaction was received; instead, it received overwhelming support.

Hon. G. C. MacKinnon: They all wanted something from you.

Hon. D. K. DANS: That may be so, and I do not know on any given day that someone does not come to see us who does not want something from us. The member was a Minister for longer than I have been a Minister, and he would know we do not give that to them. We have to be extremely cautious, and the Government has been extremely cautious in the proposition to establish this commission.

In reply to a second point raised, let me say that this legislation is no reflection on Noel Semmens, a person whom I know and respect a great deal. I do not know what the future will be for Len Hitchen, who is a person I know a lot better, both personally and professionally.

The Bill is not a reflection on the Western Australian Department of Tourism. I endorse all the

things Mr MacKinnon said in relation to the performance of that department, and no-one can dispute his remarks. The Bill sets out to improve our performance in the tourism area, along with the private sector. We want to boost the tourism potential of Western Australia and attract more people to visit the State.

We should not fool ourselves. Many of the comments made by Mr MacKinnon were quite correct; Western Australia is not a State with many easily accessible attractions. I have had the advantage of living in other parts of Australia and visiting other parts of the world. From my limited experience I can confirm the statement that we have not that many easily accessible attractions.

Hon. G. C. MacKinnon: There will probably be statements in the paper about our being disloyal.

Hon. D. K. DANS: We are not disloyal when we say such things; we are honest. The Bill sets out to allow the improvement of tourist accommodation and facilities, among other things. People have told me that we should establish a casino at Karratha, and it would be a wonderful tourist attraction. Maybe it would be, but certainly Karratha would not be a Palm Springs, USA. The only time we will attract people to those northern places with or without a casino is when we muster up the money to provide appropriate facilities.

The second reading stage developed into a debate of generalities, and I will take the same liberty as other members took. How many people would fly all the way to Broome to see the dinosaur's footprint? After someone has looked at the dinosaur's footprint in Broome, what would he do?

Hon. P. G. Pendal: Look for the dinosaur.

Hon. D. K. DANS: If an overseas visitor goes to Rottnest all he might do is walk around the island and look at the quokkas. Some people, like Mr Masters and myself, like Rottnest, and others do not. I do not mean that as a pun against Mr Masters, but the point is that Rottnest is a place someone either likes or hates. If an American tourist wanted to go to an island, even an island with an international hotel, all he would have to do is to go to Catalina Island or somewhere similar.

Long before the election the Government discussed this move with the tourist industry. The move is a genuine attempt to do some of the things the department could not do. We have investigated the Tourist Commission in Canberra, and it seems to work effectively, and well it should considering where it is centred.

Hon. G. C. MacKinnon: It is closest to the baker and it gets the best bread.

Hon. D. K. DANS: We have looked at the commission established by the Victorian Government. Mr Don Dunstan is the commissioner. We have been informed it already has made an improvement in the tourist industry of that State.

Hon. G. C. MacKinnon: It has made an improvement because it got more money.

Hon. D. K. DANS: It may be because the commission received more money, but I do not think that can be the only reason. Extra money will not make much difference in this situation, unless the commission can filter the money to the various sections of the industry and, as Mr MacKinnon rightly said, the private entrepreneurs. The industry is extremely mindful of Mr MacKinnon's words, as it is of the deficiencies of this State. We have only a couple of things to sell—the climate and a few wildflowers—but that is certainly not the end of the trail, because we can manufacture tourist attractions. Mr MacKinnon would agree with that comment.

Hon. G. C. MacKinnon: We could have Disneyland-type things.

Hon. D. K. DANS: They are the types of attractions the commission could best handle. The commission represents a totally different concept. The Government has no intention to take from the Department of Tourism the credit for the excellent job it has done with its limited resources.

I hope the Hon. Phil Pendal is not correct in his view that the commission will not bring one extra tourist. If that is the final result, the establishment of the commission will have been in vain—or will it? I do not think we can judge the performance of the commission on whether it brings extra tourists to the State; we should judge its performance on the type of tourists it brings and the amount of money those people spend.

Mr Pendal raised the question of the $600 000 it has been said will be saved. I imagine, as he did, the savings will be made by the reorganisation of the Department of Tourism. I cannot say that $500 000.99 will be saved, but my reading of the Bill is that savings will be made in that reorganisation.

Hon. P. G. Pendal: The reason you can't give the answer is that the Minister for Tourism cannot give the answer, and he should be able to.

Hon. D. K. DANS: I have read the Bill, and I have given as honest a reply as I can.

Hon. P. G. Pendal: I don't doubt that.

Hon. D. K. DANS: The Hon. Phil Pendal referred to loans. Obviously any loan raised would be for the purposes of this legislation. A Minister would not raise a loan for any other purpose; it

would have to be related to the legislation. I cannot think of any Minister of the Crown, perhaps with the exception of the Minister for Housing, who can be involved in such loans. Loans taken out under this legislation will be for the provision of accommodation to cater for expanded trade.

The establishment of the commission was not thought of off the tops of our heads. I can speak with some authority on that point because I was present at a number of the meetings and luncheons held on this issue with the tourist industry. The commission proposition was floated by the private entrepreneurs.

The commission will do a great deal towards achieving the goals to which I have referred, albeit this State has some deficiencies in regard to tourism. W have talked about attractions such as wildflowers, the dinosaur's footprint, and Rottnest Island; but the destination for the majority of tourists is our capital city. We have not concentrated enough on Perth, which is surely one of the most beautiful cities in the world. I have seen quite a few cities around the world, and I believe Perth is second to none. If I were involved in tourism I would start developing attractions in Perth. If the commission failed to recognise the need for that development it would not do its job. I am sure it will in the first instance look at the natural attractions of Perth to determine how they can be made more attractive to woo more tourists to this beautiful city of ours. There are few cities of the world surrounded by such natural beauty as the Swan River and Kings Park.

The department was starved of money, but through the commission we can rectify some of our deficiencies in tourism.

I thank members who have spoken on the Bill and have given an indication that they will support it. We have read the proposed sunset clause, and see no reason to oppose its inclusion in the Bill.

Question put and passed.

Bill read a second time.

In Committee

The Chairman of Committees (the Hon. D. J. Wordsworth) in the Chair; the Hon. D. K. Dans (Leader of the House) in charge of the Bill.

Clause 1: Short title—

Hon. JOHN WILLIAMS: I thank the Leader of the House for the closing remarks he made to the second reading debate. No-one is under the illusion that sunset clauses are not necessary, and what they appertain to has long been a pet of mine. The Government's acceptance of the proposed sunset clause is extremely pleasing to me because we are now one-all. The Labor Party insisted on a sunset clause being included in an earlier piece of legislation. For the benefit of everybody, including the members of the media if they are sufficiently interested, I indicate that some people react to sunset clauses as though they are repressive provisions.

The Hon. Phil Pendal referred to sunset clauses when he made his excellent second reading speech. It is significant that the idea behind the insertion of the sunset clause is that the continuation of a department or organisation is the responsibility of the Parliament. The clause keeps the body a great deal more on its toes instead of going on for years and years and becoming a QANGO. I am happy to say that this Chamber, as is the Government of the day, is dealing with those QANGOS.

No doubt there will not be many of us around in 1993. I hope to be around, but not in this Chamber because I will prefer then to be elsewhere enjoying myself. However, it is only 10 years away and, after all, you and I, Mr Chairman, have been here for 13 years, which is quite some time. It is pleasing that we will be able to monitor the course of the commission. It is not often in our time that such commissions have been formed. The State Electricity Commission is one that comes readily to mind. We will be able to watch the tourist commission with interest. My colleagues have severe reservations in some cases and just reservations in others. I guess the Minister for Tourism is a little apprehensive as to how all this will work out.

The Hon. Des Dans did say that in all parts of the world he has been to he has seen some work done by tourism commissions which has been of a great order. Let us say the ball is at the feet of the new commission now. I personally wish it success and hope it will follow the pattern of overseas tourist commissions in making sure that private enterprise is used 99 per cent of the time and that it uses the department as an advisory and supervisory unit. I hope that dealings in tourism and tourism traffic are left to the people who know more about it; that is, the people who are in private enterprise for their livelihood.

Clause put and passed.

Clauses 2 to 11 put and passed.

Clause 12: Chairman—

Hon. P. G. PENDAL: To put it charitably, one of the peculiar aspects of the Bill is contained in this clause, and I would be grateful if I could receive some explanation from the Minister.

The clause begins by saying that the chairman shall be appointed by the Governor, and then we find in subclause (2)(a) that the chairman will also be the chief executive officer of the new commission.

My understanding of previous commissions established by the Parliament is that we would normally have the chairman and the chief executive officer as separate roles. Members would be aware that often the chairman of a commission is a part-time outsider who fronts up once a week, fortnight, or month to chair the meetings of the commission. He is a separate person from the chief executive officer.

I ask, therefore, why in this instance a decision has been made to amalgamate the two. I put it to the Leader of the House that it is that sort of action which gives rise to the comment made by the Hon. Graham MacKinnon that the Bill provides jobs for the boys. The Leader of the House has given us assurances on that point, but it is this sort of clause which gives rise to such comment.

Later, in clause 17, a provision is made for the employment of a general manager. I am suggesting that this is a most peculiar way to get the commission off the ground.

Hon. D. K. DANS: I think the Government has followed a fairly modern practice. If the member were to go to the Fremantle Port Authority he would find that the manager of that authority is also the chairman. We are not departing from what has already been the practice in a number of other areas.

As I read it, this clause says exactly what it means; it means the chief executive officer is also the manager, and that is not unusual. I do not know how the member could relate the change in the position of the chief executive officer to mean also jobs for the boys. If we were to look at a number of other Government areas, and the private sector, we would find that the chairman would also be the general manager on a whole range of boards, etc.

Hon. P. G. PENDAL: I know that the answer has been given in good faith but I very much doubt the veracity of it. I draw to the attention of members the terms of appointment of the chairman in clause 12. The chairman is not a person who comes in from the outside, but a person who, according to subclause (2)(a) becomes the chief executive officer as well.

One can imagine a board or a commission with the chairman who traditionally sits at the head of the table and has direct access to the chief executive of that commission. In this case he will not have access to that right-hand man in the commission because that would be himself. The clause states that the chairman will also be the chief executive officer, but we find in clause 17 the provision that the commission may, from time to time, employ a general manager. It is on that basis I say it leaves the way open for the claim of jobs for the boys. I do not wish to harp on that, because it is something all Governments engage in, not just this one.

It is the decision of the Government, in clause 12, to appoint a chairman who will not only chair a meeting, but who also will then execute the decisions of the commission by virtue of his position of chief executive officer. If that is not enough of an oddity we find in clause 17 that the commission will also employ a general manager.

One could then wonder about the line of negotiation between the chairman in his dual role, and the general manager. I could understand perhaps the remarks of the Leader of the House if we were to decide that we will either have a chief executive officer or a general manager who would then become the major executive. I would suggest that while we do not intend to move an amendment there would be perhaps no parallel in any other area where these three roles are interconnected or interwoven in that way. I would think there would be no such parallel in the private sector, either.

Hon. JOHN WILLIAMS: Perhaps I could help a little here. One could use as an example the R & I Bank.

Hon. D. K. Dans: I was just going to use it.

Hon. JOHN WILLIAMS: The R & I Bank has a commissioner and a chairman of commissioners. I believe the title of general manager also goes with being the chairman of commissioners of the R & I Bank. I think that is unique.

Mr Pendal is quite correct in saying there could be three jobs here, and not one.

Hon. D. K. DANS: I do not want to quote the R & I Bank Act to members, but I could quote some other areas in which this occurs. I do not think there is anything peculiar about clause 17; it simply states that subject to the Act the commission may, from time to time, employ a general manager. It does not say it will employ a general manager or such other persons. This is a normal prescription. The general manager shall act as secretary to the commission, in addition to performing the other functions assigned to him by the commission while the office of chairman is vacant or the chairman is absent from duty. To my way of thinking it is a perfectly commercial operation. If the commission proceeds to the point

that it needs a general manager, then it may appoint one.

Hon. P. G. Pendal: You do not think it will not appoint one?

Hon. D. K. DANS: If that were the case, Mr Pendal, I do not think the word "may" would have been used. The commission will have to be set up and we will see how it operates. If the need for a general manager becomes apparent, a general manager may be appointed. We just have to wait and see. There is no way I can speculate and say "No, we won't", or "Yes, we will".

Clause put and passed.

Clause 13 put and passed.

Clause 14: Functions and powers of the Commission—

Hon. P. G. PENDAL: Opposition members have already made reference in broad terms to their objections to the contents of this clause. Indeed, if we were to sum up the Bill and its impact by way of Government involvement in the tourist industry, one would find most of that involvement by way of clauses 13, 14, and 15. I stress again that a case has not been made out by the Minister for Tourism or the Leader of the Government in another place for the degree of Government control envisaged by this clause; I refer not only to the control in the clause we have just dealt with concerning the commission's powers to improve and develop tourist facilities within the State, but also the control in this clause and the following one.

One could imagine giving the commission, a statutory authority, the power to do those sorts of things if it contained the qualification that those things were necessary because, perhaps, of the geographic remoteness of the particular project. But we are not dealing here in those qualified terms; we are talking about direct development and improvement of tourist facilities by the Government—the taxpayer. I know Mr Dans and others can make out a case for certain direct Government assistance, perhaps, in those parts of the State that simply would not attract a private developer; Lake Argyle I guess is a combination of Government facilities married to a private entrepreneur's desire to make a living out of that project. But no case has been made out and no explanation has been given, or suggestion made, by the Government that this Bill will be confined to those tourist facilities in parts of the State that are clearly inhospitable to the private sector.

It is an unnecessarily overbearing provision that allows Government involvement and mucking around with taxpayer's money to no avail. Clause 14(3)(a) could surely have a bus driven through it to demonstrate how wide are to be the powers of the commission; it can acquire, lease, or otherwise deal in and dispose of real and personal property for the purposes of the Act. I was given the impression during a briefing session by the Premier's tourist adviser—

Hon. D. K. Dans: You are one up on me.

Hon. P. G. PENDAL: —for which I was grateful, that we were talking in terms of permitting the tourist commission to form its own land bank, for example, throughout Western Australia. When I read the Bill some weeks later I presumed, and continue to presume, that clause 14(3)(a) is that reference; that is, where the commission can acquire, lease, and otherwise deal in and dispose of real and personal property. That is just a beginning, because clause 14(3)(c) deals with the power to enter into joint ventures, and paragraph (f) deals with the ability of the commission to market travel.

It does not say "market travel from Adelaide or other points beyond this State" where the tourist commission or the present department has a legitimate role. No-one disputes that, and Mr MacKinnon made a good case in support of the Government's argument for having a person in Adelaide, Brisbane, Auckland, or Singapore, and so on. One could imagine in the absence of anyone else being interested in Western Australia, the legitimacy of the WA Government having a commission officer in those places to market travel. I do not dispute the application of the Bill to those external points, but I dispute the need for the commission to be involved in that field of market travel within Western Australia. It must mean the commission will go into direct competition with many of the private travel consultants who are known to be having a difficult time in current circumstances. The private travel industry in this State ought to understand that that provision is contained in paragraph (f) on page 10 of the Bill.

I refer now to paragraph (i), which raises much the same argument, and I do not want to labour the point. It relates to the commission's ability to appoint agents in Western Australia or elsewhere. I would not object to a commission having the power to appoint an agent in Singapore, Auckland, or London.

Hon. D. K. Dans: What about Tokyo? The Japanese are the most travelled nation in the world at present.

Hon. P. G. PENDAL: Yes indeed, and I believe we are beginning to attract a few more here.

I make the same point that I did in relation to paragraph (f). I do not take exception to the com-

mission's appointing agents to those external centres, but I take exception to the commission's being able to appoint agents within Western Australia, because they will be doing the very task I believe the commission ought not to be doing.

The final point I wish to raise on clause 14 is one I made during the second reading debate. Paragraph (m) enables the commission to make loans or grants to a Minister of the Crown. The Leader of the House did not adequately deal with this point in his response to the debate. The Opposition accepts the legitimacy of the commission having a right to make loans or grants to a local authority; that is provided for in the same clause. I would have thought that was broad enough to include almost anyone. The commission will have the power to make loans or grants to a local authority or to any other public authority, body or organisation, for the establishment, construction, development, improvement or maintenance of projects which will maintain or improve the tourist facilities of Western Australia.

That is pretty wide. Why is there a need to make loans or grants to a Minister of the Crown? I cannot see the point; I cannot imagine why a Minister would want to bog himself down—

Hon. D. K. Dans: I can understand why he would need a loan.

Hon. P. G. PENDAL: Only the Minister and his colleagues on the front bench and a few members on this side of the House understand that plaintive call. I have not had the opportunity of testing the validity of the Minister's remark.

This clause is the heart of the commission's powers, and it deals in great detail with the financial and other powers it will have. It is necessary, therefore, for me to make all these points at once.

The provision is the genesis of the Opposition's concern about the thrust of the legislation, because it takes the Government via the commission into the private market where it has no place, other than in those external points to which I referred. It gives the commission the power to make loans and grants to a range of people, most of whom I can accept as being legitimate carriers of those funds, but in the absence of any explanation from the Minister, I cannot accept the provision for a Minister of the Crown to receive loans or grants.

Hon. D. K. DANS: Clause 14 is very straightforward. I refer to subclause (3)(c) which may clear up some problems encountered in subclause (3)(a). The Premier has made enough statements as to how we will deal with problems in the private enterprise sector. We do not seek to go in and run them; on some occasions we will be partners and have a small holding, and in that case we will give them a boost. Subclause (3)(c) will enable the commission to encourage by way of some form of participation or involvement, the development of tourist facilities; it will give developments a level of confidence to ensure they get off the ground. That is specifically the case in regional centres and isolated places which contain so many of our natural attractions. I suppose I could refer again to the dinosaur footprints.

Mr Pendal referred to clause 14(3)(m). This part of the clause does not change anything; all it does is to ensure that the development grants scheme already in place and currently administered by the Department of Tourism will continue to operate in future.

Hon. P. G. Pendal: I do not dispute that. Why do you need to make loans to your colleagues?

Hon. D. K. DANS: We are not going to make loans to our colleagues. They may be made to a department. They would only be loans in respect of this Act. A loan could be made to the Minister for Water Resources, for example.

Mr Pendal raised another point about being in competition with private enterprise. The Tourist Bureau was in competition, long before the commission was mooted. It has always had agents; so nothing has changed. The thrust of this commission is to ease the Government out of the situation by hopefully boosting the private sector, and that is why the private sector has been so attracted to it.

Clause put and passed.

Clause 15: Formation of companies developing or operating tourist facilities—

Hon. NEIL OLIVER: This clause enables the commission to make arrangements or participate in the formation of companies. It then goes on in paragraph (b) of subclause (1) to give authority to the Minister to subscribe for or otherwise acquire and dispose of shares in any such company. I disagree with that. It then goes on to say that the Minister may recommend to the Treasurer that a guarantee be given to facilitate the operation or formation of a company. If a decision is made to form a company—either a proprietary limited company or a public company—and either participate in a joint venture arrangement or for the commission to go solo, where will the Minister get the authority for the acquisition of the funds? Is it complementary to the guarantee of the Treasurer?

Hon. D. K. DANS: I do not really understand what Mr Oliver is saying. I will tell him what

clause 15 means. In fact it is one of the best clauses in the Bill, among many good clauses.

Hon. Neil Oliver: That might be your opinion.

Hon. D. K. DANS: Of course.

Hon. Neil Oliver: Or the opinion of your legal adviser.

Hon. D. K. DANS: No, I do not have a legal adviser; he is away at a Liberal Party meeting.

Hon. J. M. Berinson: It must be nearly midnight.

Hon. D. K. DANS: The witching hour. Clause 15 provides the means and opportunities for the commission to assist in the development of tourist facilities as outlined in clause 14(3)(c). It gives the commission power to participate in the formation of companies which may have to be set up as a means of getting a project off the ground. This is a very important clause, and it provides the commission with power, subject to Treasury's approval, to assist in developing tourist facilities, particularly in isolated regions. It gives the commission power to assist someone who wants money to develop facilities.

Hon. NEIL OLIVER: I can understand that. The whole thrust of the legislation is that it is very difficult to arrange funds because the tourist attractions are somewhat remote. Quite often the problems of finance are quite difficult. What I cannot see is the relationship between clauses 14 and 15. I appreciate the intent with which the Minister has explained it. Such arrangements have been made on many occasions in regard to tourist ventures in Western Australia. People look to the State Government for a guarantee because of the great difficulty in arranging finance for those types of ventures.

How does the Minister relate this to the situation of making arrangements for participation in the formation of a company? How will that be funded? It may not necessarily require a guarantee.

Hon. D. K. Dans: I cannot tell you any more than I have already told you.

Hon. NEIL OLIVER: The clause goes on to talk about a company. I presume it can be a proprietary limited company or a public company. I do not know how that company will acquire its shares, or how it will be formed. The clause says the formation will be done by the Minister. Later it says the Treasurer may provide a guarantee to facilitate the formation and operation of the company. That means it would require the Treasurer to give a guarantee; therefore the funding of a proprietary limited company or a public company would be done by the Treasurer. Is that what it actually means?

Hon. D. K. Dans: I cannot add any more to the explanation I have already given.

Clause put and passed.

Clauses 16 to 33 put and passed.

New clause 34—

Hon. P. G. PENDAL: I move—

Page 22—Add after clause 33 the following new clause to stand as clause 34—

Duration of Act

34. (1) This Act shall, subject to this section, continue in operation until 31 December 1993 and no longer.

(2) On the expiry of this Act by virtue of subsection (1)—

(a) all real and personal property and every right or interest that immediately before that expiry was vested in the Commission shall without any transfer or assignment pass to and become vested in the Minister;

(b) all rights, liabilities and obligations of the Commission that were in existence immediately before that expiry shall devolve on the Minister;

(c) all contracts, agreements and undertakings made by and with the Commission and having effect immediately before that expiry shall have effect as contracts, agreements and undertakings made by and with the Minister and may be enforced by or against the Minister accordingly;

(d) any legal or other proceedings or any remedies that might, but for this section, have been commenced or continued or available by or against or to the Commission may be commenced or continued, or shall be available, by or against or to the Minister, as the case requires,

for the purpose of the winding up of the affairs of the Commission and the Minister shall as soon as practicable after that expiry wind up the affairs of the Commission.

(3) For the purposes of this section a reference to the Commission in—

(a) a law of the State in force; or

(b) a document in existence,

immediately before the expiry of this Act by virtue of subsection (1) shall after that expiry be construed as a reference to the Minister.

(4) Nothing in this section affects or limits any guarantee—

(a) given by the Treasurer under section 27 in respect of any money borrowed by the Commission under this Act; and

(b) in force immediately before the expiry of this Act by virtue of subsection (1),

and section 27 shall continue to apply to that guarantee while that guarantee remains in force as if this section had not come into operation.

This is the amendment I foreshadowed during the second reading debate; that is, to insert in the Bill a sunset clause giving the new commission a life of 10 years, by which time the Government of the day will need to bring the legislation back to the Parliament to renew it. In the absence of that action, the commission will lapse. I think this amendment is important. My impression of the sunset principle is not the automatic destruction of a Government agency but rather the incentive for that Government agency over a period of years to perform.

For the record I should point out this clause is lifted from the Industrial Lands Development Authority legislation of 1980. I thank the Leader of the House for his agreement to include it in the Bill; it may well be the sort of clause which should be included in more legislation sponsored by any Government of any political persuasion. I commend the clause to members.

New clause put and passed.

Title put and passed.

Report

Bill reported, with an amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by the Hon. D. K. Dans (Leader of the House), and returned to the Assembly with an amendment.

ACTS AMENDMENT (STUDENT GUILDS AND ASSOCIATIONS) BILL

Assembly's Message

Message from the Assembly received and read notifying that it had agreed to the amendments made by the Council.

BILLS (3): RETURNED

1. Business Names Amendment Bill.
2. Bills of Sale Amendment Bill.
3. Limited Partnerships Amendment Bill.

Bills returned from the Assembly without amendment.

INDECENT PUBLICATIONS AND ARTICLES AMENDMENT BILL (No. 2)

Receipt and First Reading

Bill received from the Assembly; and, on motion by the Hon. D. K. Dans (Leader of the House), read a first time

Second Reading

HON. D. K. DANS (South Metropolitan—Leader of the House) [11.54 p.m.]: I move—

That the Bill be now read a second time.

Provision is made in this Bill to amend the Indecent Publications and Articles Act to allow the State advisory committee on publications to recommend the classification which should apply to video tapes in this State.

The market for video tapes in Western Australia and elsewhere in Australia has burgeoned with the proliferation of domestic video cassette recorders, and further rapid growth of the industry is expected in the short term. Since July 1982 a working party of Commonwealth and State officials has been meeting to arrive at a workable basis for a uniform system for the control of publications, including video tapes, in most States of Australia.

The proposed system is designed to accord with the following broad principles—

That individual adults should have the right to make their own decisions as to what they wish to see, hear, and read; that the community generally should be protected from exposure to material that is commonly offensive or potentially damaging to them; and that minors should not be allowed free access to material about which their parents might wish to exercise guidance.

Other than in the case of extremely offensive material, these principles can be achieved by the conditional sale of publications, rather than by absolute prohibition.

As the first step in the implementation of a uniform classification system, it is intended that the Australian Capital Territory introduce model legislation with each State enacting similar legislation to control publications within its own jurisdiction. It will then be a logical extension for each State to adopt the decisions of the Commonwealth censorship officers who generally now classify all publications in the first instance.

As a safeguard in this State, the existing State advisory committee on publications will be able to review commonwealth classifications on appeal, or upon the initiative of the Minister.

These proposals were ratified on 13 July 1983 by a meeting of Commonwealth and State Ministers responsible for censorship. It is expected that the Australian Capital Territory ordinance will be submitted to the House of Assembly for review next week, and the necessary amendments to the Commonwealth censorship regulations will follow.

Until the uniform classification system for publications is in place, rather than allow the video industry to establish itself without some controls over the content of the material, and the sale of pornographic video tapes to minors, the Government has acted to prevent the sale or hire of indecent or obscene material and to restrict the distribution of video tapes of a violent or sexual content to adults.

Therefore, provision is made in this Bill that it will be an offence to sell or hire material classified as restricted to persons under the age of 18 years. Also, the exhibition or display of such material will be prohibited, except in an area in a shop set aside for the purpose of display and sale of this material.

Persons who sell or hire material classified as subject to prosecution, or persons who attempt to deal in video tapes which have not been submitted for classification but which are considered to be obscene or indecent, will be liable for prosecution.

The Bill will apply the system which has operated successfully in this State for the classification of printed and written material, to the sale or hire of video tapes. Persons wishing to sell or hire video tapes classified as restricted publications will be required to register and pay the required fee. Registered persons will be provided with a list of those video tapes classified as restricted publications by the Minister on the recommendation of the advisory committee.

The outlined interim system will achieve two main objectives—

It will restrict the sale or hire of video tapes with a violent or sexual content to adults; and

It will make it an offence for a proprietor to display or exhibit such material in a shop except in an area of the shop set aside for the purpose of display and sale of material classified as restricted.

The Indecent Publications and Articles Act presently contains provisions which permit the prosecution of persons in possession of obscene or indecent video tapes for sale or gain. These provisions have been enforced in the past by the Police Department and will continue to be enforced in the future to control the sale or hire of obscene or indecent video tapes.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. W. N. Stretch.

House adjourned at 12.03 a.m. (Wednesday).

QUESTION ON NOTICE

WATER RESOURCES: MWA

Staff: Managerial Development and Modelling Courses

676. Hon. LYLA ELLIOTT, to the Leader of The House representing the Minister for Water Resources:

With reference to the news item in *The Western Mail* of Saturday/Sunday, 29/30 October "Now We have a Model MWA" wherein it was stated the Metropolitan Water Authority is sending female staff on a modelling course and male staff on a management development course; in order to ensure equality of opportunity for both sexes in line with the Government's policy, will the male staff be offered the option of participating in the modelling course, and the female staff the management development course?

Hon. D. K. DANS replied:

The course referred to in the newspaper article as a modelling course is part of a personal development course designed to assist employees with a daily contact with the public to improve their service to the public. The course is not compulsory nor is it restricted to female employees.

The MWA arranges many training courses in supervision and management for its employees and attendance is dependent on the position held by the employee. Both male and female employees attend these courses.

The MWA does not discriminate against any of its employees and opportunities for training and promotion are offered equally to both male and female employees.

QUESTIONS WITHOUT NOTICE

MINISTER OF THE CROWN: MINISTER FOR MINES

Collie: Visit

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

(1) Has the Minister visited Collie in the last fortnight?

(2) If so, which members for the district did he advise?

Hon. PETER DOWDING replied:

(1) Yes.

(2) I cannot tell the member offhand, but I shall make inquiries.

COAL MINE WORKERS (PENSIONS) ACT

Amendment

173. Hon. A. A. LEWIS, to the Minister the Mines:

As the Government listed its legislative priorities on the ABC this morning, does this mean the Coal Mine Workers' (Pensions) Amendment Bill will not be brought in this session?

Hon. PETER DOWDING replied:

I did not hear the report to which the honourable member refers. The amendments to the legislation referred to have been held up in the parliamentary draftsman's hands because of problems in drafting with some of the terms. It is still the Government's intention to introduce the Bill in this session of Parliament. I make the qualification that the co-operation of both sides of the House is necessary for us to expedite some of these pieces of legislation, and I hope the honourable member will put his shoulder behind the wheel to that end.