Legislative Assembly

Thursday, 23 September 1982

The SPEAKER (Mr Thompson) took the Chair at 10.45 a.m., and read prayers.

MOTOR VEHICLE (THIRD PARTY INSURANCE) AMENDMENT BILL

Second Reading

Debate resumed from 25 August.

MR TONKIN (Morley) [10.47 a.m.]: I must admit I was a little surprised to realise that this Bill was Order of the Day No. 1. Yesterday I spoke with the Minister for Local Government, who told me that this Bill would not come on until next week; however, no problem is associated with my surprise.

The comment I made yesterday with respect to the responsibilities of Governments I make again today. We see once again a Government allowing one of its statutory bodies to run wild, to do as it likes. We saw this with the Metropolitan Water Board as it was then known until eventually the Government took steps to ensure that authority was more responsive to Government policy and, in particular, the Government's political needs.

The Motor Vehicle Insurance Trust has been allowed to do certain things which I believe no responsible Government should have allowed it to do. If this Parliament establishes bodies, and certainly statutory bodies that have some degree of autonomy, it is not enough merely for Parliament to establish that authority and wash its hands of it from then on. After all, the public have not had the opportunity to elect members to run bodies such as the MVIT, but the public do have a chance to change Governments.

This is the essence of my criticism: Governments should act responsibly and should act in a way that enables responsibility to be sheeted home; Governments can be removed by the people, but statutory bodies cannot. Certainly the Opposition is not satisfied with the performance of the MVIT. We want performance audits introduced as one way in a whole battery of ways to ensure the motoring public receive a better deal in regard to third party insurance.

Mr O'Connor: In what way would you want the system altered to introduce these performance audits?

Mr TONKIN: The system would not have to be altered. The performance audits would investigate the system and make recommendations. I will outline various ways in which we believe the trust could be altered. However, the essence of the performance audits would be to recommend to the Government that changes should be made to overcome weaknesses in the trust. I have placed on the notice paper a proposed amendment which would give effect to the introduction of performance audits.

Mrs Craig: To what specific weaknesses are you referring?

Mr TONKIN: I will be referring to certain weaknesses in the trust, but the Minister missed the point as did the Premier. One cannot say now what performance auditing would reveal. Performance auditing can be used to conduct an ongoing examination of a Government body or department so that weaknesses not evident before the audit are revealed.

Mrs Craig: In other words, you do not have a concern about the financing at the moment; you want performance auditing in case there is something you haven't been able to put your finger on.

Mr TONKIN: I am concerned about existing weaknesses, and believe performance auditing would reveal other weaknesses which hitherto had not been revealed. The Opposition is aware of certain weaknesses in the trust, but there may be further weaknesses of which we are not aware. That is the rationale behind the request for performance auditing.

The third party insurance system we have at present was set up in 1943 by the Willcock Labor Government. The object of the original legislation was this—

> (a) insure against any liability which may be incurred by him or any person who drives such motor vehicle in respect of the death of or bodily injury to any person caused by or arising out of the use of such motor vehicle; and
> (b) for that purpose enter a contract of insurance under this Act.

The need for insurance in this area today is as great as it ever was. When the original legislation was introduced in 1943 by the then Minister for Works, it was stated—

> . . . . . in numerous cases of injury to third persons caused by the negligence of the driver of motor vehicles, the injured persons and their dependants have been unable to recover any hospital or medical expenses or compensation for temporary or permanent injury, owing to the fact that the owners of the vehicles were financially unable to pay and were not insured.

Hence the legislation is based on the principle that persons who through no fault of their own are injured by a motor vehicle should have a means of compensation irrespective of the ability of the other party to pay. The problem has been that a major review of this legislation has not been carried out since its inception in 1943.

I will enumerate some of the ways in which the operations of the trust are deficient. This will answer the Minister's interjection asking, "What are the weaknesses you are talking about?" We have witnessed a change in the number of insurers participating in the scheme, but this seems to be the only problem to which the Government has addressed itself by way of this Bill. We believe the Bill is deficient because it does not address itself to problems which have been revealed in the trust during the last year or so. One problem is that the trust does not always operate with acceptable insurance standards and practices. The numerous increases in the trust's liabilities have been another problem and we acknowledge that some of these liabilities are due to the escalation of costs in recent years.

Another weakness we see in the trust's conduct relates to its invoking the Statute of limitations to avoid payment of compensation. Finally, and this goes back to my opening comment, the financial and administrative accountability and performance of the trust is not clearly sheeted home in that in a democracy one always must know that those who are in authority are answerable to the people and may be removed by the people; but this is not the case with the trust. The Government, however, is responsible. So we cannot have a situation where the Government, which is removable, stands at arm's length from a statutory body such as the trust and will not interfere in its operations because the people who are compelled to insure with the trust have no way of anticipating a change in the trust's policies and have no way of enforcing accountability.

One of the ways in which the trust has not acted in its best interests is by its request for premium increases. It is true that the Government did interfere on one occasion, but it interfered for the wrong reason because it did not interfere in defence of the motoring public. It interfered because there was an election around the corner. Interference for narrow and party-political reasons in order to try to ensure the survival of the Government is the worst kind of interference. What should have happened was an interference with much less of an eye to an election and with far more of an eye on the motoring public.

Mrs Craig: You have had regard for what your Government did in the year preceding an election in so far as that is concerned, I hope, because if ever there was such blatant political action, that was it. I suggest you look at the figures and check for yourself.

Mr TONKIN: If the Minister believes that such a charge is warranted, I suggest she substantiate that charge. I am not aware of it.

Mrs Craig: It has been substantiated by way of answer to a question in the other place by a Labor Party member who has been asking a lot of questions. For political purposes you in fact lowered the premium against the advice of the premiums committee and the trust.

Mr TONKIN: If the Minister likes to substantiate that when she speaks, it is up to her to do so. Whether or not that is true, it certainly does not excuse what happened in 1979 or 1980. A serious deterioration in the financial position of the trust has occurred as have long delays in settlement of claims of the trust, which has gone to the extent of even using a legal device to avoid dead claims.

Mrs Craig: Exactly the same as it used when you were in Government. There was no different application of the Statute of limitations in latter times than there has been all through.

Mr TONKIN: If the Minister wants to play tit for tat and every time I open my mouth refer to what happened during the time of the Tonkin Government, she is entitled to do so.

Mr McIver: It was only there for three years, anyway.

Mrs Craig: That is not true.

Mr TONKIN: I object to that.

Withdrawal of Remark

Mr TONKIN: I ask for a withdrawal of that statement by the Minister.

The SPEAKER: I am sure the Minister did not intend to imply that the member for Morley was untruthful. I ask her to withdraw the reference made.

Mrs CRAIG: I withdraw the remark, Mr Speaker.

Debate Resumed

Mr TONKIN: The word is used far too loosely. If I refer to a fact, but omit another fact, it does not mean I have not been truthful. I suggest the Minister study the English language a little bit.

Mr MacKinnon: It means you are devious.

Mr TONKIN: It may mean that I omitted something, sure, and does not the Minister always omit things?

Mr MacKinnon: No.

Mr Clarko: We can't say "always."

Mr TONKIN: Not always, but does not the Minister sometimes make a speech in that manner?

The SPEAKER: I suggest the member for Morley return to the subject matter before the Chair.

Mr TONKIN: Yes, Mr Speaker. Irrespective of what may have happened in the past, the Government did manipulate the premiums in such a way as to put the trust into a very difficult financial situation, and yet it has not interfered in other ways that would have been to the motorists' benefit.

If we look at the increases in premiums recently, we find that from 1 January 1977 they were increased by 52.2 per cent, from 1 July 1978 they were increased by 42.8 per cent, from 1 July 1980 they were increased by 50 per cent, from 1 July 1981 they were increased by 25.3 per cent, and then by a further 10 per cent from 1 July 1982. This has meant that the premiums for the average motor vehicle have increased since 1976 from $27.60 to $124.20, which is an increase of approximately 350 per cent. That represents an enormous increase by any standards, over a period of six years.

The rise in premiums since the 1980 State election have been particularly severe, for example, a 50 per cent increase in 1980, a 25 per cent increase in 1981, and a 10 per cent increase in 1982. The premiums have more than doubled in under three years since the last State election, and yet before the last State election the Government did not agree to an increase that was required according to the trust's recommendations.

When we look at the operating surplus and deficit of the trust and the accumulated surplus and deficit in those same years, using the trust's figures, we find that in 1977 the operating deficit was $0.543 million; in 1978, $7.477 million, in 1979, $10.493 million; in 1980, $15.051 million; and in 1981, $27.991 million. That is the operating deficit. If we note the accumulated surpluses and deficits for those years we see that in 1977 the surplus was $11.126 million and in 1978 it was $2.556 million. However, in 1979 the trust had an accumulated deficit—although we do not necessarily accept the figures of the trust—of $8.652 million. In 1980 the accumulated deficit was $23.704 million and in 1981 it was $52.456 million.

The $52 million deficit for 1981 is predicted on the basis that this would be the case if the trust had to meet all its claims in one year. We suggest it is not realistic to talk about an accumulated deficit of that magnitude.

Mrs Craig: I am not quite sure what you mean when you say it is not realistic to assume that all those claims may well have to be met in one year. Did you say that is not realistic to believe or did you mean the figure?

Mr TONKIN: I meant the Minister's first point: It is not realistic to assume that all the claims would need to be met in one year.

Mrs Craig: Why is that not realistic?

Mr TONKIN: Because it does not happen.

Mrs Craig: But surely if you are arguing about the figures, in the manner in which you are, you are arguing against your own argument because you are saying that that accumulated deficit is one which is not a genuine one.

Mr TONKIN: We take issue with those figures, but I would not say they are not genuine because that could suggest a deliberate mishandling or a deliberate intention to mislead. The premise on which it is based is not necessarily a sound one and that is what I mean. The figure of $52 million is inflated.

Mrs Craig: So it should not be a cause for concern?

Mr TONKIN: The deficit is a cause for concern. The deterioration of the trust's financial position is cause for alarm because it is not a desirable situation. In May 1980 the then Treasurer stated in a Press release—

> The Government's role is only to oversee the total operations from reports and to make sure the Trust is fulfilling its proper role as required by Parliament.

Even if we consider the criterion the then Treasurer cited, we note the Government has fallen down. The MVIT is one of the State's biggest and most influential statutory authorities. It invests over $150 million per year and ranks with other large authorities such as the Metropolitan Water Authority, the State Energy Commission, and the SGIO as well as the larger port authorities.

To oversee the trust's total operations, from the reports, means that it is done from the two four-page financial statements submitted once a year. That is inadequate reporting by the MVIT to the Government.

Let us consider the Government's manipulation of premium increases for political purposes. The trust was experiencing a serious deterioration in its financial performance so it applied to the Minister for a general increase of 15.26 per cent in

premiums in April 1979 which was a pre-election year.

The premiums committee is being abolished under this Bill because that committee enables the Opposition or the public to gather evidence which could embarrass the Government.

Mrs Craig: That shows how little you understand the legislation.

Mr TONKIN: The premiums committee said—

> The committee is of the opinion that if current trends continue there will be a need for a further increase from 1 July 1980. There is an estimated deficit at 30 June 1979 of $2.88 million.

The premiums committee was concerned that there should be an increase in premiums in 1979, but said there would be a need for further increases from 1 July 1980.

On 29 August 1979 the Minister announced that State Cabinet had refused the request of the MVIT for a 15.26 per cent increase. The Minister was quoted in *The West Australian* issue of 30 August 1980 as follows—

> The Government had considered that after a big rise last year another rise was not warranted.

How could the Minister say that in the light of the premiums committee's concern about the accumulated deficit? Of course a Minister has the right to refuse an increase, but it is also the duty of a Minister to point out that the concern of the committee was not warranted. To my knowledge, no such rationale was provided—the bald statement was made that an increase was not needed.

On 11 September 1979, which was less than two weeks after the Minister had announced that the increase had been refused, the financial statement of the MVIT was tabled in Parliament for the year ended June 1979. The report stated that the trust had completed the year 1978-79 with an operating deficit of $10.5 million and an accumulated deficit of $8.6 million.

Subsequent to requesting an increase in 1980-81, the committee made the following criticism—

> The previous report of the committee was made to you on 23 April 1979 when it was recommended that an overall increase of 15.26 per cent be made in premiums effective from 1 July, 1979, on the basis that it was the minimum increase which could be recommended. The decision not to allow the increase of 15.26 per cent was viewed with concern by the committee. The increase was supported by the request of the MVIT, together with the report of the Actuary of the Trust.

So, three authorities were in agreement that there was a need for an increase. They were the premiums committee, the trust, and its actuary.

The result of the past year has shown such an increase was vital to the solvency of the trust—those words have been taken from the report of the premiums committee dated 15th April 1980. The premiums committee said that an increase was vital to the solvency of the trust, and therefore if the trust is in trouble now the fault can be sheeted back to this Government.

Mrs Craig: The trust is not in trouble now.

Mr TONKIN: Approximately eight weeks after the State election in February 1980 the MVIT announced that the Government had approved an increase of 50 per cent. That was eight weeks after the State election. The Opposition believes that is evidence of blatant political timing. It is clear from the magnitude of the increase in premiums—50 per cent—in 1980 and the deterioration in the trust's financial position in 1979-80—operating deficit of $15.1 million and an accumulated deficit of $23.7 million—that the 15.26 per cent rise in 1979-80 was warranted. I quote the following observation which was made by the General Manager of the RAC (Mr W. J. Solloway), in *The West Australian* of 3 May 1980—

> ... The two year gap between premium rises has meant a much heavier financial burden on motorists than if smaller increases were spread over the period.
>
> Mr Solloway said the Government must have known about the need for the rises before the election. It was disappointing that no action had been taken earlier to soften the blow.

In the same report in *The West Australian* the Minister was reported as follows—

> ... Mrs Craig said allegations of political overtones were unfair.
>
> She had not received a report from the Trust till March—after the election. There had been no delay in getting the submission assessed and considered by Cabinet.

I repeat that these quotes were taken from *The West Australian* of 3 May 1980.

I now refer to misleading statements and I point out that the Minister used the word "truth" a few moments ago. If we want to talk about misleading statements, this statement by the Minister as reported in *The West Australian* of 3 May 1980, is misleading, because she said the report to

which she referred was received by her after the election. However, the report she ignored is the report she received in April 1979 which was before the election.

Mrs Craig: They were two separate reports.

Mr TONKIN: Of course they are two separate reports, but the Minister is trying to confuse the issue and has misled the public. Of course she received the report after the election, but it was not the report she decided to ignore.

Mrs Craig: We did not ignore it.

Mr TONKIN: The Minister rejected it and its recommendations. It is misleading of the Minister to say she received the report after the election when, clearly, the report about which everyone is talking, is the one that she decided to reject.

Mrs Craig: They are two separate reports. The first report I indicated I would not accept. Let us not try to make out there was only one report.

Mr TONKIN: The Minister said she received the report after the election.

Mrs Craig: I did.

Mr TONKIN: Of course the Minister did and she will receive many more.

The point is the report she advised she rejected was received before the election and this is the report about which everyone was talking.

Mrs Craig: And that is what we publicly said we did. Let us not pretend there is anything wrong about that.

Mr TONKIN: I will leave members of the House and the public to judge on that. We certainly do have very strange standards in this Parliament.

I refer now to the changes in the trust's financial policy. The premiums committee has reported that the MVIT advised it that its finances have been affected adversely by increased court awards, etc. We acknowledge that these have escalated in a manner that could not have been foreseen some years ago; but these increases have had only a partial effect upon premium levels.

Mrs Craig: Could you tell us what percentage that would be?

Mr TONKIN: I think the Minister is missing the point—whether deliberately or not, I do not know. It is not a question of percentage of payout over income from premiums. In the Opposition's opinion it is also a fact that the problems encountered by the trust are not solely related to this payout, but to its financial management and the way in which it has managed its investments.

Mr Bowman from the MVIT is reported as follows in *The West Australian* of 25 March 1982—

> . . . a programme has been adopted to bring the operation to a break-even point by June next year.

The planned premiums for 1981-82 and 1982-83 appear to aim far higher than at a break-even point. In 1981 a report which considered premium requirements in 1981-82 and 1982-83 was prepared by an actuary, Mr A. A. Barton. On page 3 he said—

> . . . A similar responsibility rests on the Premiums Committee in that the long term advantage of consumers of third party insurance lies in the knowledge that the Trust has sufficient reserves to withstand adverse experiences. To cushion against such adverse experiences the Trust must look to its accumulated surpluses to provide necessary reserves and the Committee believes it is appropriate for the Trust to hold accumulated surplus of between 40 and 50 per cent of earned premiums . . .

I will go back to those figures of 40 and 50 per cent of earned premiums at a later stage. The report continues—

> . . . A 25 per cent premium increase effective 1st July, 1981 should result in an accumulated surplus at 30 June 1982, of approximately $6.3 million and a surplus at 30 June, 1983, in the absence of further premium increases, of approximately $34 million or 37 per cent of the earned premium. Such an accumulated surplus would provide a buffer against unfavourable experience and if the Trust's experience is favourable, provide the basis on which to build the reserves recommended during 1983/84.

The fact is that the Government did accept the premiums committee's recommendation for a 25 per cent increase in third party insurance premiums effective from 1 July 1981. Therefore, according to the premiums committee's estimates made less than a year ago the MVIT should report an operating surplus of $6.3 million in 1981-82. More importantly, that 25 per cent increase was sufficient to yield an estimated surplus of $34 million in 1982-83 in the absence of any premium increase in 1982-83. Yet we have seen premium increases this year which, according to the premiums committee's arguments, would not be necessary in order to give that kind of surplus. The premiums committee's argument that the MVIT should be solvent to realise claims is reasonable. However, we do not accept that the reserves need to be 40 to 50 per cent of the premium receipts.

Before I continue with that matter I would like to reiterate that according to the argument last year, there should have been a surplus of $34 million in 1982-83 in the absence of any other increases. However, in spite of that very healthy prediction there has been an increase this year.

That increase occurred in a very short period of time, and it came about because of the Government's refusal to agree to an increase in 1979, just before the last State election. There was a very rapid development of surpluses to a level of 40 to 50 per cent of the annual premium receipts.

The premiums committee acknowledges the statutory requirement of the Commonwealth Insurance Acts under which insurers are required to hold reserves equivalent to 15 per cent of the previous year's earned income. The committee actually cites the Commonwealth Insurance Acts. The committee further argues that the Commonwealth insurance commissioner has been quoted as suggesting that 30 per cent of the previous year's premium is a more appropriate level of reserves, and so we have some disagreement there. The Commonwealth Acts state 15 per cent is required and—I presume it is an expression of opinion—the Commonwealth insurance commissioner believes it should be 30 per cent of earned premiums; and yet this premiums committee is suggesting the reserves should be as high as between 40 and 50 per cent. We take issue with that estimate. We have not been able to follow any argument which says that the reserve of the trust should be three times higher than that required under the Commonwealth Insurance Acts, and 50 per cent higher than that suggested in the opinion of the Commonwealth insurance commissioner.

Estimates of revenue and expenditure of the MVIT are not published. This is different from the situation applying to other statutory bodies, and it puts the Opposition in a very difficult position in discussing this matter. We believe that the trust should be more accountable to the public via the Government, and that it should disclose far more of its operation than it does.

To show the cavalier attitude of this Government in the past to questions about the operation of the MVIT, a member was advised that, if he wanted answers to questions he should go down to the MVIT, as though somehow or other the MVIT is not a Government responsibility. We cannot accept that a body established by this Parliament should be removed from public scrutiny to that degree, especially in view of the fact that every motorist is required to insure with the trust. If it were a voluntary matter, it could be said that the public do not have to concern themselves with the trust's operations, although I believe that would be a very poor argument as it is a body set up by the Parliament. The Government has said in the past, "It is not really our concern. The MVIT is a statutory body and if you, as a member of Parliament representing the people of WA, want to obtain information from it, go down to the trust and ask for it and it is up to the trust whether you are given the information." We cannot accept that sort of situation.

Let us look at the premium loading that would be required to build up the kind of reserves for which the premiums committee has argued. Based on the estimates of premium income for 1982-83, in order to reach the 50 per cent surplus figure, the additional cost on an average vehicle would be $39.91. This increase is unacceptable for two reasons. Firstly, three years ago, before the last State election, the Government refused to grant an increase that was clearly warranted. This caused a blow-out, not only in the accumulated deficit of the MVIT, but also in premiums. Secondly, premiums must rise if the MVIT is to pursue a goal of 50 per cent of premiums as reserves.

We believe in the solvency of the MVIT. It should have sufficient reserves, but the reserves should not be in the order of 40 to 50 per cent of premiums. Something in line with the suggestions of the Commonwealth Insurance Acts would be sufficient. If there is a compelling argument as to why the reserves should be three times greater than those stipulated in the Commonwealth Insurance Acts, we will be very interested to hear it. We have not heard it yet.

I have discussed already the way in which the trust estimates its accumulated deficit; it is an imputed result based on the estimated value of claims due for settlement at some later date. I have suggested that it is unreasonable to predicate that all claims may have to be met in one particular year. The problem of insolvency of the trust would arise only in the unlikely event of the trust's being required to settle all its claims.

Let us look at the trust's operation with respect to its investment policy. The trust does not include interest on accrued investments for the financial year. For example, at the end of June 1981, the trust's shares in listed companies were taken into account at cost—$9.7 million—while the current market value of the shares was $17.1 million; in other words, an additional $7.4 million. The value of all investments is taken into account at cost while, quite rightly, the estimated value of claims outstanding is taken at the current value. There should be some consistency. If one takes the current value of one set of figures, the current

value of both should be taken. This would give a better picture of the trust's true financial position.

Mr Young: That note would have been on the balance sheet of the trust—the current market value of the shares.

Mr TONKIN: Yes, but it was not assessed in that way.

Mr Young: There would have been normally a note to the balance sheet to state that, and that is perfectly proper and reasonable under the doctrine of conservativeness—to show your assets at cost and your contingent liability assessed at the maximum. That is a proper accounting procedure, but there should have been a note on the balance sheet.

Mr TONKIN: I do not think there was, but I am not sure of that. The trust's investments include almost $250 000 of cheap housing loans at the low interest rate of around five to 8.7 per cent, and we believe that is not a proper use of the motoring public's funds.

Let us look at premium levels. As I said before, due to the refusal of the Government to agree to an increase in 1979, we have had an enormous escalation in premiums; something like double since the last State election. I quoted the then Treasurer of the State who told us that the Government's job was to make sure that the trust was fulfilling its proper role as required by Parliament. Surely one of the proper roles of the trust is to ensure that a person who has been injured in a motor vehicle accident should receive full compensation, notwithstanding the financial means of the other party.

However, recently we have seen the MVIT invoking the six-year Statute of limitations in order to avoid something—payment, compensation—for which it had admitted liability. We cannot accept that. It is staggering how a body established ostensibly for the benefit of the public then turns on the public and acts in such a way that it is prejudicial to the best interests of the public. How a trust can do that when, in fact, it was established for the purpose of seeing that proper compensation is paid, is beyond me. I just do not know how people sitting on that kind of authority can see that they are fulfilling their obligations to the public, to the Act, to the Parliament, and to society if they invoke that legal limitation. We believe that it should not happen.

We agree with Mr Justice Kennedy who is reported in *The West Australian* of 24 June 1982 as having said—

> Why a statutory insurer should seek to deny an injured person damages or to throw the burden of the damages onto another party is not apparent—particularly as Mrs Shafran is one of the class of people the trust was created to protect.

His Honour Mr Justice Wallace also said, in the same report—

> . . . the Trust's behaviour gave rise to the unhappy inference that it was not acting in good faith and should not be permitted to benefit by its conscious inaction.
>
> . . . It has no merit whatever.
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> This is a clear case of conduct by the Trust that would stop it from pleading the Statute of (Limitations).

We understand that the Government will legislate with respect to this.

Before Madam Minister arrived, I expressed surprise that the Bill was to be dealt with this morning, considering that she told me yesterday it would be debated next week. Perhaps by interjection she could tell me what has happened to the amendment she was talking about, relating to the Statute of limitations.

Mrs Craig: Yes. It is not possible for us to incorporate it into this amending Bill, so there will be a separate Bill prepared to take care of that, within the session. I knew you were keen to bring this on, and that is my advice from the Parliamentary Counsel.

Mr TONKIN: The Minister knew I was keen to bring it on?

Mrs Craig: Yes. You were asking me yesterday when we were going to have the debate.

Mr TONKIN: The Minister staggers me. The Bill was high on the notice paper and I was ready to debate it, but the Premier said, "No, we are not debating it today." I asked the Minister, "Why not?" That means I was keen to bring it on! I find that quite amazing. That is more of what we were speaking about earlier.

Mr Brian Burke: It is the usual pattern. The Bill is here and the Minister is not.

Mr TONKIN: Of course, we have amendments on the notice paper relating to the very same matter. The Minister states that it is not possible to incorporate those amendments into this Bill, but the Opposition does not allow that kind of thing to stop it, if it can help it.

In the House on 4 May, the Treasurer gave an undertaking to the Leader of the Opposition. Unfortunately, the Treasurer is not here at the moment; but he did say that he would personally examine the performance and financial position of the trust.

Mrs Craig: They are not the precise words. I think you ought to read the precise words that he said.

Mr TONKIN: Does the Minister have them there?

Mrs Craig: No, but you ought to have them, because you are quoting.

Mr TONKIN: I do not have the words in quotation marks, but I think that is very close. It would not matter; but if the Minister thinks I am misrepresenting the Treasurer, she could read out the exact words so that we could compare them. I believe I have the essence of the Treasurer's words. He said he was going to examine the performance and the financial position of the trust.

Mrs Craig: I believe he said, "I will have a look at it."

Mr TONKIN: So having a look at something is different from examining it?

Mrs Craig: It all depends on the precise question the Leader of the Opposition asked. You should get the question, and not assert that something was said that was not said.

Mr TONKIN: That is what the Minister may say. I believe the Treasurer gave an undertaking to the Leader of the Opposition. I will look at that again.

Mr Brian Burke: I asked him a couple of times how it was coming along, and he said, "Fine".

Mr TONKIN: Perhaps he misled himself and did not realise what he had said. Certainly we believe that the Treasurer gave an undertaking to the Leader of the Opposition that he would examine the position, and to my knowledge, that has not happened. We regret that the Treasurer has not honoured the undertaking that he gave.

I would like to say something about ministerial management and responsibility. We do not believe that it is sufficient for the Government and, in particular, the Minister to act as though the trust is outside Government control and will operate without proper supervision by the Minister. We argue, as with the Metropolitan Water Authority and so on, that these bodies should be responsible to the Minister, and hence to the Government, hence to the Parliament, and hence to the people. We have that chain of command and responsibility so that the people for whom, ostensibly, they operate, will be protected. If they do things that are not in the best interests of the people, such as providing low interest housing for staff, unwise investment policies—

Mrs Craig: What was the unwise investment policy? You said you were going to tell us how they were operating in their financial management; so I presume you want to elaborate on their unwise investment policies.

Mr TONKIN: We believe that the percentage obtained by the trust on its investment is far too low. We also have evidence, which I will not cite because I am not able to check it thoroughly—I am not in a position to check it without any staff—that some of the trust's financial investment has been even worse than unwise. That is why we argue for performance audits, so that we may have professional people devoting themselves to looking at, for example, the investment policies of the trust. We believe that the rate of return is far too low, considering—

Mrs Craig: What is the rate of return?

Mr TONKIN: The information I have is that it averages out at about 11 per cent.

Mrs Craig: But you should bear in mind that many of those investments were made 10 years ago. That was the question the Leader of the Opposition asked at one stage of the proceedings. He was drawing attention to the fact that today one can obtain 18 per cent, to use a figure; and he was criticising the trust for investing at the highest level available some six years previously. He tried to say that the trust ought to be getting today's interest rate; but the real world does not work like that.

Mr TONKIN: That could be a factor; but we would like to know to what degree it is a factor, and to what degree the trust is maximising its investment potential.

Mr Brian Burke: What percentage is invested at these six-years-ago rates?

Mrs Craig: Well, ask me a question.

Mr Brian Burke: Don't you know?

Mrs Craig: No.

Mr Brian Burke: I thought you were making the defence. I thought you would have known of that fact.

Mr TONKIN: The Leader of the Opposition has made the point very succinctly that it is not good enough for the Minister and the Government to fail to properly supervise the trust and for the Minister to say that perhaps this occurred because six or eight years ago—

Mrs Craig: I did not say "perhaps". I said that it was so. However, I cannot quote here and now, as a result of a random comment you have made, precisely what the figure is.

Mr Brian Burke: Last night you asked me how many employees there were in the Local Government Department.

Mrs Craig: I asked that because you said they were underworked and the people in the SHC worked harder.

Mr Brian Burke: But you have just said the same sort of thing and you don't know the facts. You ought to put your brain into gear!

The ACTING SPEAKER (Mr Trethowan): Order! I request members not to indulge in cross-Chamber conversations outside the scope of the debate and I ask the member for Morley to continue his remarks.

Mr TONKIN: The point was made in that exchange that the Minister does not know how the trust is investing. She has made a general assertion that perhaps money was invested in earlier times when rates were lower.

Mrs Craig: I have said that is so.

Mr TONKIN: What the Minister said may be true, but she does not know the percentage of the investment and if it were a tiny amount it would have very little effect on the arithmetic mean, as the Minister should know, but if it is a large amount, it might have some effect.

The Minister does not know to what extent that is a factor, nor does she know the range of other factors which might be involved. The trust should be supervised much more closely by the Minister and the Government.

A few moments ago the Minister took me to task because I said that the Premier had not honoured his undertaking to examine the trust. I think they were the words I used. The Minister said she thought—

Mrs Craig: "... to examine the financial position of the trust" were the words you used.

Mr TONKIN: —the Premier intended to look at the trust. I then asked, "How does an examination of the trust differ from looking at it?" It is really absurd for the Government to try to dodge its way round these obstacles. However, let us look at the question the Leader of the Opposition asked the Premier, which reads as follows—

> I preface my question by saying that most members have become quite alarmed at the publicity about the Motor Vehicle Insurance Trust. I ask the Premier whether he is prepared personally to look at the trust to see whether its operations conform with those with which he would like his Government to conform?

The Premier replied, "I am quite happy to do that."

Mrs Craig: That is not what you said he said.

Mr Carr: It is pretty close!

Mr TONKIN: Is the Minister saying the Premier was quite happy to do that, but that he did not intend to do so?

Mrs Craig: I said that the Premier agreed to look at it.

Mr TONKIN: The point is the Premier has not looked at it.

Mr O'Connor: Who says I have not done so?

Mr TONKIN: Well, has the Premier looked at it?

Mr O'Connor: I have discussed the matter with the trust.

Mr Pearce: What has been decided?

Mr O'Connor: In connection with the finances of the trust, I said I would have a look at it, and I have done that.

Mr TONKIN: Later the Leader of the Opposition followed up that question by asking the Premier what he had found and the Premier indicated that the matter was proceeding. The Premier said he would have a look at the trust, but he has not let us know the results of his investigation. If the Premier does things in secret, he cannot expect us to know he is burning the midnight oil looking at the matter. It is really childish for the Premier to say that he will examine or look at the matter and then fail to tell us what he has found.

In this legislation the Government intends to dispose of the participating insurer concept. Although that concept may have been desirable at the time of its inception, it certainly has not operated effectively. The legislation also sets out the membership of the trust and disposes of the premiums committee, which we think is a mistake. The Bill contains a requirement that all investments made by the trust be approved by the Treasurer. That provision may meet some of the objections I have raised about investment policy. The Bill provides for the accounts to be audited by the Auditor General and obliges the trust to make an annual report for tabling in Parliament.

In her second reading speech, the Minister criticised the Leader of the Opposition for comments he made with respect to the trust, and to counter that criticism I have spent some time speaking about the trust and the way it operates.

I have placed several amendments on the notice paper and, briefly, these seek to ensure that the trust comes under the supervision of the Treasurer so that he, rather than the Minister for Local Government is responsible for it. It is anachronistic that the Minister for Local Government should be responsible for the trust. That provision arose out of the state of licensing in 1943, which

is almost 40 years ago, and is hardly appropriate today.

We include in our proposed amendments a set of objectives or principles under which the trust should be administered. Such provisions are quite common in Statutes and it would be desirable for the trust to be required to adhere to certain standards. We seek also to ensure that the Public Moneys Investment Act should be followed with respect to investments.

Our proposed amendments seek to retain the premiums committee, because although we have not always agreed with its arguments, it is not the job of Government to have around it only those bodies with which it agrees. We believe that, in open government, it is desirable for the public and Parliament to have advice before them which may enable them to assess the Government's performance. For that reason, if for no other, the premiums committee discharges an important function.

We stipulate also that all submissions to the Minister in relation to the setting of premiums and other financial provisions should be attached to the annual report of the trust. We take action to remove the means by which the trust recently has evaded its liabilities and we provide for performance audits so that the operations of the trust can be monitored. I point out here that, because we do not have a system of standing committees in the Parliament, because the Opposition does not have adequate staff, because inadequate information has been given about the operations of the trust, and because performance audits are not required, to some extent the trust, like the Metropolitan Water Authority and the SEC, careers along out of control as far as the public are concerned.

It might be argued the MVIT and other Government bodies are under the control of the managing body; that is, the trust itself in this case. However, who is to say the trust is always responsive to the needs of society? Therefore, the trust should be open to public scrutiny, more information in relation to the trust should be available to the public through the Parliament, and the trust should come under the control of a Minister who is responsible to the Parliament.

I would now like to say a rude word about the Premier, and it is a pity he is not in the House at the moment.

Mr Watt: It might save you having to withdraw the word if it is too rude.

Mr TONKIN: I will let the member judge. My comment relates to a question asked by the Leader of the Opposition earlier in the year which I followed up with a question without notice on 24 August in which I asked the Treasurer—

> Will the Treasurer give a brief outline of the results of his personal investigation and evaluation of the performance and financial position of the Motor Vehicle Insurance Trust, as he promised in April and May this year?

He replied—

> I will adhere to any promise I gave in April or May this year.

That is what I consider to be a smart-aleck answer. The Treasurer could have said with far greater courtesy something like, "Yes, I hope to do so when my investigation is completed next month." Merely to say that he will adhere to his promise and then sit down without giving the Parliament some idea of when he would make his report is just not good enough.

Mr O'Connor: It is very easy to ask whether I will adhere to a promise I gave in April. It would be necessary for me to go back and ascertain what promise I gave. Opposition members are adept at bringing forward one matter and mingling it with another and misrepresenting the situation in that way.

Mr TONKIN: I merely asked if the Treasurer would give a brief outline of the results of his personal investigation and evaluation of the performance of the MVIT. The Treasurer could have shown a little more assiduity and said that he was continuing his investigation and hoped to have a report available within a couple of weeks. That would have been a more considerate and courteous answer.

Mr O'Connor: Did I give an undertaking to bring a report to the Parliament?

Mr TONKIN: I believe the Treasurer did. If we want to turn this Chamber into a court of law and play smart-aleck tricks and say that the Treasurer did not undertake to examine the position but only to look at it, as if there is a great difference between the two, we really would be denigrating this place.

Mr Brian Burke: All that question asked was for you to give an idea of what you had found. We did not presume that you had promised to report to Parliament. We merely asked you to let us know what you had found.

Mr TONKIN: All the Treasurer said in reply to my question was that he would adhere to any promise he gave in April or May this year. That is an unsatisfactory answer.

The comments I have made indicate that we think the Bill is not adequate. Our amendments on the notice paper will improve the Bill.

We are concerned that all statutory bodies should be responsive to public needs and that we make sure they are. To do this we must ensure they come within the aegis of the proper Minister responsible and of the Parliament itself. The public have a right to greater information, and a four-page statement once a year is not enough. The public must know that the people they elect—and therefore can throw out of office—are supervising these statutory bodies rather than having these bodies out of the control of the people themselves and controlled by faceless persons. I do not refer to "faceless" people in a derogatory way; I am not saying something is wrong with them. However, they are not accountable directly to the public, and the Government must not hide behind them. The public must have the capacity to sheet home the responsibility to the people they have elected to be responsible for these statutory bodies.

MR WATT (Albany) [11.58 a.m.]: This Bill represents a fairly common-sense approach to the Motor Vehicle Insurance Trust. As the Minister said in her second reading speech, in 1974 something in the order of 40 companies were participating in the trust. I suspect that prior to that there were even more. Generally, very few companies operating in Western Australia were outside the MVIT and were not participating insurers.

Now only one company participates—FAI Insurance Group—and it has been suggested to me it is only because a certain amount of notice is required to be given to withdraw from the MVIT that FAI Insurance Group has not pulled out, because it missed the deadline by which it had to give notice. It may well be that in 12 months' time FAI Insurance Group may not be a part of the trust.

Quite clearly there is not a lot of advantage in remaining in the trust any longer. Apart from the financial aspects of participation by the insurers, the participation of the companies also produced a considerable amount of expertise which was available to manage the trust. It is a shame that expertise is no longer so readily available.

I am aware that under the proposals contained in the Bill the Minister can still appoint people to the trust who have an expertise in these matters, and some of these people will be the logical choice to be appointed to contribute to the management of the trust.

The situation under which our trust operates is much better than that found in at least some of the Eastern States. Our compulsory third party insurance is combined with the obtaining of a licence, so we have a far more streamlined and practical arrangement which is of benefit to the motoring public.

In some of the Eastern States one has to go to an insurer, whether it be Government or private—nowadays it is probably Government because most private insurers in the east have opted out of this area—and pay for a certificate which must be taken along to the licensing authority for presentation, after which one's vehicle can be licensed. So it can be seen that our system is much more streamlined.

This is a form of insurance previously administered by a group of insurers as a trust. I now question the need to have that structure retained in the form of a trust. As we have our own State Government Insurance Office, I ask the Minister: Could not the whole operation be rationalised by placing the control of compulsory third party insurance in the hands of the SGIO? I know some people will say that this suggestion is contrary to my stated opposition to an extension of the SGIO's franchise, but I will come to that in a moment. In asking my question of the Minister I make absolutely no criticism of the management of the MVIT. The people involved have done a very good job and they will continue to do so.

Nevertheless, within the SGIO we can find considerable expertise, and facilities such as computers, all in fine new premises. The building still has a couple of floors available for lease and it would seem to make a lot of sense if one or both of those floors could be used by a new section to handle this work. This would allow the MVIT building to be sold. This all seems to be a sensible and worth-while rationalisation of fairly expensive capital requirements. Other factors, both positive and negative, may not have occurred to me; however, I would like the Minister to consider my proposal and indicate whether she and the Government see merit in it. If such a proposal has not been considered I ask her now to consider it.

I commented earlier about my attitude to an extension of the SGIO's franchise. For philosophical reasons, I am opposed to such an extension.

Mr Tonkin: Why don't you close it down?

Mr WATT: The general insurance areas, those areas in which the Opposition is seeking to extend the SGIO's franchise, are adequately catered for by private enterprise. The state of the insurance industry at the moment is such that the further entry into general insurance areas of a body such as the SGIO would only aggravate the problem. Most of the companies operating at the moment

are incurring underwriting losses. That does not mean they are incurring total losses, but they are incurring underwriting losses. It is only through investment of reserves that they are able to make ends meet. The situation is aggravated by the funding arrangements for fire brigades.

People are forced to pay higher and even higher premiums, and people are becoming more claims conscious. I suppose it follows that if one is required to pay a big premium, one questions whether that premium represents good value for money. Risks which people previously regarded as reasonable to carry themselves are not now regarded in the same way. Everybody gets in for his chop to see what he can get out of insurance companies.

While making reference to the SGIO, I place on record my appreciation of the work of Harry Rogers, the recently retired Manager of SGIO. He was a tremendous asset to that institution. I am sure we all have profound resect for the job he did, and which he carried out with a great deal of competence and insurance-business acumen. I wish him well in his retirement.

The member for Morley asked, "Why don't you close it down?" Always I have supported the concept that the SGIO has a proper role to play; it has a vital role in filling a need that either cannot or will not be filled by other insurers.

Mr Tonkin: In other words, the SGIO is allowed to make a loss, but not a profit?

Mr WATT: No. The SGIO is allowed to make a profit or a loss, as are private insurers.

Mr Tonkin: The private insurers leave things alone to let the SGIO take them up.

Mr WATT: In areas of doubtful value such as workers' compensation—

Mr Tonkin: Doubtful value to whom?

Mr WATT: I ask the member to allow me to finish. Certain areas have doubtful commercial value such as the miners' diseases insurance area, which I am sure everybody would agree is an insurance difficult to evaluate; it is difficult to make an assessment of the prognosis, the life expectancy of affected miners, and the future commitment.

Mr Bertram: Is it more difficult than assessing damages for personal injuries claims?

Mr WATT: I doubt that assessing claims for personal injuries is as difficult as claims relating to miners' diseases. I accept the member may think otherwise.

Mr Bertram: Have you read some of the judgments around the place?

Mr WATT: The member for Mt. Hawthorn can think what he likes.

Mr Bertram: I am quoting judges.

Mr Young: Which judges?

Mr Bertram: Supreme Court judges, High Court judges.

Mr Young: Name one?

Mr WATT: The member for Mt. Hawthorn makes many unsubstantiated comments. When one tries to pin him down he cannot be specific. Possibly we should treat his comments with a certain amount of contempt. My point is that we have an established insurance organisation under the Government structure. The MVIT was structured to operate with participating insurers, but that part of its function has gone. Simply I query the need to continue the same form of structure for the trust when the participation need does not exist. I would be grateful if the Minister would address that query.

The Bill contains a few minor provisions, which I am sure all members will support. Provision is made for investments by the trust to be approved by the Treasury—a provision which makes good sense. Another amendment provides for the trust's accounts to be audited by the Auditor General in line with the requirements imposed on most Government departments and agencies. I am sure we all would agree it is desirable that the trust be required to produce an annual report to the Parliament.

With those comments I support the Bill.

MR BERTRAM (Mt. Hawthorn) [12.10 p.m.]: I will dispose of a little piece of unfinished business which is the difficulty of assessing general damages in personal injury claims. The member for Albany put the proposition that the assessment of damages for personal injuries as a result of motor vehicle accidents is not as intricate as is the assessment of damages in the case he mentioned. I say it is more intricate. A fairly well-known comment within the legal profession, on the difficulty involved in the assessment of personal damages claims, is that the person assessing those damages is like a blind man looking for a black hat in a dark room. That happens to be the case. I thought the member who has just resumed his seat would be aware of this comment. Whether or not the member for Albany wishes to brush aside my remarks, I ask him to wrestle with that comment.

Mr Watt: I asked you to give details if you could. I do not want the record to pass—

Mr BERTRAM: Having made those comments—

Mr Watt: —without my saying that I do not think general damages can be assessed easily.

Mr BERTRAM: —I will now proceed with the Bill. It is only a few years ago that a Government of the same persuasion as the one before us, a Liberal Party-Country Party coalition—

Mr Tonkin: You mean conservative.

Mr BERTRAM: —introduced a Bill to amend the Motor Vehicle (Third Party Insurance) Act. The Bill was designed to prevent wives suing and recovering damages under that Act from their husbands. The Bill did not attempt to preclude someone's *paramour*, a girlfriend, or a fiancee, or any other female, from suing someone successfully. That coalition Government tried to segregate a lawfully married wife from others in the community by attempting to bar her from pursuing her right of action under the Act for damages arising from negligence of her spouse.

Mr Watt: How long ago was that?

Mr BERTRAM: Thanks to the Opposition of the day—the loyal Opposition of the day, as referred to by Her Majesty—the Bill was withdrawn, and therefore the attempt by the Government was defeated. This piece of legislation, though not disgraceful, is certainly disappointing; it is a patch-up job. Sir Billy Snedden would say it is a revamp of the Act. The time is extraordinarily long overdue for something to be done about the Act's providing for claims for damages as a result of injuries sustained in motor vehicle accidents.

The Government should have long before this given consideration to amending our laws in order to provide the people of Western Australia with the opportunity and the right to recover damages for personal injuries in the absence of fault being determined. Many people in this State—I come across them from time to time—believe that, if they are injured as a result of a motor vehicle accident, they will be granted damages under the provisions of this Act. That is not the law at all. If a person is injured in a motor vehicle accident as a result of another person's negligence, and if he can prove the other person's negligence, then and only then is that person entitled to the benefits which this Act provides. That is a very unsatisfactory state of the law. The Act was reasonably acceptable in 1943, when it came into effect, but it is certainly not acceptable in 1982.

If a person is injured at work, for example, under the Workers' Compensation Act, he does not have to prove to a court or to anybody else that his injury was a result of the employer's negligence, and a person should not have to do that. Many responsible arguments have been put forward by leading lawyers throughout Australia and other people who believe in justice as distinct from law. These people take the view that in 1982 there are so many vehicles on the roads and so many people are suffering personal injuries that they should be entitled to receive damages and the time is long overdue for the law to provide for damages even if the injured person cannot prove negligence.

In Victoria, and perhaps other States, if a person is injured, the person seeking damages has the option—the choice—a non-existent choice in Western Australia—to recover damages on a no-fault basis or recover damages for negligence as he currently can do under this Act. In Western Australia that option—that choice—is simply not available.

Often there are cases involving gross negligence and yet the injured person receives no damages at all because he does not have the capacity to prove what in fact is the obvious. If that is not bad enough, it is even worse when it is understood that often the persons who suffer the worst injuries and who are therefore entitled to the greatest damages, receive no damages at all. Why is that? Perhaps the person has been rendered unconscious, he was the only person in the vehicle, or it may be that after regaining consciousness he is not able to recall the circumstances of the accident and through no fault on his part at all—and perhaps he was completely and utterly blameless and not negligent at all—he suffers personal injuries involving him in perhaps hundreds of thousands of dollars. As the law presently stands, persons in that situation do not receive one cent in damages, and that is anything but just. This Bill is a petty, tidying up, revamp Bill which, whilst we have the type of situations which I have described occurring from day to day around the State, it does nothing about it. Accordingly, this Bill reflects no credit on this Parliament at all.

I want an early attempt made to put this position right; sooner or later it will be. The public will not for too long cop this brand of injustice which I have described. Our job is to do the right thing, particularly when the facts are undisputed and well known and are so grossly unfair. We should not waste our time dotting the "i's", crossing the "t's", and restructuring the Bill on such superficial things when our task should be to get on with the business of bringing justice to all people, not just the lucky lottery winners who do not get knocked unconscious or who happen to pick up a witness somehow or other at the scene of an accident. If luck is not on a person's side, he is at grave risk of missing out even though the negligence he must prove has in fact occurred.

I direct my comments to the Government and not to members of the Motor Vehicle Insurance Trust or its staff because I have found the MVIT staff to be efficient and helpful in my contact with them. Those people must implement the Act whether or not they like the provisions of it. Their task is to give effect to the law. The Government has left the law in a most unsatisfactory state and it is long overdue for correction. Finally, referring again to damages of a third party nature, I indicate that this Act covers and provides for damages to be paid to persons only in respect of personal injury. If they lose some of their jewellery or possessions and goods which were contained in the vehicle, they cannot recover the value lost at all. It certainly does not allow people to be compensated for damage to their vehicles. The member for Murray some months ago spoke about the need for the law to be changed to meet the position that presently exists where thousands upon thousands of Western Australians whose motor vehicles are damaged as a result of the negligent driving of other people, and who have incurred other losses, are not able to recover the money involved. Why is that? The reason is that quite a few people do not insure against third party claims in respect of property damage or motor vehicle damage, and that situation demands urgent correction.

What is so different between a person's walking up to another person and stealing some money from him and a person's just driving negligently so that the innocent person is out of pocket and has no hope of recovering that money from the wrongdoer? It has the same result. One result is recognised even by the Criminal Code and the other one is condoned and nothing is done about the offence committed. If a person loses his money, he loses it, and if the law is concerned about one variety, it ought to be concerned about the other, particularly when that is the view advocated by the member for Murray, now a Government Minister. Numerous people have been denied justice in that situation and this Government should do something about this problem soon.

I believe that a streamlined, efficient, and cheap structure of insurance should be arranged to meet that type of situation, and that people who suffer damage to their vehicles should obtain judgment against the wrongdoer for repayment of that damage. Having exercised one's rights and obtained the judgment of the court or having proven one is entitled to compensation, at for considerable cost and inconvenience, one is no better off if the defendant simply does not have the means to pay.

It is just not good enough. We are living in 1982, not 1943 when this Act became law. The matters I referred to are long overdue for urgent attention. They call out for attention so that the law can take a further step towards justice.

Debate adjourned, on motion by Mr Nanovich.

GAS UNDERTAKINGS AMENDMENT BILL

Second Reading

Debate resumed from 16 September.

MR GRILL (Yilgarn-Dundas) [12.27 p.m.]: This Bill was introduced last Thursday and in his second reading speech the Minister indicated that a great amount of research, thought, and legal advice, as well as general consideration, had gone into this legislation.

As long ago as last year, it was indicated in the newspapers that the Government contemplated this legislation. Unfortunately during the last week the Opposition has not been able to give the consideration it would like to give to this legislation. So, before I make my remarks about the Bill I would like to indicate that really to do justice to this sort of legislation—which has many complexities—the Opposition would like some further time in which to take legal opinion of its own on the matter.

The legislation is far-reaching. It is unusual legislation for a free enterprise Government to bring forward. It is not a nationalisation of the gas undertaking, but it does give the Government far-reaching powers in respect of the operation of gas undertakings within the State and as such should not be dealt with lightly.

The legislation was triggered by a threat, some time ago, by the purchase of a number of shares, on the Stock Exchange, in the company, Fremantle Gas and Coke Co. Ltd. The Opposition is not aware who bought the shares, but as the Minister has done some research into the matter could he tell us by way of interjection who were the buyers of these shares?

Mr P. V. Jones: The approach to the Government last year was from Fremantle Gas and Coke Co. Ltd. seeking certain protective measures by amendment to their Act. After examination, that request was declined and that is why we have brought the matter forward—that was referred to in my speech. There were several buyers of these shares and I can quote only what I have read in the newspapers. Apparently the buyers were two major shareholders, Wesfarmers and the other is an interest associated with Holmes a Court—Offshore Oil and Company.

That does not relate to this issue, but it might be of importance to Fremantle Gas and Coke Co. Ltd.

Mr GRILL: Recently a Press article indicated that a threatened takeover was imminent and the company was concerned. Obviously the Government was concerned about the situation also and was no doubt prodded into action by the State Energy Commission.

So, we are not looking at a situation of an imminent takeover, but a situation where the Government feels it needs to ensure that the supply of gas to consumers of the company continue and that the assets of that company cannot be stripped by another company coming in, buying those shares, then stripping them and selling them.

The general aims of the Bill are laudible enough and the Opposition does not have any quarrel with them. It is interesting, as the Minister has pointed out, that Fremantle Gas and Coke Co. Ltd. approached the Government when it became aware of the imminent takeover. As a result of that approach the Government reviewed its responsibility and obligations under the Gas Undertakings Act and it is presumed that the review found the legislation to be defective and wanting in certain respects. As a result, this legislation has come before the House.

The parent legislation was passed in 1947-48 and I have not had the advantage of looking at the debate that took place at that time. It would be logical to presume that that legislation was passed in the atmosphere of postwar restrictions and postwar commodity shortages. It was probably passed by a Labor Government in 1947-48.

No doubt, at that time, strict restrictions were placed on commodities and this is probably exacerbated in the national coal strikes that took place. It is interesting that a private enterprise Government should move to pass such legislation as this, and to extend its provisions to significant spheres. It does not seem to fit too well with the philosophy of the Government because the Government usually espouses a free market and free enterprise philosophy.

Such legislation really seems to sit better on this side of the House which tends to wish to deal with the establishment of planning for future commodity supplies and control of various companies. In a philosophical sense, I do not think we really can object to the legislation. We can question the approach taken by this Government, bearing in mind the policies the Government has espoused in the past and now. Those policies have been espoused by the Acting Speaker (Mr Trethowan) also.

If the main aim of the legislation is to protect the supply of gas to consumers then we will not argue because it places a positive statutory obligation on the gas undertaker to do that job. It appears this legislation provides also a complementary duty as to the assets of that authority; that duty applies to the gas undertaker to hold the assets of a company, especially those assets which are absolutely vital to the supply in such a way that they will not be stripped by any company taking over. Therefore, under this legislation there will be a prohibition on the disposal of assets without the consent of the Minister being obtained and that will apply to land and interests in land vested in gas undertakings and other specified property relating to that company.

The Opposition understands that it is the view of the Government, no doubt from expert advice, that the procedures under this Act are inadequate. In his second reading speech the Minister indicated that the accounting and financial provisions were inadequate and easily could be flouted and that it is the Government's intention to tighten these provisions by the implementation of this Bill. The tightening up would entail the Minister's discretionary control over the future operations of the company in a financial sense. The control is not complete, but it is significant and it gives the Minister a real power in relation to the financial and accounting operations of the company. Given the previous philosophy which we have indicated, the Opposition does not disagree and raises no objections in respect of those provisions.

It is interesting to note that the present Act provides for a restriction on the level of dividend that can be paid out in profits to shareholdings of the gas undertaking. The Bill before us does not remove that restriction, but allows a more fair and equitable dividend to be paid. I understand the Government has looked at legislation in New South Wales in this regard. We cannot see any reason that a fair and equitable dividend should not be paid by those companies and the Opposition does not intend to raise any objection to this provision.

The Government appears to be concerned that the Act itself does not have enough teeth. Under the Act there is no provision for adequate measures to be taken in relation to default and the Government has planned some far-reaching measures in the Bill.

The first is to ensure that the gas undertaking, in respect of its operations and in respect of the disposal of its assets, puts up a security. That security would be lodged with the Government and

would bear interest and that interest, during the period of lodgment, would be paid to the gas undertaker. It is a fairly strong power, but that power is supplemented by further authority which would, in the event of a default, allow the Government to move for the appointment of the Public Trustee, or some other appropriate body, to act as a receiver and manager in respect of the whole operation of the gas undertaking. That is a very sweeping power and one which the Opposition presumes the Government thought about carefully before bringing down this legislation.

The receiver-manager, of course, would be subject to the orders of the court in the normal fashion and it is envisaged, in the Minister's second reading speech, that that receiver-manager would, in fact, employ a statutory authority—the SEC—to manage the operation. It is appropriate that the SEC should be the manager in those sorts of circumstances. In other words, the SEC would handle the day-to-day operations of the gas undertaking. In the Opposition's view, the Public Trustee would be an adequate receiver-manager. The Opposition has no argument about those provisions which it understands operate under the sanction of the court. In a way that would guarantee and safeguard the position of the gas undertaker company.

The Minister has indicated that as a further safeguard the legislation provides for a vesting order which would have to be communicated to both Houses of Parliament and ratified in each House before it could take effect. In this case it is proper those sweeping powers should be subject to those sorts of checks and in view of the fact that the Bill includes those provisions we do not oppose it.

Power is provided also to enter into and onto the premises of a gas undertaking to ensure, I suppose, that there is not some sort of internal sabotage—

Mr P. V. Jones: The word "safety" is mentioned.

Mr GRILL: —and to prevent danger and damage. I suppose a more blunt word would be "sabotage", but I can understand the the Government would not use that word when trying to protect a company.

The Opposition is a little surprised that a free enterprise Government which is espousing an interest in the free market should introduce legislation like this. However, the Opposition indicates it has no objection to the Bill.

Sitting suspended from 12.42 to 2.15 p.m.

MR P. V. JONES (Narrogin—Minister for Fuel and Energy) [2.15 p.m.]: I thank the member for Yilgarn-Dundas for his support of the Bill. He mentioned that there was a shortage of time, and I apologise for any inconvenience. However, I understand that the reason we are not doing other business is because of the absence of Opposition members.

Mr Davies: We would be doing the MVIT if the Minister were here.

Mr P. V. JONES: We started discussing this Bill before lunch.

Mr Davies: We started on MVIT at 11.00 a.m.

Mr P. V. JONES: I apologise if there is any inconvenience.

Mr Davies: Don't start laying blame; you are as much to blame. You are fumbling along.

Mr P. V. JONES: To return to the Bill, the member for Yilgarn-Dundas raised several matters relevant to the reasoning behind it. All the points to which he referred have been covered adequately in the second reading speech and there is no point in my taking the time of the House to go over them again. The fundamental issue in the Bill is a simple one; if any company or utility has a franchise—a monopoly within a particular geographic area—it has not only distinct advantages so far as availability of opportunity to sell its product is concerned, whatever it may be, but also distinct responsibilities. In that respect I support the comments of the member for Yilgarn-Dundas.

The underlying principle of the Bill is to ensure that the responsibilities are carried out to the benefit and protection of the customers. The criterion behind the decision to amend the Gas Undertakings Act rather than the Fremantle Gas and Coke Company's Act was that if we amended the latter it would provide some assistance, and had the Government chosen to protect that company, it would have provided protection in one geographic area and in one circumstance. It would not allow for any other cases and certainly it would give the Fremantle Gas and Coke Co. Ltd. protection to which it might not have been entitled.

Mr Grill: Are there any other cases?

Mr P. V. JONES: No; there are opportunities for others and discussions are taking place in relation to one outside the metropolitan area where gas is now tanked to a particular place by the SEC. Discussions have been taking place with a view to someone else taking that over. The member for Yilgarn-Dundas has confirmed that he sees the legislation not sitting easily with the Government and I disagree with that. The Fremantle Gas and Coke Co. has to survive in its own way and to make its own decisions in accordance with the Statute which governs it.

Reference was made to the limit on dividends. I think it was unreasonably low, given the present financial situation and the need for a company to attract investment. This Bill offers a means by which the Fremantle Gas and Coke Co. and other utilities might attract funding in the future. But in no case does it interfere with an individual company. The Bill reinforces the situation that where a company has been granted a monopoly position—a franchise, an entitlement—it must acknowledge that that carries responsibilities. In this case its responsibility is to provide gas to customers within the franchise area. The Bill protects these customers.

Mr Grill: Is the limit on dividends to prevent profiteering?

Mr P. V. JONES: Yes. I understand that was the original basis for that point and it maintains the pressure of the purpose of the company being given a monopoly. The company is there to deliver gas and it has no competition. It is able to extend its opportunities in the franchise area in any way it sees fit.

The other aspect mentioned by the member for Yilgarn-Dundas was the role of the SEC. He suggested that the SEC had advised the Government as to what could be its position. That is so, because the SEC indicated clearly it could be placed in a financially embarrassing position if it were called upon by the Government to supply a service in an area where by default or whatever reason, the utility which has the franchise declined to continue its operations.

Unless the SEC had access to the reticulation equipment and the pipeline system it could be placed in an embarrassing position. That applies not only to the SEC, but also in the case of the customers. Two matters must be ensured; first, that the customers will not be prejudiced through any change in company structure in a gas undertaking; and the second that if the SEC is appointed by the Public Trustee to provide the continuation of the service, the SEC would have the opportunity to utilise the reticulation system and the equipment involved in providing the service previously, and to be able to do that until such time as adjustments were made.

I thank the member and the Opposition for their support of the Bill.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

Third Reading

Leave granted to proceed forthwith to the third reading.

Bill read a third time, on motion by Mr P. V. Jones (Minister for Fuel and Energy), and transmitted to the Council.

ACTS AMENDMENT (RESERVES) BILL

Second Reading

Debate resumed from 16 September.

MR EVANS (Warren) [2.26 p.m.]: This Bill has about eight separate functions. It appears that it is intended to streamline further the overall land administration system in this State.

Dealing specifically with the reserves and the measures proposed, I indicate that the first amendment is to enable the Governor to create reserves for any specified purpose, rather than our having to define and update all the multiplicity of required purposes under the Act. When one stops and thinks about it, one finds this is a measure that could have quite a few benefits. Reserves are established for differing purposes, in the light of modern industry; so if it is permissible to declare a reserve for a purpose not presently specified, it obviates the necessity to bring a measure before the Parliament to enable that to be done. As I have indicated, it is a streamlining process.

The purpose of the next amendment is to empower the Governor to impose conditions and limitations on vesting orders which vest the control and management of a reserve in a board of management. This is an increasing practice, and a great number of boards of management have been established. I suppose the boards relating to Kings Park and Rottnest Island would be the best examples; but other boards have been established.

This measure probably arose because of an experience with a particular shire council which had vested in it a reserve, and which transgressed the purpose for which the reserve had been set aside and vested in the local authority. In the situation to which I have alluded, the reserve was to be used for agricultural lime, and the purpose was extended to provide fill for the extension of buildings within the district. When the development first started, the fill came from the reserve, and it was never intended, at the time of vesting, that it should be put to that purpose. Nevertheless, it was found that the shire was legally entitled to do

so, and it was acting within its rights. However, it certainly could be argued that was not within the spirit and intent of the measure.

I refer to a desirable situation where the Shire of Manjimup has had vested in it a reserve at Windy Harbour, in relation to which permission has been given to build holiday cottages. About 230 cottages have been constructed, and the shire has drawn up a plan of management. It employed a consultant, Mr John Fitzhardinge, who came to grief in his yacht down in that area. He took a personal interest in the area. His firm brought out a management plan at a cost of $7 000 in consultation with the Environmental Protection Authority and the National Parks Authority. The plan led to a desirable situation of development in which the local community has an involvement, with the shire council, the EPA, and the National Parks Authority all making a contribution, with the result that the matter is secure and well under control.

It may not be necessary to have a plan of management for every reserve, but certainly management plans should be established when the environment is fragile—coastal dune country, and places of that kind. They should be established also where tourism leads to a propensity for large numbers of people to congregate on reserves. This has been demonstrated most clearly at Ayers Rock where the numbers of tourists have, in the course of years, eroded, to the extent of about two feet, the top of the sandhill which is the most advantageous point for taking photographs.

Other instances of damage can be seen in road construction where flooding and the denudation of vegetation have occurred on the upside, and on the bottom side drought conditions have been experienced and the degradation of vegetation has taken place. Simply, the position of the road can affect the drainage and the environment, with disastrous long-term consequences. Where it is deemed desirable and necessary, a management plan should be presented by the board of management to the Minister for Lands, for his concurrence.

The corollary to this is for local authorities and boards of management to have access to the expertise that would enable the drawing up of properly documented and desirable management plans. It is easy to request that this be done; but the proper input and expertise is vital to ensure that the management plan is the most appropriate one for the area. While that cannot be written into legislation, it should be determined as policy in the implementation of this kind of measure.

I do not suspect for one moment that the provision of management plans would become mandatory. Once again, that would be something of an imposition, and it would not be acceptable to many boards of management.

The third aspect of the measure is to give power to the Governor to revoke vesting orders where reserves are placed under the control of boards of management, where this appears to be desirable and necessary. In the case of revocation, of course, there would need to be the assurance that third parties—lessees, and people of that kind—would be safeguarded. Possibly the tearooms at the John Forrest National Park illustrate that point. Once a lessee has invested a substantial amount of capital for a legitimate purpose such as that—not only a legitimate purpose, but a very desirable facility in that national park—the interests of the third party must be protected. This is provided for in the measure before us.

The next aspect of the legislation relates to the fact that the Minister's authority, rather than that of the Governor, will now be adequate to accept the surrender of land granted in trust to be used for any public purpose. This could occur in the case of a church which wished to relinquish land and, once this measure is put into effect, the Minister rather than the Governor will be able to accept that surrender. In practice, at the present time, the Minister or his department deals with the necessary documentation; therefore, it is simply a matter of obtaining the Governor's signature. As a result of this provision, the Minister will be able to sign such documents and that will obviate any delays which may have occurred in the past. That is desirable bearing in mind the pressure of modern-day Government.

The next major provision is rather interesting and has become necessary because the Act is silent on the creation of "B"-class reserves. At present reserves are classified in three categories, which are "A", "B", and "C" and each has a separate period of tenure.

The approval of both Houses of Parliament must be obtained before the designation of "A"-class reserves may be changed, and their existence is brought about by proclamation. Under the Act such requirements do not apply to class "B" reserves and it is merely a matter of gazettal. In the interests of consistency and uniformity, the Minister has presented the proposition that, likewise, "B"-class reserves be proclaimed in the same manner as "A"-class reserves and a validatory aspect applies to all previous classifications. There is certainly nothing wrong with that and the situation probably arose from an oversight in years gone by.

The Bill deals also with the repeal of outmoded provisions and consequential machinery matters which must be tidied up. The provision for alterations to "A"-class reserves to be brought before Parliament is retained and amendments to the Parks and Reserves Act are foreshadowed to enable the operation of management plans.

The only other aspect of the Bill relates to a provision which will ensure that the laws in existence at the time of a revocation will cease to have effect.

We are dealing with administrative legislation which will improve the way in which departments deal with reserves.

The Opposition supports the measure.

MR LAURANCE (Gascoyne—Minister for Lands) [2.38 p.m.]: I thank the member for Warren and the Opposition generally for their support of the measure. This is the third Bill of this nature which has been brought to the Parliament during the current session in order to streamline the administration of Crown land in this State. As I indicated in respect of the earlier Bills, these pieces of legislation could have been dealt with together, but, for ease of drafting and because they deal with separate sections of the Land Act, they have been introduced separately. However, the Bills have the same intent, which is to make for easier and more flexible administration of the Land Act and to give the Department of Lands and Surveys the opportunity to respond more quickly to the demands made on it.

The Reserves Act, with which we are dealing at the moment, relates to the management of reserves in this State. Land use and, in particular, conflicting land uses, are of much greater importance to people in the State today than they were previously when the existing provisions of the Act were designed so that the Department of Lands and Surveys could make available to a board of management an area of land which it would look after.

In the past, no-one felt it was necessary to ensure that the board of management actually looked after the reserve in the appropriate manner. Now we find that, not only is there more community awareness of the need for management plans for reserves or, for that matter, for any piece of public land, but also it is realised that some boards of management do not manage reserves in the best interests of the local area or the State.

Recently it has been brought to the attention of the Minister and the department that, in some cases, boards of management have not managed reserves in the proper manner. This occurs on only very rare occasions, because normally when an area is vested in a board of management, the people involved are aware of their responsibilities and are only too happy to ensure that the reserve is managed correctly. However, if a situation arises where the State should have the overriding ability to ensure a reserve is managed in the best interests of the State, it is clear the State should have that power, and these amendments provide it.

The reason for this legislation is to ensure correct management of reserves in this State and that, where required, management plans are submitted. That is not a new proposition. In fact, some boards of management of reserves have management plans already. The member for Warren referred to Windy Harbour in his electorate where, without being required to have a management plan, the authority felt it would be good strategy to develop the reserve in accordance with one. The member for Warren indicated the authority obtained information from experts in this regard. That is a good example of an area which is perhaps under considerable pressure from visitors or which is of a sensitive or fragile nature, where it was felt necessary that a management plan be established.

Today most people feel it is necessary to obtain expert advice and collate it in a management plan. It must be noted also that the members of boards of management change from time to time. A management plan ensures consistency regardless of changing personnel. It also provides a basic philosophy for the continued good management of the reserve.

I assure the member for Warren it is not intended that management plans should be mandatory. It would be an enormous task to require management plans for all reserves in existence both now and in the future. However, this legislation will provide the ability to require a management plan to be prepared.

The member for Warren referred also to access to expertise and I assure him it is intended the Department of Lands and Surveys should seek the necessary assistance. Wearing another ministerial hat, that of Minister for Conservation and the Environment, I assure the member for Warren the Department of Conservation and Environment provides assistance to local authorities in the drawing up of management plans and will continue to do so. Recently these situations have occurred in relation to difficult coastal areas and conservation and environment officials have met with local authorities to put together management plans for coastal zones. However, this concept can apply anywhere and I know the Department of

Conservation and Environment would be prepared to assist local authorities if they were requested to provide a management plan.

Other bodies and agencies could assist, and one that springs to mind is the National Parks Authority; it may be able to give some assistance in the management of a reserve, particularly one with some compatibility with a national park.

The member for Warren raised another point about the revocation of reserves. It is felt there may be a need for this power on very rare occasions, and if it were to be applied by the State, anyone who held a valid lease on a reserve to be revoked would have his rights protected. A person could be disadvantaged if the rights of his lease were not preserved.

The Bill deals with several other minor matters such as the surrender of land granted in trust. In future the Minister will have the power to surrender such land rather than the Governor's signature being needed. This is not an earth shattering amendment but it does highlight something I have been saying and which the member for Warren indicated; that is, such a procedure looked at in isolation might not seem to warrant change and might not seem to strengthen the administration of land at all, but when we consider the entire Land Act we find the Governor is still involved in a considerable number of areas. It is a very cumbersome procedure always to find it necessary to obtain his signature, so while this change seems very minor in this day and age we do feel it is hardly appropriate to seek his approval for such minor matters.

These are interim measures and gradually we will move to change other areas of the administration of land so that they are more appropriate to conditions applying elsewhere and so that pressure is taken off the Governor.

Mr Tonkin: Is he over worked?

Mr LAURANCE: He, like I, has to sign all the Crown grants in the State, and there are thousands of those each year. People do not realise how many documents the Governor is required to sign under the Land Act.

Mr Tonkin: It is rather absurd.

Mr LAURANCE: What is more, this is just one Act affecting him. The Governor and the Minister for Lands have to sign thousands of documents in a year, and although that situation is not being changed completely by these amendments it does give an indication of the sorts of things that still go to the Governor.

Mr Evans: It is also a growing up of the State as it starts to look after its own affairs.

Mr LAURANCE: Yes, and it is more appropriate.

The other point is that the administration surrounding the placing of something before the Governor is both complex and cumbersome, so these amendments represent a modern approach in an effort to remove some of those complexities. As I said, it is hardly an earth shattering measure but it does tidy up a number of matters while we have the Bill before Parliament.

I shall comment now on the Governor's power to create reserves for any specific purpose. Once again, the provision in the Bill is a tidying up exercise as, at present, section 29 of the Act contains a multiplicity of opportunities to create a reserve. This involves two problems. If we look through the whole list we find that a great many reasons given to create reserves are no longer necessary, and the section also shows how reserves can be created.

This Bill will allow the Governor to create a reserve for any specific purpose and will remove the 19 different subsections of section 29, which detail perhaps 100 different reasons for reserves to be created. Some of the reasons listed are rather quaint—the mechanics and miners institute was one, and that is no longer appropriate; the temperance institute; croquet clubs; rotundas and so on. Rather than adding to this list where necessary and retaining the outdated items, we are allowing the Governor to create a reserve for any specific purpose.

Mr Barnett: The Subiaco croquet club would not like you saying that.

Mr LAURANCE: A reserve still could be created for a croquet club, but the specific reference is no longer necessary. I certainly would not want to upset members of croquet clubs.

I have given an indication of how we will streamline and modernise the Act to make it easier to administer.

The member for Warren referred also to "A"-class reserves. It has been the practice always that once an "A"-class reserve is established by proclamation, if any excision from that reserve is proposed, a Bill has to come to Parliament for the approval of Parliament of that excision. So right through the State's history "A"-class reserves have been treated in a rather sacred way.

Mr Evans: If John Forrest had continued as he started there would not have been anything of Kings Park left.

Mr LAURANCE: It has been traditional that such excisions have needed the approval of both Houses of Parliament. Because these reserves

once established are rather sacrosanct, it has always been taken by the Department of Lands and Surveys that they could be added to without the approval of Parliament. This has been the practice for over 50 years. Although any diminution of an "A"-class reserve came to the Parliament, any addition was arranged merely by obtaining the Governor's approval.

In recent times it has been suggested to the department and me that this arrangement might not be able to stand up to challenge, so rather than put it to the test—and it has never been tested—it was decided that, in future, excisions and additions will come to the Parliament as part of the Reserves Bill.

Mr Bertram: What about existing additions?

Mr LAURANCE: This Bill will validate and authorise all additions approved by the Governor in good faith and at the request of Governments of all colours over a very long period of time.

Mr Evans: Is it retrospective legislation?

Mr Young: It is validating legislation.

Mr LAURANCE: The legislation is validating something which the member, the Governor, I, the Government, and the Parliament, always thought to be correct. It has never been proved to be incorrect, but while the Bill is before the Parliament, rather than leave the situation in doubt and allow someone to challenge the arrangement, it was thought better to introduce this amendment, which in fact is a move to increase the power of Parliament.

As I indicated in my second reading speech, it will be necessary to make complementary amendments to the Parks and Reserves Act. All told, these amendments are designed to streamline the Land Act, to make it more flexible and, hopefully, to serve the needs of the citizens of this State far better. I thank the Opposition for its support of the Bill.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

Third Reading

Leave granted to proceed forthwith to the third reading.

Bill read a third time, on motion by Mr Laurance (Minister for Lands), and transmitted to the Council.

BAIL BILL

Second Reading

Debate resumed from 14 September.

MR BERTRAM (Mt. Hawthorn) [2.56 p.m.]: I understand the Bill comes before the Parliament as a result largely of the work of the Law Reform Commission. We must acknowledge that fact, and the good work of that commission. It has existed in this State for approximately 10 years and has done a considerable amount of work. Perhaps justification exists for the complaint that not a sufficient amount of legislation has resulted from the recommendations of that commission.

The Bill is not contentious; in a large sense it is a legalistic piece of legislation. It is not opposed by the Opposition; in fact, it is supported by the Opposition.

We are in an era of razor gangs and expressions by the public that Parliament should be more efficient and should cut down on the rhetoric that is usually associated with Parliaments—we should get on with the job. It is less than pleasing to observe that this Bill found its way to the Parliament on 12 May this year when it was introduced in another place. Its introduction at that time is an interesting example of that which so often is the case in this Parliament; another place is largely a duplicate of this place.

Mr Tonkin: Hear, hear!

Mr BERTRAM: With some exceptions it carries out the same functions as this place, and it absorbs time and operates expensively to achieve very little. In some situations it can be seen clearly as an instrument adverse to the public interest. When all is said and done, the Government spokesman on legal matters, the Attorney General, is a member of the other place.

Mr Tonkin: Do you mean the Legislative Council?

Mr BERTRAM: I thought a rule existed to prevent us from using that description.

Mr Tonkin: You can use it.

Mr BERTRAM: Very well, I will refer to that other place as the Legislative Council or the upper House. The Opposition spokesman on legal matters, the shadow Attorney General, also is a member of the Legislative Council. The Bill wended its weary way through the processes of the Parliament. After being introduced on 12 May it was debated on 10 August and 24 August, and everything that needed to be discussed has been discussed at the highest level; that is, by the leading legal spokesmen of the main bodies within the Parliament: the Government and the Opposition.

The Bill never was regarded as contentious, and certainly was not opposed by the Opposition in the Legislative Council. What we are doing here is merely going through the motions of passing legislation; we are playing at being a Parliament. In this year of 1982 I would have thought we were out of that stage of development. We in this place can achieve nothing with this Bill. It is true a few proposed amendments were placed on the notice paper, amendments which resulted from the debate in the upper House. Those amendments could have been dealt with easily in that House. In any event, the Government decided they should be moved in this place to become law. The Opposition can do nothing to stop those proposed amendments becoming law; that is the way this place operates.

Mr Young: But you wouldn't want to stop the amendments, would you?

Mr BERTRAM: We do not wish to stop these amendments, but as a result of the way this Parliament operates, it would make no difference if we did. We all know that. In fact, no need exists for us to debate this Bill or many others.

It is desirable that on occasions we put these facts on record so that the public are aware that at least some members have those facts under consideration. We may reach the time when the public say it is time for a better functioning Parliament. Until the public reach that position and grasp the nettle, there is little that we in this place can do about the present situation.

The Opposition believes the legislation to be thoroughly desirable; it should become law as soon as possible, as should the Bill following it on the notice paper.

MR YOUNG (Scarborough—Minister for Health) [3.03 p.m.]: There is little to which I can reply in the remarks of the member for Mt. Hawthorn. However, I do ask: Should I proceed at this stage or during the Committee stage to explain the points raised by the Hon. Joe Berinson in respect of the surrender of passports? I wonder what the member for Mt. Hawthorn prefers.

Mr Bertram: It doesn't really matter.

Mr YOUNG: I will deal with it during the Committee stage.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (Mr Watt) in the Chair: Mr Young (Minister for Health) in charge of the Bill.

Clauses 1 and 2 put and passed.

Clause 3: Interpretation—

Mr YOUNG: I have two amendments in respect of clause 3, the first of which is on page 4. In moving the first amendment, which is to amend the definition of "offence", it is necessary for me to refer to the reasons for the amendment of that definition which mostly are based on the next amendment which is in respect of page 6. With your indulgence, Mr Deputy Chairman, to speed up the proceedings of the Committee, I will refer to the amendment that will be made in respect of page 6 to point out why the amendment to the definition of "offence" is necessary in this amendment.

The DEPUTY CHAIRMAN (Mr Watt): You will move one and speak more generally?

Mr YOUNG: That is exactly right, Mr Deputy Chairman. I hope that is all right with the Chamber.

The DEPUTY CHAIRMAN: Yes.

Mr YOUNG: The amendment of the definition of "offence" is brought about by the amendment which will be moved next and which arises out of the amendments to the Child Welfare Act which recently was passed. It is a 1982 Act and was apparently not in existence at the time the Bail Bill was introduced, as the member for Mt. Hawthorn correctly pointed out. The Bail Bill came in May this year and since then the Child Welfare Amendment Bill, which is the reason for these amendments, has been passed. That measure inserts new section 36 (3) and (4), 38, 39G, and 39K, into the Child Welfare Act. Also new sections 17 and 20L of the Offenders Probation and Parole Act are involved.

A person who has been found guilty and dealt with principally by the making of either a community service order or a probation order is liable in certain circumstances to be arrested and brought back before the court. The question of bail would arise under this Bill in respect of that arrest and this Bail Bill is formulated to relate to persons under arrest or in custody for an offence. The sections of the Child Welfare Act to which I referred do not necessarily constitute the fact that an offence has been committed immediately prior to the offender being brought back into court. Therefore the amendment that is described in respect of this clause on page 6 is necessary to ensure that the various sections of those Acts are specifically dealt with.

I move an amendment—

> Page 4, lines 14 to 24—Delete the definition of "offence" and substitute the following—

" "offence" means any act, omission or conduct which renders the person doing the act, making the omission or engaging in the conduct liable to any punishment, and includes an alleged offence; but nothing in this definition shall limit the operation of subsection (4) or section 15 (2); ".

Amendment put and passed.

Mr YOUNG: I move an amendment—

Page 6—add after subclause (3) the following new subclause to stand as subclause (4)—

"(4) Where a person has been arrested under section 17 or 20L of the Offenders Probation and Parole Act 1963 or sections 36(3), 36(4), 38, 39G or 39K of the Child Welfare Act 1947—

(a) he shall be deemed to have been arrested and to be in custody and awaiting an appearance in court for the offence for which the probation order, or community service order, or order under section 34 or 34B of the Child Welfare Act 1947 was made or for which the fine was imposed (as the case may be);

(b) the first appearance in court after the arrest shall be deemed, for the purposes of sections 5(1) and 8(1) and clause 1 of Part A and clause 7 of Part C of the Schedule, to be the initial appearance in court for that offence; and

(c) the proceedings following the arrest shall be deemed to be proceedings for that offence.".

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 4 to 19 put and passed.

Clause 20: Power to hear bail applications *in camera* and to prohibit publication—

Mr YOUNG: Members of the Committee in reading clause 20(1) will realise the words "to the defendant" are not necessary. If the subclause is read it is quite clear that the fourth line of the subclause refers to the avoidance of prejudice to either party and therefore the words "to avoid prejudice to the defendant" are incongruous.

I move an amendment—

Page 17, line 14—Delete the words "to the defendant".

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 21 to 68 put and passed.

Schedule—

Mr YOUNG: I move an amendment—

Page 48—Delete subparagraphs (iv) and (v).

The deletion is necessary, being consequential to the Committee's acceptance of new clause 3(4) which was moved on page 6.

Amendment put and passed.

Mr YOUNG: I move an amendment—

Page 52—Delete clause 6 and substitute the following—

"6. A probationer or offender under the Offenders Probation and Parole Act 1963 who is in custody under sections 16, 17 or 20H of that Act, or a child who is in custody under section 38 of the Child Welfare Act 1947, shall be deemed, for the purpose of determining whether clause 4 applies, not to have been convicted of the offence for which the probation order, community service order or order under section 34 or 34B of the Child Welfare Act 1947 (as the case may be) was made.".

The reason the amendment is necessary is that clause 6 of part C as presently drafted provides that where a convicted defendant is before the court for a breach of probation or community service order, his bail is to be in relation to that applicable to a defendant with full conviction. The proposed new clause 6 adds to this the case where a child has been convicted and is before a court for further sentencing after non-compliance with the terms of the initial sentence. It ties in with the spirit of the previously amended clause.

Amendment put and passed.

Mr YOUNG: Part D of the schedule relates to conditions which may be imposed on the granting of bail. During the course of debate in the Legislative Council the Hon. Joe Berinson raised a question with the Attorney General as to whether there should be a requirement under this Bill to ensure that a person applying for bail be ordered to surrender his passport.

When answering, the Attorney General understood the Hon. Joe Berinson to be referring to passbooks—which were mentioned in one part of the first clause of part D. On examining the transcript, the Attorney General became aware that the member was referring to passports. The Hon. Joe Berinson raised the question that if

power existed under the generality of clause 2(1) of part A for an authorised officer or judicial officer to impose a condition for the surrender of a passport, why was clause 1(2) even necessary. The Attorney General has looked at the matter and come to the conclusion that clause 1(2) is clearly designed to refer to monetary matters and the marginal notes indicate that clause refers to conditions relating to forfeiture and security, which may be imposed upon the defendant and sureties. The provision to which the Hon. Joe Berinson referred—clause 2(1)—deals with "other conditions" which may be imposed and the Attorney General is of the opinion that both are necessary and should stand quite properly where they are.

Schedule, as amended, put and passed.

Title put and passed.

Bill reported with amendments.

ACTS AMENDMENT (BAIL) BILL

Second Reading

Debate resumed from 14 September.

MR BERTRAM (Mt. Hawthorn) [3.20 p.m.]: This Bill has been dealt with by the Legislative Council and passed by its 32 members for that and for the other reasons stated in the debate on the previous Bill. The Opposition wishes to record that it supports the measure.

MR YOUNG (Scarborough—Minister for Health) [3.21 p.m.]: I thank the member for Mt. Hawthorn for indicating the Opposition's support of the Bill and apologise to members for not moving for a cognate debate on both Bills.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (Mr Watt) in the Chair; Mr Young (Minister for Health) in charge of the Bill.

Clauses 1 to 46 put and passed.

Clause 47: Section 94B amended—

Mr YOUNG: This is where I hope my colleagues will pay attention to what I have to say because I will ask them to vote against this clause. The section 94B referred to in this clause has been repealed by the Acts Amendments (Misuse of Drugs) Act of 1981. Therefore, it is no longer necessary for this clause to be in the Bill because it refers to a non-existent section of an Act.

Clause put and negatived.

Clauses 48 to 75 put and passed.

New clause 53—

Mr YOUNG: I move—

Page 12, after line 4—Add after clause 52 the following new clause to stand as clause 53—

Section 39C amended. "53. Section 39C of the principal Act is amended in subsection (2) by deleting "and, where it does so, shall release the child on bail, with or without sureties, to appear at the adjourned hearing".

The reason for this amendment is that the Child Welfare Amendment Act of 1982 inserted a passage in its parent Act which is inconsistent with the Bail Bill which has just been passed by this place.

New clause put and passed.

Title put and passed.

Bill reported with amendments.

ACTS AMENDMENT (MINING) BILL

Second Reading

Debate resumed from 21 September.

MR P. V. JONES (Narrogin—Minister for Mines) [3.25 p.m.]: I thank the members who contributed to the second reading debate. I do not wish to dwell on the contribution made by each member because they all supported the legislation, and the theme was that these amendments were desirable and were foreshadowed as long ago as 1978. Certainly, they were canvassed at that time.

I would like to remind members that one of the points made at the time the regulations referred to were discussed was in relation to several of the principles which are now contained within this amending Bill. There was no agreement between the relative parties in the industry regarding the measures which are now contained in the Bill.

One specific amendment refers to the limitation on the number of prospecting licences a person can hold. Indeed, many members on this side of the House discussed this matter with me, as I am sure they did with my predecessor; but since 1980, when amendments were first considered to this Statute, the matter has been canvassed considerably. It is worth reminding the House that the limitation on the number of prospecting licences held by any one person was designed to ensure the smaller prospector was in no way prejudiced by the actions of the larger companies. I have discussed this matter with the Amalgamated Prospectors and Leaseholders' Association, which has chosen to accept the arrangement whereby it is not protected in the way it might otherwise be.

However, I am happy to accept this as an amendment to the parent Act.

The intention of the provision was to ensure that if a person had more than 10 prospecting licences it would be the result of a deliberate act on the part of the Minister in granting further licences. It would not be that a person had sufficient funds or capacity that impressed the warden.

Another point to which I refer concerns the requirement to work the ground and the aspect of obligations. This was referred to by the member for Yilgarn-Dundas and the member for South Perth. The question was raised as to the basis on which conditions for work now have changed from labour conditions to financial conditions. As members would be aware, the provision of financial obligations in relation to a tenement—in theory at least—ought to make it easier to ensure a commitment to undertake works on a tenement. When one is able to include in that obligation the value of plant and labour effort, it would not be unreasonable, but if one is making a commitment it is the value of the work as against obligation.

Both the member for Yilgarn-Dundas and the member for South Perth questioned whether this would result in freeing up the land and allowing it to be worked. Mention was made of how the land was being relinquished. I think that if the land is not being worked, it should be relinquished and granted to someone else who could utilise those tenements. One point in question in relation to obligations—and indeed it was an underlying factor in my discussions with those persons concerned, particularly the Amalgamated Prospectors and Leaseholders' Association—was that as far as the 1904 Mining Act was concerned it was not so much what it said, but the way it was administered that really counted. They were comfortable with it and they knew what it meant. Had the provisions in the Act been complied with in relation to working conditions, it would have been found that the labour conditions could not be enforced. The provisions contained in this Bill concerning the working of ground will be enforceable.

What the member for Yilgarn-Dundas said is quite right—people used to apply and still do for a release from work obligations in relation to their tenements. Exemptions were granted and as a result large areas of ground held by individuals or companies were not being worked. Those days are over.

Recently a company which holds a number of tenements went through the normal channel of applying to the warden for an exemption in regard to work obligations. The application was granted and then forwarded to the Minister and the Minister refused it. It was refused because the Government now expects people to undertake work on their tenements. When the company found out that the application was not approved it immediately sought a further exemption of a few days in order that it could mobilise an exploration team to commence work on its tenements.

The point I wish to re-emphasis is that this Bill, provided it is administered correctly, will ensure that work is undertaken on tenements. People in the industry, over a period of years, will become comfortable with the Bill and will become attuned to its requirements.

In relation to section 20, there is at the present time some discussion between the Parliamentary Counsel, the mining industry, and the Pastoralists and Graziers Association of WA (Inc.) regarding its true meaning. When I say, "at the present time" I mean at this very moment. In the last two days discussion has taken place and I have been advised accordingly.

Mr Cowan: Are you talking about section 20 of the principal Act?

Mr P. V. JONES: Yes. It could mean that a prospector may not be able to travel along a road if a well on a pastoral station is within 100 metres of that road. It could mean also that a prospector might not be able to go through a gate in a fence if a well or windmill is within 100 metres of the gate, even if he were to undertake works some distance away.

Clearly that is a ridiculous situation. In case there is an impediment to the detriment of the industry, and to the pastoralists, discussions have been taking place between the two groups and the Parliamentary Counsel to ensure that the matter is clarified before the Bill leaves the House, and if necessary, adjustments will be made. I have indicated to both parties that it will not proceed until the matter is clearly spelled out, and it can be understood that we are not trying to put things in the way of people but rather to clarify a situation so that work can be carried out. However, if damage occurs to a pastoral lease, the pastoralist or occupier is entitled to have the question of compensation discussed with him. Similarly, if a prospector is prevented by a capricious occupier from undertaking exploration work, he can have recourse to a warden. I have had no objection to that from the Pastoralists and Graziers Association. They seek some form of words that will allow adequate notice and approval or permission to be gained from the occupier. I would like to move to the Committee stage and then adjourn further debate on the Bill pending

the final receipt of advice from the two parties and the Parliamentary Counsel. I thank members who have contributed to the debate.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (Mr Watt) in the Chair; Mr P. V. Jones (Minister for Mines) in charge of the Bill.

Clause 1: Short title—

Progress

Progress reported and leave given to sit again, on motion by Mr Nanovich.

QUESTIONS

Questions were taken at this stage.

ADJOURNMENT OF THE HOUSE: SPECIAL

MR O'CONNOR (Mt. Lawley—Premier) [4.16 p.m.]: I move—

That the House at its rising adjourn until 2.15 p.m. on Tuesday, 28 September.

Question put and passed.

House adjourned at 4.17 p.m.

QUESTIONS ON NOTICE

RAILWAYS: WESTRAIL

Employees: Fringe Benefits

1442. Mr GORDON HILL, to the Minister for Transport:

(1) Has he given consideration to providing retired Westrail employees who do not receive fringe benefits with passenger fare concessions on MTT buses that operate between Perth and Fremantle?

(2) If "No", will he give an undertaking to do so?

Mr RUSHTON replied:

(1) Yes. However, eligibility is restricted to those retired Westrail employees—and their wives—who enjoyed a concession prior to the changeover to buses and who—

(a) retired prior to 31 December 1979;

(b) are entitled to the issue of a Westrail permit card, and

(c) reside within the postal districts of those suburbs previously directly served by the Perth-Fremantle passenger trains.

The reduced fare applies only to the bus services nominated on the concession fare card, being those services which replaced the Perth-Fremantle suburban passenger trains.

The tickets issued under those conditions are available for transfer to suburban passenger trains within prescribed time limits but do not apply for transfer to other bus routes.

(2) Not applicable.

ROADS

Sign Posting

1443. Mr GORDON HILL, to the Minister for Transport:

(1) Are guidelines given to local authorities regarding the signposting of roadworks to indicate dangerous road conditions?

(2) If "Yes", do the guidelines suggest that such sign-posting or markings should be checked during times when the roadworks are not in progress to ensure that the markings are still in effective order?

(3) Does the Main Roads Department or the local authority have any liability should such roadworks being inadequately marked lead to accidents or injury?

Mr RUSHTON replied:

(1) Yes. The recommended practice is indicated in Australian Standards AS 1742, part 1—1975 and AS 1742, part 2—1978.

(2) These Australian standard guidelines indicate that such signs and devices should only be displayed whilst works are in progress or the hazard exists, and that they should be kept clean and in a good state of repair. The responsibility for the signing would rest with the appropriate construction authority which could be the local authority, Main Roads Department or other public utility providing services in the road reserve.

(3) The question of liability in any particular case would naturally depend on the circumstances of that case. I suggest that if the member has a particular set of circumstances which need investigation he should contact the authority responsible for the works. If any doubt exists as to who is responsible, inquiries directed to the local authority or the Main Roads Department could be made in the first instance.

RECREATION: OFF-ROAD VEHICLES

Trail Bikes: Mundaring and Swan Shires

1444. Mr GORDON HILL, to the Minister for Local Government:

On which areas within—

(a) the Shire of Swan; and
(b) the Shire of Mundaring,

is trail bike riding permitted?

Mrs CRAIG replied:

(a) (1) All that portion of land comprising lots 35 and 36 of Swan location K1 (Victoria Street, Beechboro).

(2) All that portion of land comprising lot 1 of Swan location 1317, lot 82 of Swan location 1310, and portion of lot 63 of Swan locations 1310 and 1317 (Toodyay Road, Red Hill).
NOTE: This site is on the boundary of both Councils, with portion of it in both districts.

(b) Portion of Reserve 6203 (Old Northam Road, Chidlow).

RAILWAYS: MIDLAND WORKSHOPS

Modernisation

1445. Mr GORDON HILL, to the Minister for Transport:

(1) Will he provide the details of the modernisation programme which he recently gave to shop stewards at the Midland railway workshops?
(2) Which person or persons did he communicate this information to?
(3) When did that communication take place?

Mr RUSHTON replied:

(1) to (3) The member appears to have misconstrued what occurred when I visited the Midland Workshops last month.

What I said then was that the people working there were badly uninformed and misled in regard to what is happening in the Midland Workshops. Obviously the shop stewards were not satisfactorily passing down the full facts for the workers to be properly informed. I can only conclude that this breakdown in the normal communication line to the men was deliberate and politically contrived.

I believe it is important that the men should be aware of the $5 million five-year modernisation programme which is underway at the workshops. I made this point clear to shop stewards at the workshops on 11 August.

I am aware that the workshops management previously had explained fully to the shop stewards details of the ongoing upgrading programme, which includes improvements to amenities in work areas. However, shop stewards showed a total lack of consideration for the men in not passing that information on to them.

As a result many man days of work were lost through a pointless work stoppage, simply over a lack of awareness by the men of the amenities which are being provided. This was particularly disappointing.

I discussed the communication problem with the Commissioner for Railways and the Westrail management is taking action to overcome the shortcomings of the shop stewards so that information can get to the men on the shop floor.

OFFENDERS PROBATION AND PAROLE ACT

Amendment

1446. Mr GORDON HILL, to the Minister representing the Attorney General:

(1) Is it a fact that the Government intends introducing amendments to the Offenders Probation and Parole Act?
(2) If "Yes", when?

Mr RUSHTON replied:

(1) Yes.
(2) Notice of the Bill has already been given in the Legislative Council.

EDUCATION: DEPARTMENT

Land: Wanneroo Shire

1447. Mr GORDON HILL, to the Minister for Education:

(1) How much land is vested in the Education Department within the Shire of Wanneroo?

(2) How much of that land is currently not being used by the Education Department?

(3) What plans does the Education Department have for the development of unused land in the Joondalup area in the next five years?

(4) How much land vested in the Education Department in the Joondalup area is currently unused?

Mr CLARKO replied:

(1) There are 36 sites on which schools have been built to date.

(2) Five vacant school sites are reserved in areas of current or future housing development.

(3) and (4) No school land has been reserved in the Joondalup area as negotiations concerning identification of suitable sites are still proceeding.

1448. *This question was postponed.*

WATER RESOURCES: IRRIGATION

Carnarvon

1449. Mr EVANS, to the Minister for Water Resources:

(1) How many water allocations have there been issued within the Carnarvon irrigation district in each of the past five years?

(2) (a) Have any of these allocations been resumed or returned;

(b) if "Yes" to (a)—

(i) have any been re-allocated;

(ii) to whom were they re-allocated;

(iii) were any of these quotas re-allocated in part, and if so, to whom?

(3) Are there any water quotas in the Carnarvon irrigation district unallocated at this time?

Mr MENSAROS replied:

(1) 1978 Full allocations were granted to nine growers who had part allocations previously;
eight new allocations were granted.
1979 Nil.
1980 A one-tenth allocation granted to a nursery.
1981 Nil.
1982 Nil.

(2) (a) Two allocations were withdrawn for nonconformance with conditions.

(b) (i) No;
(ii) Answered by (2) (b) (i);
(iii) No.

(3) No. A review in 1981 showed that current allocations fully commit existing resources.

ADVISORY COMMITTEES

Membership

1450. Mr BRYCE, to the Deputy Premier, Minister for Transport, and Emergency Services:

(1) In respect of the following bodies—

(a) Western Australian Coastal Shipping Commission;

(b) the Taxi Control Board;

(c) the Transport Advisory Council;

(d) the Transport Users Board;

(e) Eastern Goldfields Transport Board;

(i) who are the people who comprise the membership of such bodies;

(ii) what is the occupational background of each member;

(iii) what is the term of appointment to each body and when was each member appointed;

(iv) on how many occasions did the bodies meet during the last financial year; and

(iv) what is the amount and basis of payment of financial allowances to members of each body?

(2) What other departments, statutory corporations, regulatory bodies, quasi-judicial bodies, trustees and advisory committees are responsible to him as Deputy Premier, Minister for Transport, and Emergency Services?

Mr RUSHTON replied:

(1) and (2) The information sought by the member for Ascot is not readily available to enable a prompt and complete answer to his question. I will write to him with the details required.

GOVERNMENT DEPARTMENTS AND INSTRUMENTALITIES

Mr Syd Corser and Mr Denis Horgan

1451. Mr PEARCE, to the Premier:

(1) Are Mr Denis Horgan and Mr Syd Corser members of any State Government boards, authorities or other Government bodies?

(2) If so, which ones?

Mr O'CONNOR replied:

(1) and (2) See answer to question without notice of 22 September 1982.

RAILWAYS

Coaches

1452. Mr McIVER, to the Minister for Transport:

(1) What are the various types of rail passenger coaches currently in service with Westrail and during what years was each type constructed?

(2) How many coaches is it currently proposed to scrap?

(3) What type are the coaches proposed to be scrapped?

Mr RUSHTON replied:

(1) It is assumed that this question related to the suburban passenger coaches which have been used for excursions and the answer has been framed accordingly.

Number of wagons	Year
1 AY	1924
4 AY	1945
2 AYB	1946
2 AYE	1958
1 AYE	1955
2 AYE/V	1955
2 AYE/V	1958
5 AYF	1955

AYE/AYF types were re-builds on underframes constructed originally in the 1885-1899 period. All have wooden frames and superstructures.

(2) There is a proposal to scrap 12 coaches.

(3) 5 AYF
2 AYE
4 AYE/V
1 AY
It should be mentioned, however, that Westrail is now carrying out a close assessment of the structure and safety of the carriages. When this is completed I will then be able to determine with the commissioner whether they can be retained for occasional use.

EDUCATION: PRIMARY SCHOOL

Canning Vale

1453. Mr PEARCE, to the Minister for Education:

(1) What arrangements are to be made to bus children to other schools when the Canning Vale primary school closes?

(2) How many children is it estimated will need to be transported to other schools—

(a) when Canning Vale closes;
(b) in 1988?

(3) What is the estimated cost of this transport—

(a) when the school closes;
(b) in 1988?

Mr CLARKO replied:

(1) Accommodation is available at either the Lynwood or Langford primary schools and the present bus service can be used.

(2) (a) 73 primary and 35 secondary students;
(b) 100-110 primary and 40 secondary students.

(3) (a) These children are being transported already by an MTT bus which goes to the Lynwood Senior High School. Any extra costs would be minimal above the present cost of $216 per day;
(b) There would be escalation of costs but a prediction of 1988 charges is not possible.

WATER RESOURCES: IRRIGATION

Carnarvon

1454. Mr EVANS, to the Minister for Water Resources:

(1) (a) When is it expected that further quotas will be available for allocation in the Carnarvon irrigation district, and

(b) how many is it expected will be available?

(2) What is the basis of priority upon which such quotas will be allocated?

(3) How many applications for quota are being held at the present time?

Mr MENSAROS replied:

(1) and (2) Irrigation supplies have been pegged at Carnarvon since 1981 and no further allocations are contemplated.

(3) Applications are received from time to time. Each applicant has been advised that no further allocations will be granted.

FUEL AND ENERGY: GAS

North-West Shelf: Dampier-Wagerup Pipeline

1455. Mr CARR, to the Minister for Resources Development:

With reference to the announcement in *The West Australian* of Tuesday, 21 September, that a spur line off the North-West Shelf gas pipeline will be constructed into Geraldton, will he please provide me with details as to the stage of planning and negotiation that has been reached, including such points as—

(a) proposed route;
(b) size of pipeline;
(c) construction timetable;
(d) available volume;
(e) markets established or projected;
(f) whether for industrial and/or domestic use?

Mr P. V. JONES replied:

The Premier's announcement confirmed the Government's intention to make gas supplies available in Geraldton at the earliest opportunity for domestic and industrial use.

Plans for a feeder line have now been included in the scope of the overall project, and preliminary design work and route selection is being undertaken.

A survey is being undertaken by the Geraldton regional development committee, in conjunction with the State Energy Commission, to determine the market for natural gas in the area.

TRAFFIC: MOTOR VEHICLES

Headlights

1456. Mr CARR, to the Minister for Police and Prisons:

Is his department aware of any provision in Western Australia which requires a motorist to dim his lights when following closely behind another vehicle?

Mr HASSELL replied:

No. However, it is acknowledged that this is a good driving practice and courtesy and one which is expressed in the Police Department's "Drive to Stay Alive" booklet issued to applicants for drivers' licences.

COURTS: BUILDING

Security Agents

1457. Mr CARR, to the Minister representing the Attorney-General:

(1) How many security agents are employed at the new law courts complex?

(2) What is the cost of the contract for the employment of such security agents?

(3) What is the comparative cost of employing the same number of police officers to do the same job?

Mr RUSHTON replied:

(1) Monday to Friday: 8.00 a.m.-6.00 p.m.—seven guards; 6.00 p.m.-8.00 a.m.—three guards. Weekends: three guards—24 hours per day.

(2) $308 239 per annum, based on current costs.

This includes salaries and wages, provisions for long service leave, superannuation, sick and holiday pay, pay-roll tax, overheads, workers' compensation, and administration.

(3) So far as the Police Department is concerned, it is not possible to give an accurate assessment at short notice of the cost of all factors included in the contract price. However, wages are a significant component of the total cost and an examination of the relevant wage rates is appropriate. The base weekly rate for a security guard (excluding shift and overtime allowances) is $209.50 per week. The rates for police constables (excluding shift, overtime, and other allowances) range from 297.48 for a first year constable to $385.86 for a senior constable. This indicates that the present arrangement, based on the same number of personnel, would be less costly than employing police officers.

ELECTORAL

Returning Officers

1458. Mr CARR, to the Minister representing the Chief Secretary:

With reference to the article in *The Geraldton Guardian* of 17 August which advises of the appointment of returning officers for the forthcoming State election, does this appointment make the persons concerned eligible to witness electoral claims under the category of electoral officers between now and the closure of the rolls?

Mr HASSELL replied:

Yes.

EDUCATION: TECHNICAL

Colleges: Country

1459. Mr CARR, to the Minister for Education:

(1) Is the Government considering taking any more country technical colleges out of the technical college system to re-create them as autonomous local colleges in the style of the Kalgoorlie College?

(2) (a) If "Yes", which colleges are the subject of such consideration; and
(b) what stage of consideration has been reached?

Mr CLARKO replied:

(1) and (2) Not at the present time.

EDUCATION

Country Hostel: Geraldton

1460. Mr CARR, to the Minister for Education:

(1) Has further consideration been given by the Government to the establishment of a residential hostel at the Geraldton Technical College?

(2) If "Yes", what is the present status of such a proposal?

Mr CLARKO replied:

(1) Yes.

(2) Because of the incidence of similar requests from other regions within the State it has been decided that a Statewide survey of the need for technical college residentials should be undertaken. When the results of this survey are available it will be possible to assign priorities to the development of this type of facility.

CULTURAL AFFAIRS

Geraldton Museum

1461. Mr CARR, to the Minister representing the Minister for Cultural Affairs:

(1) Has the Government given any further consideration to the need for displays and display cabinets to be provided at the Geraldton Museum?

(2) If "Yes", what is the present status of such a proposal?

Mr HASSELL replied:

(1) Yes.

(2) Subject to Budget discussions.

ALUMINIUM SMELTER

South-west: Land

1462. Mr COWAN, to the Minister for Resources Development:

(1) With regard to proposals to establish an aluminium smelter in the south-west of the State, has any land been alienated or resumed for the smelter site?

(2) Has any land been alienated or resumed to provide a buffer zone between any proposed smelter and the dairying industry?

(3) If land has been resumed for the purposes of (1) or (2), what is the area of land resumed?

(4) Has any investigation been made into the possible pollution of the atmosphere, irrigation channels and water resources of the region, from fluorides and other industrial pollutants?

(5) If a smelter is established in the dairying region of the south-west, what are the prospects of neighbouring dairy farmers being forced to relinquish their farming operations because of it?

Mr P. V. JONES replied:

(1) No land has been alienated or resumed by the Crown for a smelter site.
(2) No.
(3) Not applicable.
(4) The general environmental impact of an aluminium smelter is well known. Site specific studies would need to be undertaken once a site is selected. These studies would be part of an ERMP that a smelter proponent would be required to prepare.
(5) Negligible.

RAILWAYS: WESTRAIL

Chief Staff Officer

1463. Mr McIVER, to the Minister for Transport:

(1) For how long has the position of chief staff officer, accounts and audit branch, Westrail, been filled in an acting capacity?
(2) When will the position be advertised and permanently filled?
(3) What is the reason for the delay in filling the position?

Mr RUSHTON replied:

(1) Since the retirement of Mr R. J. Martin in February 1981.
(2) During October 1982—re-titled "personnel records administrator".
(3) Complete restructuring of accounts and audit branch.

QUESTIONS WITHOUT NOTICE

RAILWAYS : FREIGHT

Joint Venture : Statements

526. Mr SIBSON, to the Deputy Premier:

(1) When the Deputy Premier last Tuesday attended the south-west regional development committee meeting in conjunction with the Minister for Industrial, Commercial and Regional Development, was the matter of the Government's land freight policy raised and if so, what was the outcome?

Mr Pearce: There goes question time.

Mr SIBSON: To continue—

(2) In view of the continuing attacks by Opposition spokesmen on the Total West joint venture, has the Minister seen the *Kalgoorlie Miner* of 22 September?
(3) Does the report demonstrate how the Opposition is prepared to make wild, inaccurate and totally irresponsible allegations in its efforts to damage the joint venture?

Point of Order

Mr PEARCE: We have been getting these "Dorothy Dix" questions asking for Minister's comments on alleged Opposition attitudes, but very few have gone to the extremes of hyperbole as in the last paragraph of the member's question. I would ask you to rule on the relevance or admissibility of that part of the question in which the member asked for an opinion on his assertion of what an Opposition spokesman had said.

The SPEAKER: Clearly, no Minister may be asked to express an opinion. Often in their replies to questions, Ministers express opinions, but there is a difference between a Minister expressing an opinion as part of his answer and the Minister being asked to express an opinion. There are particular forms in which questions must be asked, but there is very little in the way of rule with respect to the way in which the question can be answered.

The first part of the member's question is perfectly in order in that he asks the Minister to respond to a query on the Government's land freight policy. But the part of the question which asks the Minister to comment on his opinion about some other matter is not in order.

Questions (without notice) Resumed

Mr SIBSON: I believe the second part of my question is in order, and with your indulgence Mr Speaker I will repeat it. It asks—

(2) In view of the continuing attacks by Opposition spokesmen on the Total West joint venture, has the Minister seen the *Kalgoorlie Miner* of 22 September?

Mr RUSHTON replied:

(1) Yes. The Minister for Industrial, Commercial and Regional Development and I attended the south-west regional development committee meeting at Collie.

Mr Davies: That is all we want to know.

Mr RUSHTON: I attended in order to answer any queries they had relating to transport. The matter was on the agenda and it was a very worth-while meeting. I will not elaborate on it except to say that members present came from all sections of the south-west, and they indicated to me and to those present that the policy was working. They were concerned that there might be too much service and that the freight rates had been reduced so substantially that they would not be retained. I confirmed to them that in my judgment a town like Manjimup would not sustain 10 services and that that situation would shake out and settle down. I said the service and the freight rate would be an advantage to them compared with what they had experienced before.

(2) This question is very relevant, and I want to comment on it because I have a copy of the *Kalgoorlie Miner* of 22 September.

Mr Davies: He never goes out without one!

Mr RUSHTON: I appeal to the media to allow the Government to repudiate incorrect statements or untruths projected by the Opposition. The matter referred to relates to a Norseman businessman. The newspaper quotes the untruths presented by the member for Avon and this is the reaction—

> A Norseman business man, Mr Sergio Divitini, called on Mr McIver to give an apology for making such a statement.

Later on he says—

> "The statement is ridiculous. If the shelves are not stocked, it is not the fault of Total West. I can't understand where he got the information from."
>
> Mr Pat Hogan, who also runs a grocery store—

Mr Pearce: "Hogan" or "Horgan"?

Mr RUSHTON: To continue—

> —and spokesmen for the Norseman Newsagency and the Norseman Drive-in said it appeared that Mr McIver's statement was a continuation of a campagn against Total West.
>
> "We have had no major problems," he said.
>
> "We've got to be thankful for the service inasmuch as we are a relatively isolated community".

Then the article quotes the remarks of the shire president of Dundas.

Mr Barnett: Have you checked the veracity of those statements before reading them to the House?

Mr RUSHTON: The article goes on—

> The Dundas shire council president, Mrs Virginia Wintle, said Mr McIver's statement was not accurate.

All I am doing is bringing before the House a fact which I have not been able to get across to the public because our Press does not print rebuttals of statements such as those made by the member for Avon.

The claim was made that I had misquoted figures. I referred to the quarterly report on the trading position. The figures were accurate, but the member for Avon hit the headlines when he claimed that members of Westrail had resigned because they had presented inaccurate figures. Nothing more has happened about that matter. The statement made by the member for Avon was totally untrue, but unfortunately, his claim went to the public and the Press has not printed my rebuttal of it.

Mr Davies: If you recall, they did not print at all this morning.

Mr RUSHTON: We have a woodpecker on the other side, but I will just ignore that.

Mr Pearce: When one has a wooden head, one has to be pretty concerned about woodpeckers.

Mr RUSHTON: The claim was made that the Commissioner for Railways had opposed the new freight policy at the time of the introduction of the joint venture. The commissioner disowned that comment. He was very emphatic in saying that we have been successful in making the changes and that these changes will be in the best interests of Westrail and transport in WA. It would be appropriate for the media to put that side of the picture.

FUEL AND ENERGY: GAS

North-West Shelf: Flare Towers

527. Mr HARMAN, to the Minister for Resources Development:

(1) Is he aware that the North-West Shelf development project will shortly or has already accepted a tender for the construction of flare towers outside Western Australia?
(2) Does he know that the value of such a contract is more than $1 million?
(3) Does he know that firms in Western Australia are capable of constructing such flare towers?
(4) What action has he taken to ensure that firms and Western Australian workers have the opportunity to construct such flare towers?

Mr P. V. JONES replied:

(1) to (4) Yes I am aware of this matter, and it is the subject of discussion with Woodside Offshore Petroleum Pty. Ltd. at the moment.

TELEVISON

Programmes: Control

528. Mr DAVIES to the Premier:

(1) Does the Government believe that the control of television programmes to remote areas by satellite should remain primarily with the local television channels?
(2) Is the Government aware that Eastern States channels, either collectively or independently, are endeavouring to obtain control of the available satellite transponders in order to beam programmes direct to remote areas of WA?
(3) If the Government believes WA programmes should originate locally, will he convey this view forcibly to the Federal Minister for Communications?

Mr O'CONNOR replied:

(1) to (3) Yes.

TOURISM: DEPARTMENT

Tent

529. Mr NANOVICH, to the Minister for Tourism:

Will the Minister notify the House of the situation concerning the Department of Tourism's sale of the tent which was used recently as an exhibition venue for the 12th International Congress of Biochemistry?

Mr MacKINNON replied:

I thank the member for some brief notice of the question. Firstly, I can inform the House that, as reported in the media, the tent was advertised for sale. We bought the tent approximately 18 months to two years ago for the biochemists' conference and after that conference, we wanted to see whether we could obtain a reasonable price for the tent. That proved not to be the case. After about nine telephone inquiries we received two firm offers for the tent, but neither was satisfactory.

So, the decision has been made not to proceed with the sale of the tent but to continue to search for possible uses of the tent in WA. We have received already an expression of interest in it for use at the world veterinarians' conference next year. I might add that the value of the international biochemists' conference to WA was estimated to be in the order of $1.2 million.

HEALTH: NURSES

Shortage

530. Mr HODGE, to the Minister for Health:

(1) Is he aware of any shortage of nursing staff in hospitals and particularly in country hospitals throughout the State?
(2) If "Yes" could he provide details of the shortages and of any steps he is taking to overcome the problem?

Mr YOUNG replied:

I thank the member for some notice of the question, the reply to which is as follows—

(1) Yes.

(2) There are around 100 vacancies in nonteaching hospitals. Advertisements for recruitment, both interstate and overseas, has been carried out. At present, 16 nurses from the United Kingdom await processing of visa applications. The current shortage in the country is partly seasonal and partly due to additional beds being opened in the metropolitan area so that fewer nurses apply for country postings.

I think members will realise that some large additions to metropolitan hospitals have been opened recently and this has encouraged nurses to stay close to the metropolitan area.

There is no proof at all that economies have affected the overall number of nurses in employment.

A preliminary study carried out by Charles M. Campbell and Associates in 1981 indicated that the number of nurses in training was adequate as a long-term programme, but temporary shortages could occur when large organisations are commissioned.

In conjunction with the Nurses Board of Western Australia, I have recently approved a broad-based committee to examine nursing manpower needs.

In addition to the information contained in the typed answer, I would like to say that the decision to close temporarily part of the Bunbury Regional Hospital from 30 September was announced recently. This action is the result of the shortage of nurses. However, I stress to the House that no uninsured person or pensioner—or indeed anyone needing urgent surgery—will ever be turned away. Only non-urgent or elective surgery will be restricted until the trained nursing staff is back to full strength. That was decided by the city's doctors and the hospital administrators. As a result of the same situation, similar tightening procedures may be necessary at Geraldton and Kalgoorlie.

Mr Hodge: What a disgrace.

Mr YOUNG: The member for Melville probably has that phrase as an implanted recording in what exists in his head. The word "disgrace" flies readily to his mind.

Mr Hodge: Can't you even run the State's hospitals without closing some down?

Mr YOUNG: One would think he would like it if we had some 300 or 400 nurses out of work at all times—

Mr Hodge: You will be locking the front doors at RPH next!

Mr YOUNG:—then there would never be the slightest shortage. The idea of the member for Melville would be to have an optimum number out of work—never too many or too few—and we would not than have these seasonal problems. It is better to live with adjustments than to have a lot of people out of work.

Mr Hodge: Gross mismanagement on your part.

Mr YOUNG: As an incentive to attract nurses from the Eastern States—

Mr Hodge: You were sacking them about 12 months ago.

The SPEAKER: Order! The member for Melville will cease interjecting.

Mr YOUNG: As the member for Melville wants to take up so much of question time, perhaps by interjection he could tell me which nurses were sacked?

Mr Hodge: You have just had about 400 sacked. You know very well.

Mr YOUNG: A slight difference from the earlier interjection of the member for Melville. He is long on rhetoric, short on fact.

Opposition members interjected.

Mr YOUNG: I stress that the shortage of trained nurses is a temporary situation. The hospitals will continue to function, and to provide full emergency and surgical facilities, much to the disappointment of the member for Melville who makes it clear every time he stands in this place, that he would much rather see chaos in the hospitals.

Everything that can be done has been done by the administration of the Hospital and Allied Services Department to maintain a proper equilibrium in training and staff matters.

For at least 12 months, the member for Melville has been badgering me about certain additions to the Royal Perth Hospital. They, he says, are of

paramount importance to the future medical services of this State. He knows, I know, and everyone in this Chamber knows, that the minute a large teaching hospital addition comes onstream, extra staff are needed, creating a shortage in the number of nurses avialable.

Mr Hodge: Bad planning!

Mr YOUNG: I think the member for Melville is saying we should gear our nursing school intakes for peaks so that one year we would have 200 or 300 in a school, and the next year none, or that we could let unemployment of nurses run at high levels until large additions were opened, then the situation would level out.

The member for Melville has as much concept about health and planning matters as he would have in respect of flying something to the moon.

Only non-emergency and elective surgery would be affected at any hospital.

PORT: ALBANY

Employment

531. Mr STEPHENS, to the Minister for Transport:

Recently the Minister said in this House that the meeting at Albany was a Government policy-making meeting, and that the member for Stirling was not invited to attend because he was not a member of the Government. The Minister said also that it was a public meeting relating to policy decisions, and it did not affect the member because he was not a member of the Government

The meeting referred to was concerned primarily with permanency on the waterfront. Apart from representatives from the Waterside Workers Federation, also present were representatives from the Albany Chamber of Commerce, the shipping companies, the stevedoring companies, and, I understand, the town council. I ask—

(1) By what definition were these representatives accepted as members of the Government?

(2) In what manner did he receive an assurance that they were all members of the Liberal Party, or faithful followers of that party?

(3) If, as the Minister claims, it was a public meeting, why was attendance possible on invitation only?

Mr RUSHTON replied:

(1) to (3) All the people were invited, because we were there on a Government policy matter, to solve a problem at the Port of Albany. It was not in the electorate of the member for Stirling that we were pursuing that issue. If he would like to continue with this matter, I will be happy to answer any other questions.

CONSUMER AFFAIRS

Motor Vehicle Parts

532. Mr WATT, to the Minister for Consumer Affairs:

I address my question to the Minister for Consumer Affairs—

Opposition members interjected.

Mr WATT: Dry up!

Mr Pearce: That is a good thing for a Deputy Chairman of Committees to say.

Mr WATT: There is nothing wrong with it.

Mr Carr: A bit of decorum in this place!

The SPEAKER: Order!

Mr WATT: Is the Minister aware of a complaint to the Bureau of Consumer Affairs concerning a steering and pedal lock for motor cars advertised, imported, and sold by the firm of Marlow Industries?

Mr SHALDERS replied:

Yes. In an advertisement the lock is described as a "steering and pedal lock" with the caption "protect your investment". On the package itself—I happen to have one with me—

Mr Davies: He never goes out without one.

Mr SHALDERS: —the lock, which has the trade name "Oney" and is described as being made in Taiwan also, is claimed to provide "low cost auto theft protection".

I do not know the definition of "low cost"; but this particular item is priced at $8.25.

It was found by the complainant and acknowledged by the firm selling the lock

that all locks could be opened by a number of stock keys. It was further found by the complainant that even the point of a knife could open the lock.

An officer of the bureau purchased two locks and associated restraining rods.

I have a sample of a lock with me in the House. Keys were found to be interchangeable and in fact the locks could easily be opened by twisting a device such as a paper clip.

Clearly these articles are not fit for the purpose for which they have been sold and, therefore, are unmerchantable under the Sale of Goods Act and the Trade Descriptions and False Advertisements Act. Consumers therefore are entitled to a refund from the trader.

The matter is being examined as one of misleading advertising and prosecution may follow.

Mr Tonkin: Are you saying a cash refund?

Mr SHALDERS: I ask my fellow member from Albany to hold the bottom of this device so I can demonstrate it.

Mr Pearce: A pick-lock!

Mr SHALDERS: Obviously the people who have been sold these anti-theft devices could not really have been said to have received a good deal. I suggest that they present themselves at the company to claim a refund.

CONSUMER AFFAIRS

Motor Vehicle Parts

533. Mr TONKIN, to the Minister for Consumer Affairs:

Is the Minister saying that because the anti-theft devices are not of a merchantable quality, the people who buy them are entitled to a cash refund?

Mr SHALDERS replied:

No, I am not saying they are entitled to a cash refund. I believe that it is incumbent upon the firm to provide them with a cash refund. Should the firm fail to do that, it would be best for the people to seek action through the Small Claims Tribunal.

PUBLIC WORKS: DEPARTMENT

Gauging Stations

534. Mr HERZFELD, to the Minister for Water Resources:

(1) How many gauging stations are operated by the Public Works Department on rivers and streams in country areas of the State?

(2) What information is obtained from these stations, and for what purpose is it used?

Mr MENSAROS replied:

(1) The total number of gauging stations operated by the Public Works Department is 290, with 37 being for the purpose of land use research and 20 for special purposes such as measuring reservoir inflows.

(2) Information is obtained concerning the quantity and quality of the State's surface water resources and the variations of river and stream flow seasonally and in wet and dry periods.

The information is essential for efficient management of the water resources of the State and provides basic imput to planning studies for future resource development projects. The information gathered has been of inestimable value in the Pilbara region and in formulation of policies to conserve fresh water resources in the south-west of the State.

I might add that the Public Works Department is a leader in this field of water resource assessment and management. It has a system of information gathering and analysis second to none in Australia.

LAND: FOREIGN OWNERSHIP

Committee

535. Mr DAVIES, to the Premier:

(1) Has the Cabinet subcommittee dealing with the foreign ownership of land in Western Australia yet completed its deliberations?

(2) If so, will the result of its deliberations be made known to the Parliament?

(3) If not, when is it likely they will be completed?

Mr O'CONNOR replied:

(1) No.

(2) Not applicable.

(3) I am not sure, but if the member would like to place a question on notice, I will come back to him with the details.

REGIONAL DEVELOPMENT

South-west

536. Mr SIBSON, to the Minister for Industrial, Commercial and Regional Development:

Would the Minister advise the House of the outcome of matters raised by the members of the south-west regional development committee meeting last Tuesday, which he attended in conjunction with the Deputy Premier?

Mr MacKINNON replied:

As the member would know, the Deputy Premier attended the meeting and I thank him for his attendance. He has made the offer to attend other similar meetings to discuss the question of the new transport policy.

By and large that policy has been accepted favourably by all the community in the south-west. The committee brought to our attention the whole question of harbour facilities for fishing and recreation purposes in the south-west and it carried motions in relation thereto. We were able to assure the committee that the announcement on Monday of the supply of gas to Bunbury certainly would not have an adverse impact on Collie. Indeed, the situation would be in the reverse and it would favourably affect Collie and the whole of the south-west. We were able to assure the committee of the Government's continuing support for the Manjimup cannery and that announcement was welcomed also by the committee. Regional development committees play an important role in country areas. The changes made recently have improved the role of the committees and further proposed changes will improve their efficiency and capability to assist the Government in long-term planning for the regions they represent.

CONSUMER AFFAIRS: SMALL CLAIMS TRIBUNAL

Cash Refunds

537. Mr TONKIN, to the Minister for Consumer Affairs:

We are reaching new lows in this place and it seems as if members of the Ministry are being slippery and not giving straight answers to questions.

Mr O'Connor: Mr Speaker, I take exception to that.

Mr TONKIN: The Premier should listen to my question and then tell me whether he still takes exception to it.

Mr O'Connor: I take exception now.

Mr TONKIN: The Premier should listen to my question and tell me when I finish whether he takes exception to it. In answering the previous question, the Minister for Consumer Affairs said that people were entitled to get back their money. In order to clarify the matter I asked, "Are they entitled to a cash refund?" He said, "No." If getting money back is not a cash refund, what is it?

The Minister then said these people should go to the Small Claims Tribunal and that it was incumbent on the firm to return the money.

I ask the Minister again—

If people buy goods which are not of merchantable quality, pursuant to the Trade Descriptions and False Advertisements Act and the Sale of Goods Act, are they not entitled to receive their money back; in other words, are they not entitled to a cash refund?

Mr SHALDERS replied:

The member for Morley has been in this place longer than I and he should know it is not within the province of a Minister to give an interpretation of a point of law. I thought the member would have known that, but I am happy to inform him of it in this place. In this particular instance there is a moral obligation—

Mr Tonkin: A legal obligation!

Mr O'Connor: You are giving a legal opinion!

Mr SHALDERS: I am not prepared to say a legal obligation exists, because I do not intend to interpret the law.

Mr Tonkin: You did previously to your colleague.

Mr SHALDERS: However, in my opinion, there is a moral obligation—

Mr Tonkin: And a legal one.

Mr SHALDERS: —on the firm that sold this particular device to give back the money to the purchasers. If that is disputed and the firm which sold the devices will not return the purchasers' money, obviously the only recourse is to civil action and I would suggest that they take that action through the Small Claims Tribunal—

Mr Tonkin: That is not civil action. It is the Trade Practices Tribunal.

Mr SHALDERS: In fact the firm may well be prosecuted for breaching an Act, but that does not necessarily mean that the people who bought the device will get their money back.

Mr Tonkin: It does! Both the State and Commonwealth Acts state that!

Mr O'Connor: Then why are you asking the question?

Mr SHALDERS: Again the member for Morley is assuming the result of litigation and I am not prepared to do that. I am saying that is my opinion and I repeat that I believe this firm has a moral obligation to give back the money. It may well have a legal obligation. However, it is not my place to give a legal interpretation in this House.

RAILWAYS: FREIGHT

Joint Venture: Mail Deliveries

538. Mr COWAN, to the Minister for Transport:

(1) When Total West commenced operations on 1 July what weekly mail and general services were provided to—

(a) Hines Hill, Burracoppin, Walgoolan;

(b) Bruce Rock, Narembeen, Muntadgin; and

(c) Kondinin, Karlgarin, Hyden?

(2) Has there been any change in the schedule of services to these towns?

(3) If "Yes", when was the change made and how much notice was given to country clients?

(4) Does Total West have a contract with Australia Post to deliver mails to the towns mentioned?

(5) If "Yes", how were the joint venturers able to alter the mail services without breaching their contract?

(6) Was the Minister aware of proposals to alter transport schedules to these towns when he visited Merredin and Corrigin on 3 September and 7 September respectively?

(7) Is the Minister prepared to return to Merredin to meet country clients of Total West to discuss with them the effect of rationalisation of transport services?

Mr RUSHTON replied:

In answer to questions put by the member, I think it appropriate that I indicate to the House the situation regarding mail.

As all members are aware, mail and the provision of mail services are the responsibility of the Commonwealth, and not—and I would strongly emphasize this point—the responsibility of the State. For many years now, Australia Post has utilised a service provided by the State for the distribution of mails. In this regard, I believe all members will appreciate these services were not provided expressly for the purpose of carrying mails, but Australia Post adapted its requirements around the services. Under the previous system, if Westrail made alterations to any of these services, similarly Australia Post adapted to the changed circumstances by either tailoring mail deliveries to meet with the different services, or making alternative arrangements.

With the recent change in transport policy, Australia Post has again elected to make use of transport services operating for purposes other than the carriage of mails. Clearly, the carriage of mails is an adjunct to these transport services and, should delivery patterns change, Australia Post would either have to adjust to the changed situation or make alternative arrangements. To claim these services run for the sole purpose of transporting mail, in the absence of such arrangements, is to say the State has a responsibility for the provision of these Commonwealth services.

For the foregoing reasons, I will not attempt to answer questions concerning Australia Post, and I would suggest that if any member has questions concerning such matters, they be directed to the Manager of Australia Post for his reply.

However, the following information is provided in reply to the member for Merredin—

(1) (a) to (c) As from 1 July, 1982, Total West provided general goods services to the nine towns nominated on a daily basis.

(2) Yes.

(3) I understand the change was made effective from 20 September. I am unaware what notice was given to country clients. Advice of the change was first brought to my attention by the Commissioner of Transport on 15 September.

(4) and (5) I would suggest if the member wishes to obtain such information he contact either Australia Post or Total West.

(6) No.

(7) I would welcome any invitation to attend country meetings to discuss the land freight transport policy. However, I would suggest if the matter concerns Total West exclusively, its management be invited to attend such meetings rather than myself.

RAILWAYS: FREIGHT

Joint Venture: Opposition's Statements.

539. Mr HERZFELD, to the Minister for Transport:

(1) Referring to the Government's major land freight policy initiatives, does the Minister acknowledge that constant reference to the closure of Total West by Opposition members under privilege undermines the land freight policy, as well as the commercial competitiveness of Total West?

(2) As it is conceivable that the rumours of Total West's closure, so frequently referred to by the Opposition, actually originated among members on the Opposition benches, does he consider the implications of these rumours are sufficiently serious to ask the CIB to establish the source?

Mr RUSHTON replied:

(1) and (2) Mr Speaker—

Mr Davies: Look out for the woodpecker.

Mr RUSHTON: —we are all aware of these very destructive allegations perpetrated by the media without the media's allowing them to be refuted. They are very damaging to the commercial firm the subject of the allegations. They are totally untrue and they have been refuted by the general manager of the firm. The member for Avon, in a letter to me, has indicated that he is not a party to these rumours. I have drawn these allegations to the attention of someone prominent in the media and he believes they could be actionable. I will certainly have this matter tested to see whether the CIB should be involved.

Let me press this point: If any member here said a prominent firm in the city—and I will not name one because that would be the wrong thing to do—was to close on 1 November, that member would have for something to answer. The same situation applies with Total West. I feel very strongly about this point. These allegations are destroying a commercial firm. Members opposite use parliamentary privilege to take advantage of the firm. If any action can be taken to prevent this from continuing, I will certainly take it.