CONSUMER CREDIT (WESTERN AUSTRALIA) AMENDMENT BILL 2002

Consideration in Detail

Resumed from 27 February.

Clause 6: Part 2 replaced -

Debate was interrupted after the clause had been partly considered.

Mr D.F. BARRON-SULLIVAN: When we last debated this clause, we discussed whether any business impact assessment had been carried out on the whole Bill and not specifically on this clause. I cannot recall whether the minister gave us specific advice on that. If he has given some indication of the economic assessment - if I can put it that way - of this legislation, how did he go about that process? Obviously, some of the measures that will be implemented through template legislation and so on are hard to envisage. I do not recall whether I asked that question when we last dealt with this Bill.

Secondly, does the minister have any information at his fingertips on the proportion of home loans that have flexible terms or interest rates? The minister may recall that we spoke about the nature of the financial market and the fact that it had changed over the years and so on.

My third point, which I think we spoke about briefly, concerns why the warning provisions have changed in recent times. The minister kindly provided us with a copy of the latest warning that will be attached. Can the minister indicate why those provisions have changed? I apologise that these are three, disjointed questions.

Mr J.C. KOBELKE: I have passed the Deputy Leader of the Opposition some information on the comparison rate and calculations, to which I might return later. The member may get a chance to look at it quickly while we are talking on this and other matters. When we return to how the comparison rate works, we may find it convenient to use that as an example.

Returning to the member's questions, it has been indicated that this legislation will cost $10 million, $15 million or $20 million. However, that cost is not large when applied across an industry that is turning over billions. Once it is put in the system, the cost will be quite minimal in terms of running a quick eye over a loan to apply the mandatory comparison rate.

The issue of flexible or variable rates is one that is clearly now a part of the market. It is certainly very confusing when one is given an introductory rate that seems very attractive and then one moves to a standard rate. When I took out my current mortgage a couple of years ago, I could opt for one model or another. Conditions were attached to each model. There may have been different fees depending on the model chosen. My mortgage is now with a superannuation fund and I am very pleased with it compared with a range of other products that are available. I will not mention its name to advertise it, but it has practically no fees. We wanted to go on a holiday last year, so I simply rang up this organisation and asked to draw down on my mortgage. That money was put in the bank account at no cost, so no re-financing was required. That is very different from the situation prior to the last election when I went to my bank to seek an extension on my overdraft to cover the costs of the election campaign. It was going to cost me a couple of hundred dollars to set up that extension. I will not do that any more; I will just draw down on my home mortgage for the next election campaign. A range of different products are available. There are flexible interest rates and fixed interest rates. There are a range of cost structures for transferring between one product and another or entering into the mortgage arrangement at the beginning. For all those reasons, the picture is complicated. I am coming now to answer the member's question about flexibility. I was just giving some examples of the complexity in the marketplace and the advantages one can get with one product or lender compared with another. I might have misunderstood the point the member was referring to with regard to flexibility. However, the relevancy of it relates to what we are trying to do with regard to flexibility. Ordinary consumers find it hard to understand flexibility and what the actual cost of the mortgage or the loan is. The model before us, which shows the comparison rate, shows the actual cost as a single number.

I now come to the third point the member raised, which is the warning. The member made a number of points on this matter when we last debated the Bill. The key aspect of the warning, to which the member's earlier comments did not refer, tended to indicate that somehow, because the legislation had to include a warning, the matter of a comparison rate was dubious. I think that is wrong. The fact is that because of the complexity, a comparison rate helps simplify the matter considerably. However, it does not simplify it - because it cannot be done - to a simple number/number comparison. Other attributes are attached to the various products for which a warning is needed. People must be warned that the straight comparison rate has simplified a complex issue so that now people understand 80 per cent of it; the other 20 per cent still exists, and people must be warned about it.

Mr D.F. BARRON-SULLIVAN: I thank the minister for the additional information he has just provided. Since we last discussed this matter in the Chamber, I have made a point of talking to a number of people in the financial industry. There is a view in the industry that many years ago a comparison rate like this might have been useful. However, with the significant proportion of personal loans now being very flexible and having a number of non-financial attributes attached to them, the usefulness of this type of comparison rate is very limited.

It was explained to me that the current comparison rate provides some sort of mathematical ability with which to draw a comparison. However, the moment the circumstances change, the comparison rate is useless. The types of things we referred to previously were equity loans etc. The real cost of the loan depends on how people manage their financial affairs, their home mortgage or personal loan etc.

We are introducing a principle to this Parliament that the Liberal Party does not support; that is, allowing ministers across Australia and the State Parliament of Queensland to determine our legislation in order to get a benefit. However, when we look at the legislation in detail, we are told that the first tangible benefit will be the comparison rate, which is absolutely meaningless. I would be very interested to know whether the Government has received any formal advice on the comparison rate and its application from, for example, the Australian Finance Conference Inc. I understand - the organisation is happy for me to say this - that it does not support this comparison rate. I am very interested to know what consultation process has been conducted on this initiative.

I understand that some individuals in other States have pushed for this provision. This is a hangover from days gone by when, as I said, the finance market was very different, and it might have been of some use. However, the worry today is that it is not only a fairly useless indicator, but also it could end up being misleading. Someone might use this comparison rate and say that a particular loan facility with a particular bank is the way to go according to this provision. However, if they considered all the circumstances, they might find that it would be cheaper for them in the short, medium or long term to use another bank and a different financial product. That is one reason that a warning provision is included in the legislation.

I explained the background to the warning the last time we discussed this legislation. Frankly, if the way that wording came about and has been developed and ultimately included in this legislation were not so serious, it would be funny. What consultation has the minister had on this matter recently?

Mr J.C. KOBELKE: As I indicated the last time we discussed this matter, the consultation process went on for years. Therefore, I cannot recount what consultation took place on what aspects at what time. The finance industry has never been happy with this. One can make one's own judgment as to whether that is simply because it is another imposition on the industry that creates extra work and adds extra costs, which is certainly the case, or whether it is because it makes the industry more accountable and makes consumers better able to choose between different products. Perhaps the industry does not want the glare of the spotlight on its products. I can handle numbers reasonably well. However, most people find it daunting to try to work out the full cost of particular products. I can get out my calculator and calculate standard amounts over standard periods with the different introductory rates and then calculate the standard rates and charges. I can work that out. However, it is a huge amount of work and I do not necessarily get it right. Many people cannot make that comparison. Therefore, we are providing people with a tool - which is all this comparison rate is - to enable them to make a comparison between different products when they seek a loan. I think it will be a very valuable tool with which to provide a comparison. It is not the only comparison and it does not encompass all possible parameters that might be involved with a particular product, because that is far too complex. However, it takes the complexity of the particular loan products and captures, in my estimation, perhaps 80 per cent of the complexity of the issues and makes a comparison. Some other matters might impinge on the cost that has not been caught up in the comparison rate. However, this is a huge advance on the current situation.

Mr D.F. BARRON-SULLIVAN: I may reserve my further comments on the comparison rate until I have had time to digest in detail what the minister has just provided me with in written form.

Mr J.C. Kobelke: You can do it now if you like.

Mr D.F. BARRON-SULLIVAN: No, she will be right.

Mr J.C. Kobelke: I would like to briefly. Can we try to tidy up the comparison rate now? You might want to come back to it during the third reading stage. I would like to answer the member's questions.

Mr D.F. BARRON-SULLIVAN: I would like to get more detail about what the industry is telling me. We have genuine concerns that the comparison rate could mislead members of the community. Advice should be taken from the financial sector on this matter. I understand that some people - I do not know who - may have a superficial view that this will provide a greater degree of accountability for people who want to assess what the

different banks and financial institutions provide. However, it could genuinely mislead some people into picking the wrong financial product.

As a result of our last conversation, I made a point of speaking to people in the financial market. Those people conversely said to me that they understand our arguments about the principle of template legislation, but that their interest is in having a uniform national system. As the minister well knows, a financial company that decides to bring out a new loan product does not want to have to publish different advertisements in Western Australia from those that are published in all the other States. I fully understand that. We have made the point that we support the idea of uniformity; we just differ on the way we are going about it.

I may come back to this later. As we have discussed, this is a crucial clause in the legislation. It essentially provides that the Consumer Credit (Queensland) Act shall dominate the scene and that the Consumer Credit Code that is set out under the auspices of the Queensland legislation shall apply in this State as law. This is one of the clauses in which we need to discuss in earnest the principle of template legislation. We are very fortunate that we have in this Parliament someone who for some years was the Chairman of the former Standing Committee on Uniform Legislation and Intergovernmental Agreements. I very much hope that the member for South Perth will make a contribution at this stage.

Mr P.G. PENDAL: I want to make a contribution to this debate. I was overseas on parliamentary business during the second reading debate. I give notice that in my view the matter before the House is important enough for the Bill to be stopped in its tracks and sent to a select committee, and I intend to move that in a few moments. Before I do that I will make a couple of opening observations. To go down the path that we are now going down will be, in effect, to act in defiance of what this Parliament laid down throughout the 1990s as the proper protocols to be followed in situations in which we think uniform legislation is desired. I am concerned at the state of the House and hope that someone will draw attention to that as a few people need to be put through their paces and to learn -

[Quorum formed.]

Referral to Select Committee

Mr P.G. PENDAL: I move, without notice under Standing Order No 171 -

> That this Bill be referred to a select committee and that the committee report to the House by 30 April 2003.

We deliberately wanted to bring some extra people into this Chamber so that we could, for a time, send the debate in another direction entirely. Members will not be able to do that unless they understand some of the things that went on in this House throughout the 1990s. Those things happened with the support of the minister who is now at the Table handling the Bill. The first thing I want to emphasise is something that I know has been drawn to the attention of the House by the member for Kingsley. I will draw the House's attention to it in my own way. I wonder how many members understand what we are doing with this legislation. Why has Queensland all of a sudden developed some sort of colonial master status whereby a law of this State can be sent to Queensland on a more or less permanent basis for it to be administered and, in particular, amended by only the Queensland Parliament? We are sending a law of Western Australia to another State of the Commonwealth and inviting it to take responsibility for the law's future amendment. We are giving up our right to amend the law. It is true that every time a State enters into a commonwealth-state or intrastate agreement it has the ability to ultimately retrieve the powers contained in that agreement by repealing the legislation. If I remember correctly, it is not unlike the position in which a State finds itself when it refers powers to the Commonwealth. However, it is not as easy as it sounds to retrieve that position. Which member of this Parliament is consciously prepared to give the Queensland Parliament the right to amend the statute that is before us? I tell the House why it is a bad move. However, members should take not my word for it but the words of a select committee of this House - I will go into that in a moment - and, subsequently, a standing committee of this House that was specifically created in 1993 to look at the best ways of achieving uniformity without selling out the State's legislative or constitutional principles. I will explain how it occurred. I appeal to the minister, even at this stage, to halt proceedings along the lines that I am suggesting. He should by all means act to bring about uniformity, but he should do it in the way that his own party subscribed to throughout the 1990s. I do not want to be unkind, but the piece of legislation before the House is designed for the convenience of the people who administer it. It has nothing to do with politics. It is not a Liberal Party, Labor Party, National Party or Independent issue. It is about parliamentary pride as much as anything else that members of this Parliament would be asked and would agree to willingly hand over to the Queensland Parliament their right to amend this legislation. Why the fuss? Let us turn the clock back about 11 years to 1992 and a Bill called, in shorthand terms, the non-government financial institutions legislation of 1992. It was introduced into the other place, of which I was a member. It was so badly handled that we were never given a copy of the Bill that we were asked to pass. How appalling!

Despite protests to the contrary, I took part in that process and I was ashamed that I did. I repeat: we were asked to pass a measure bringing about uniformity, but the Bill had been passed by the Queensland Parliament some months earlier. We were asked to enact it by replicating it. Do you know, Madam Acting Speaker, why the Queensland Parliament was used? Bear in mind, these were the tail-end days of Bjelke-Petersen rule. The measure before us makes me wonder whether we have a "Kobelke-Petersen" with us; the minister is a fine parliamentarian in many other respects, but he has forgotten history. When one forgets history, one is apt to repeat its mistakes. The purpose in choosing the Queensland Parliament in 1992 was that it had only one House. For the convenience of the ministerial council and the public servants administering the law, it was considered eminently easier to put legislation through a Parliament with only one House. That smacked of unaccountability and not holding the parliamentary scrutiny process up to its appropriate light.

That Bill was introduced into the other House when it did not exist. The Bill was unavailable for members when it was first brought into the Western Australian Parliament. It was bad enough that the public servants should hold the Parliament in that contempt, but it was worse that some parliamentarians fell for it. The Attorney General of the day, otherwise a very able minister, will never live down the ignominy of asking a Parliament to pass a Bill that did not exist - one we had not seen.

A parallel set of concerns was expressed in this House at the time. I was not a part of it. If my memory serves me correctly, the member for Kingsley brought the matter to the attention of the House. We were not only dealing with the Bill in that way, but also achieving uniformity in a way that should be repulsive to anyone who believes in a Westminster parliament. I will come to that in a moment. Other methods are available to achieve what the minister wants to achieve without holding up this parliamentary process to ridicule and contempt. A select committee was formed in this House that was chaired, I think, by the member for Kingsley. Is that correct?

Mrs C.L. Edwardes: I did.

Mr P.G. PENDAL: The select committee examined in critical detail the problems confronting the two Houses. One of the recommendations that grew from that committee was the formation of a permanent Standing Committee on Uniform Legislation and Intergovernmental Agreements. It was not a question of stating that we should never have uniform legislation again, although some people took that view; it was a matter of stating that there are methods acceptable to an elected, democratic Parliament to achieve uniform laws, and there are unacceptable methods. This, incidentally, did not affect the Commonwealth Government. It was a ministerial council meeting of all States that made the repugnant decision to pass legislation through the Queensland Parliament without the scrutiny process of an upper House, and, into the bargain, handed over from Western Australia its right to legislate in that field.

As there has been a turnover of members since I last touched on the point, let me emphasise that we are being asked tonight to pass a law that hands over our capacity to amend these laws in future and to give it to the Queensland Parliament. Are members comfortable with that? Do they think that that is what this Parliament should do? Since I have been here, I have heard people on both sides of politics bemoan the fact that, on occasions, we hand powers to the Commonwealth. Here we are passing powers to a fellow State, but that process is equally repugnant. The same principles will be demeaned and diminished, and the outcome will be the same. Members of this Parliament in charge of this law concerning consumer credit will lose not only control over it - control should be the last thing we get upset about - but also the power to scrutinise and amend our own law.

The standing committee was established in 1993 and began its work. I was not originally involved, but I became its second chairman. I learnt fairly quickly that what we were asked to do in 1992 with the Queensland measure was repugnant. We also began to look at a program, a set of protocols, for handling uniform legislation in Australia in such a way that that would make the process acceptable. A plethora of reports were produced in the four or five years of the committee in which a number of models were produced by which uniformity could be achieved. For example, one could hand powers to the Commonwealth and have one single unified law. Secondly, one could refer powers to the Commonwealth for a specified time. I will go through the terminology and identified models later. Thirdly, one could have template or mirror legislation and complementary legislation. The very worst methodology we came across was, sadly, the methodology the minister has chosen to use on this occasion; namely, handing our law to Queensland, and giving its Parliament the right to amend it into the future.

This was not a party political issue. The committee dealing with uniform legislation comprised Liberal, Labor and Independent members. Among the papers ultimately produced were recommendations and reports that reflected a great deal of credit on this Parliament vis-a-vis the whole Australian parliamentary scene. We were seen as the parliamentary leader, innovator and reformer by producing a uniform set of scrutiny procedures. The recommendations had their genesis in this notion: who makes the law? If we do not know that Parliament makes

the law, we should not be here. The reality was that ministerial councils were subsuming the role of Parliaments. Ministers would meet, commonwealth and state, or sometimes only state, and those ministers might, for example, agree by a majority vote to, say, lower the school commencement age in Australia to four years. The fear was that a minister would then return from that ministerial council meeting bright-eyed and bushy-tailed - until he or she had been stung once or twice - and then find that, by dint of that agreement in Canberra, Melbourne, Sydney or Wellington - some of these councils included New Zealand - he had locked his own Cabinet into that legislation. There was no turning back without losing face. The minister would say to the Premier, the Cabinet and the Parliament that the agreement with the ministerial council had locked the State into going down that path. If the Government of the day and the Parliament went along with it, it became a case of no scrutiny. We have heard it many times. The minister would say that the legislation could not be amended because it was in the form in which he had agreed to it at the ministerial council meeting in Wellington or Adelaide. The role of Parliament disappeared. Members could bark, growl and moan all they liked, but they could not amend the legislation because the minister had been locked into it.

A report of the Standing Committee on Uniform Legislation and Intergovernmental Agreements, entitled "Scrutiny of National Scheme Legislation and the Desirability of Uniform Scrutiny Principles" was tabled in this House on 31 August 1995. It was the tenth report of the committee. It was a particularly productive committee, because there were no politics in it. The current Speaker was a very active member. The then member for Geraldton, who was at one stage Deputy Speaker, was also a very active member, as was the then member for Floreat, now the member for Churchlands. The then member for Albany was the chairman before his promotion to the Cabinet. When I was chairman, there was no occasion that I can recall on which a report was tabled in this House and a minority report was also entered. Those reports were endorsed and signed by Liberal, Labor and Independent committee members across the board. That is why so much credibility was attached to it ultimately by other people in other Parliaments around Australia. We were asked on at least three occasions to present papers interstate on the pioneering work that had been done in this Chamber, to the great credit of the Parliament. All of that is about to be thrown out, because the minister has made a choice that can be most charitably described as inadvisable. It is still not too late, because another seven, eight or nine models, which I will be touching on, have been identified. There are ways of achieving uniformity, but this one is the worst.

I was speaking on the role of ministerial councils, which was at the heart of the difficulty the committee started to identify. On page 8, under the heading "Accountability", the report states -

> An important issue relating to the operation of ministerial councils concerns their accountability. Five years ago, the Senate Standing Committee on Finance and Public Administration addressed this issue in relation to all non-statutory bodies including ministerial councils.

It is worth breaking in at this point. The point being made is about all non-statutory bodies, including ministerial councils. If ministerial councils were legislated for in Parliaments across Australia, that might be some minor concession to the parliamentary process, but these bodies, almost in their entirety - and the minister can correct me if I am wrong - are non-statutory. That was certainly the case when this report was written. The report continues -

> Its report reiterated an earlier recommendation for the creation of a central register arguing that: "information of this type is integral to the proper management and accountability of the machinery of government." (Parliament of Australia, 1988, 20). The recently released compendium of ministerial councils can be considered as a fulfillment of this recommendation (except that it does not include financial details as specified by the Senate Committee).

The next paragraph is of critical importance. It states -

> Another aspect of accountability concerns Parliament. In the formal sense, ministers are ultimately accountable to their respective parliaments for their participation in councils. However, according to Fraser (1989, 120), parliamentary accountability is reduced by the dynamics of councils which may force ministers to go along with decisions they would otherwise oppose.

Maybe that will start to ring a few bells with the current minister. He has now been attending ministerial councils for over two years. The report continues -

> Further, as Soloman points out, some backbenchers see ministerial councils as distancing them from decision-making, -

I will emphasise that, because a number of private members are in the Chamber tonight: "some backbenchers see ministerial councils as distancing them" - the backbenchers - "from decision making". The report continues -

> and the Senate "is extremely unhappy at being presented with uniform legislation drafted by councils which it (the Senate) is unable to amend".

That is what we are talking about here tonight. Everyone here knows that the Senate in this country has not been under the control of the Government of the day for 15 or 20 years, so, again, this statement reflects a bipartisan approach. If the words "Legislative Assembly of Western Australia" are substituted for the word "Senate", the passage would state that some backbenchers see ministerial councils as distancing them from decision-making, and the Legislative Assembly of Western Australia is extremely unhappy - or should be - at being presented with uniform legislation drafted by councils which it, the Legislative Assembly of Western Australia, is unable to amend.

Mr J.C. Kobelke: What was the date of that statement?

Mr P.G. PENDAL: The date of the committee report was August 1995, but there are a number of quotes within quotes, and answering the question would take me some time.

As the minister well knows, those principles do not alter, even if the date of the quote is 1989, and it probably was, given that we were dealing with this in 1993 or 1994. Like the principles of parliamentary democracy, those principles do not alter. In this report, we were being warned not to be a part of a legislative process in which the Parliament loses the capacity to amend. That is what members here are doing tonight. They are not doing it willingly.

Mr J.R. Quigley: What we are doing here is sitting listening to a lot of pompous waffle. This Parliament can amend anything it wants to amend.

Several members interjected.

The ACTING SPEAKER (Ms K. Hodson-Thomas): Order, member for Innaloo! The member for South Perth has the call.

Mr P.G. PENDAL: That is the problem we have because the member has not read the Bill. The member will vote tonight to hand to the Queensland Parliament the power to amend this Bill. The little ignorant outburst adds to my concern. I would have thought that someone with his training might have been the first to say that there is a bit of a problem.

Mr J.R. Quigley: The member does not understand the sovereignty of Parliament. What a load of waffle!

The ACTING SPEAKER (Ms K. Hodson-Thomas): I formally call the member for Innaloo to order for the first time.

Mr P.G. PENDAL: Either the Labor representation on the standing committee was wrong or the member who has just interjected is wrong. I know who I will put my money on having sat alongside people for four to five years who devoted their energy in a non-belligerent and bipartisan way to warn this Parliament of the dangers of what it was doing. Instead, the only interjection so far has been one of the most ignorant comments I have heard in the current session.

Mr J.R. Quigley: What is ignorant about the sovereignty of Parliament?

Mr P.G. PENDAL: Ignorant. The member is talking nonsense, which is in line and highly consistent with most of what he talks about when he is not changing his mind on major issues and advocating in this House things he used to defend. If the member does not believe that we are handing over to the Queensland Parliament the power to amend this legislation in the future it is evidence that he has not read the Bill. The member did not listen to my remarks of 10 minutes ago. The reality is that when the powers are referred they are very rarely called back by the referring Parliament. I ask the member to tell me the last time a power of that kind was recovered?

Mr J.R. Quigley: It is all hot waffle!

Mr P.G. PENDAL: My friend, you would know more about hot waffle than any other member in this place! The member is willingly taking his colleagues along with the process. He clearly has not read the Bill. He clearly has not read the concerns expressed by the present speaker, who was a member of that standing committee. That standing committee managed to obtain - in this Chamber - the agreement of every Parliament in this country to the adoption of principles for the scrutiny of uniform legislation that this now flies in the face of. If that is not a good enough reason for us to pull up the Bill in its tracks by referring it to a select committee and getting some form of bipartisan support - which has been there for a decade but is about to be undone by indifference from some members of the Government or their ignorance - I do not know what is. Other members have drawn attention to that during the second reading debate on the Bill. They were treated with indifference, if

not hostility. This is a chance for the Parliament not to make the errors that it promised to rectify between 1994 and 1997.

Who amongst the members here is comfortable with this? Which government members are comfortable for the minister to make commitments on behalf of this Parliament? Almost half of this Parliament would, by definition, feel uncomfortable about that. This Government will not be in office for very long. It will be in office for four or eight years and then be on its way. Members who are locking themselves in to defend this will be on this side of the House and the penny will then drop. They will say that we cannot allow this to happen; it goes against all the principles of established parliamentary practice.

Mr J.R. Quigley interjected.

The ACTING SPEAKER: Order, member for Innaloo.

Mr P.G. PENDAL: The member is an ignorant man. He has not read the Bill. When he reads the Bill I will be surprised if he has the same response.

There were at least nine reports and I will refer to some of them in the debate tonight. They sought to isolate some of the more preferred ways of achieving uniform legislation. One of the ironies is that a consumer credit Bill was introduced to the Parliament during the late 1990s. Some objection was taken because the Government of the day appeared to be heading down the same path. One of the suggestions from the standing committee, which the then member for Geraldton concentrated on, was that, at the very least, if we were going to adopt the model adopted by the current minister, we needed to make amendments made by the Queensland Parliament subject to disallowance in this House and the other place. By that method there is still a chance to rescue this Bill. However, it is the least attractive option but, if it is the only thing we can salvage, it is the most attractive way out. The suggestion in 1997-98 was that if the Queensland Parliament were to make amendments in the future they would not be accepted as of right by this Parliament. Instead, they would be brought back to this Parliament and made as if they were subsidiary legislation and subject to disallowance. At the very least that would give every member of this House and the other place, including the member for Innaloo, the chance to express a view about whether the Queensland amendments were acceptable to this Parliament, a party or an individual member. These are reasons that the Bill needs to go to a select committee. There is a solution there. I was somewhat surprised at the time that the Court Government chose not to go down that path. It pulled itself up and decided not to use the option suggested and argued by the then member for Geraldton. Instead, the Bill was put through this Parliament and was capable of future amendment by this Parliament. It became an Act of this Parliament. That is the Bill we are being asked to deal with tonight. We are amending the 1996 statute but repealing the Consumer Credit (Western Australia) Regulations 1996. To its credit, the Government of the day pulled up the process. It recognised that a good point was being made. The irony is that this Government would not have the opportunity tonight to refer the legislation to Queensland and hand over the right to make amendments were it not for the change of direction by the Court Government only a few years ago. That is what is at stake. Could one imagine what would have happened 10 or 15 years ago under the Bjelke-Petersen Government had this Parliament been prepared to offload its legislative responsibilities and its powers of amendment to the Queensland Parliament? Does anyone know what Labor members would have said on those occasions? There would almost have been blood in the streets.

Ms M.M. Quirk: Things might have changed.

Mr P.G. PENDAL: Things might have changed but can the member for Girrawheen guarantee that there will always be in power in Queensland a Government in which she can have full trust? I do not think so. I think she is brainy enough to know that we would be heading down a most dangerous path. If one could argue that for consumer credit laws, it could be argued for any statute for which we are responsible in this Parliament. What an easy opt out it would be for every minister and backbencher - even the mindless ones like the member for Innaloo - to say, "Send it off to Queensland -

Mr J.R. Quigley interjected.

The ACTING SPEAKER (Ms K. Hodson-Thomas): Order, member for Innaloo!

Mr P.G. PENDAL: "Send it off to another Parliament and give it the responsibility not only for the carriage of the principal statute but for making amendments into the future." This is one of the most absurd things that I have heard. I almost have a good mind to move a motion that we call the current Speaker to the Bar of the House - I do not know if that can be done. The Speaker of the House was one of those people who was adamant that we must never go down this path. Yet his colleagues have learnt nothing from those experiences of only five or six years ago. Let us forget for a moment parliamentary sovereignty - I heard someone throw that in, and it is not the correct term anyway. What about the party rooms? What about when the members for Kimberley, Swan Hills, Collie or Mandurah wake up one morning and say, "The Western Australian consumer credit laws

were dramatically overhauled last night and I, the member for Mandurah - or Kimberley, Swan Hills or Maylands - was not there because it was done in Queensland." How much input is the party room -

Mr J.R. Quigley: How misleading.

Mr P.G. PENDAL: I am interested in why the member said I am misleading. It is there in black and white.

Mr J.R. Quigley interjected.

The ACTING SPEAKER: I formally call the member for Innaloo to order for the second time.

Mr P.G. PENDAL: We are not only empowering ministerial councils - five or six ministers from around Australia - but also disempowering this Parliament and gutting the party room process. We are also cutting off public debate, because no amount of public debate in Western Australia would have the slightest effect on changes going through another Parliament a couple of thousand miles away. Our efforts to send this legislation to a select committee may do nothing more than to draw to attention the utter absurdity of what is being done. We have certainly not gone past the point of no return. The minister has it within his power to allow this. It does not alter one iota the principle or the contents of the Consumer Credit Code. However, in the future, when a minister of Labor or coalition ilk seeks to amend the consumer credit laws, that minister will have to return home to Perth, Adelaide or Hobart and he or she will then have to front up firstly to his or her own party room. He or she will then have to explain that we have been asked to amend the consumer credit laws in line with the ministerial council decision of a few days ago. If that is a bit burdensome, a bit difficult and a bit inconvenient for some public servants and for some parts of the industry, then so be it. Many people say that the Westminster-style system that we have is a cumbersome one and slow. However, it ultimately gets most things right although the members of this House will not be in the equation. They will have counted themselves out of the equation tonight. That is what is at stake and they are the reasons for moving to have the Bill referred to a select committee.

I have no desire to see the process bogged down, which is why I made the deadline for the report 30 April. It would not take a select committee five to six weeks to determine what I am seeking to determine -

Mrs C.L. Edwardes: The first select committee did it in six weeks.

Mr P.G. PENDAL: It would not take that amount of time, because all the work has been done. About 10 models were identified that a select committee would be capable of examining. It could then make recommendations to this House with some sort of bipartisan view that other models are more in line with what this Parliament set out to do in the 1990s. After tonight though, that opportunity will be gone. I do not know what it says about ministerial pride, but perhaps the minister's workload is such that he would be glad to see the back of a major statute like this. He might be glad knowing that it will go to another Parliament and that that Parliament - not this one - will have that power in the future. I hope that is not the case.

Ms M.M. Quirk: And there is no upper House in Queensland.

Mr P.G. PENDAL: That is why they chose it. It was no secret at the time in 1992 that the Queensland Parliament was chosen because it was going to be the easiest place to get the legislation through. How could any self-respecting parliamentarian satisfy himself with that level of scrutiny and accountability?

The solutions are there to give an expeditious turnaround. Some people might say we should make the date for the report earlier than 30 April. However, for members to give their parliamentary sanction tonight in these circumstances is to take away any pretence that we must be a Chamber that is committed to accountability procedures. Let me remind a few people of another truth in politics. It is very rarely the case that the message sinks in on the night that a warning is given. It is invariably the case that one, five or 10 years passes before that happens. Do members remember the days of WA Inc, when we were informed, "No, what we are doing is all above board. It is all according to Hoyle." That Government was reminded month in and month out that what was being done was not according to Hoyle. However, no-one took any notice. It went into the parliamentary record. In the end, it cost the Lawrence Government its life. It ultimately cost a Premier his reputation and brought about a few jail terms into the bargain. I am really pleased that you, Mr Speaker, are now here to preside over the debate. I only wish that you could interject or that we could entice you to interject, because you were part of the process that sought to clean-up an act during a parliamentary period that was held in utter contempt and will continue to be so for many years to come. It is still within our power to do that. Members have that opportunity by supporting this motion to refer the Bill to a select committee. I urge members, for those reasons, to do so.

Mrs C.L. EDWARDES: I support the motion for this Bill to be referred to a select committee. I do so on the basis that a select committee would have a very important role to play in a number of respects. Firstly, it would allow us to properly go through the model of uniform legislation that is appropriate for this State, the people of

Western Australia and the Parliament of Western Australia. I have no doubt that a select committee would come out with strong recommendations on an appropriate model. I do not propose to go through the respective models that are available for uniform legislation. The member for South Perth has endeavoured to touch upon a number of them. However, if members were to look back at any of the reports of the Standing Committee on Uniform Legislation and Intergovernmental Agreements, they would find in the front of most of them the models that are available and have been used to achieve national uniform legislation in Australia.

The second role a select committee would play would be in education. Back in 1992 we looked at the financial institutions legislation, which was brought to this Parliament with the view that it was needed by industry and was urgent. If Western Australia had not joined up, it would have been the only State not to do so, and would have been left out of the model that was to operate for financial institutions. There was pressure on this Parliament to pass the legislation. The first concern we had at that time was that the Bill we were presumably to pass was not even attached to the legislation supporting it being sent to the Queensland Parliament. The second concern was that the model used to achieve uniformity involved the application in Western Australia of Queensland legislation, which meant that the Western Australian Parliament was in effect delegating some of its powers to the Queensland Parliament. I will come back to that shortly in terms of the role of the ministerial council. Any amendments to that uniform legislation were to be enacted in the Queensland Parliament and not in the Western Australian Parliament. Further, any regulations under the scheme were to be made by Queensland. Of course, one other aspect was that appeals on questions of law were required to be initiated in the Queensland Supreme Court and not in the Western Australian Supreme Court. There were serious concerns about the financial institutions legislation. Above all, the real concern was that any future amendments to the Queensland legislation had to be agreed to by the ministerial council, as would be the case with the legislation that is now before us. For the ministerial council to agree to any amendments to be made by the Queensland Parliament, it needed only a majority vote. Therefore, there was the possibility, as there is under this legislation, that the views of the Western Australian minister could be overridden, but that he would be bound by the agreement.

The member for Innaloo said that we, as the Western Australian Parliament, can make our own laws. I agree with that. However, once a uniform agreement is signed, the State and the minister would need to think very seriously before withdrawing from it. If, in the meantime, the member for Innaloo is happy for the Queensland Parliament to make all amendments to legislation that affects Western Australians, he is wrong. If the member for Innaloo and members opposite - the Government - are happy for regulations to be made in Queensland for people in Western Australia, they are absolutely and totally wrong. This Parliament is the supreme law-making body in Western Australia for Western Australians. We should have serious concerns about any legislation that comes before this Parliament and delegates that authority not only to another Parliament or the Executive, but also to a ministerial council. Essentially, the ministerial council will become the law-making body for this State, without scrutiny by this Parliament. That is the serious flaw in this legislation. Would we, as the elected representatives of the people of Western Australia, have the opportunity to question those laws, amendments or regulations? The answer is no. We would not get that opportunity before it became law in Western Australia, and that is wrong. If members opposite are happy for us to delegate our powers to ministerial councils and therefore to another Parliament in Australia, why do we not just all pack up and go home? I note the hour, Mr Speaker, but this is absolutely critical to our role as law-makers. If we are not prepared to scrutinise legislation, why do we not just give it all to Queensland and let it make the laws for us in Western Australia? Further, if that is what members opposite want, they could send their salaries over there too!

Mr J.R. Quigley: I will if the member for South Perth goes there too.

Mrs C.L. EDWARDES: I have greater confidence in the ability of the member for South Perth to scrutinise legislation than in that of members opposite.

The member for Girrawheen earlier mentioned that Queensland was chosen because it did not have an upper House. When the committee I chaired back in 1992 took evidence in Queensland, the Queensland Treasurer acknowledged that Queensland had been chosen as the host State for the template model, and probably would be chosen for future models such as the credit legislation, because the Queensland Parliament did not have an upper House and the Government could guarantee that legislation would be passed. One would not need to worry about the people of Western Australia and who they elect because it would make no difference. One could sign up to a ministerial council, enter into a national agreement, send it to Queensland, which has only one House and its Government is already on the ministerial council, and one could get through whatever one wanted and totally bypass the Western Australian Parliament. Mr Speaker, you would have no role any more. Your role would be delegated to the Speaker of the Queensland Parliament. We would have no need for this building. WorkSafe Western Australia Commission would probably be very happy, as would the staff who work in this place. That is not acceptable. I am very surprised that the minister has gone down this path. It makes it so much easier for

the minister to delegate his responsibility to another Parliament and to a ministerial council. Even if the minister disagrees with any of the amendments, the rest of Australia can carry it. The minister will become irrelevant. That is essentially what the minister is doing to the Western Australian Parliament: he is making its powers over consumer credit legislation irrelevant. It is interesting to note that in 1992 a Labor Government introduced the financial institutions legislation. It was happy to pass over its role to another Parliament and to a ministerial council. Today another Labor Government is prepared to do that again.

It does not make sense in a partisan way. We have an absolute right to scrutinise legislation that impacts upon the people of Western Australia, who elect us to do so. According to constitutional theory, the Parliament is the most powerful and central body in the Western Australian system of government. It makes laws for the peace, order and good government of the State. The executive powers of the Crown - the Government - are subject to control by the Legislature. The Parliament may delegate legislative power to the Executive, which it does regularly by way of regulation; however, constitutional theory provides that the Executive cannot change the law of the State by an exercise of executive power. The Executive cannot enter into an agreement that will limit the legislative powers of the Parliament.

The reality is that any limitation of power is political. It is the result of political, not constitutional, factors. That is the point we are attempting to make today. The Government and its members are making a political decision to hand the Western Australian Parliament's ability to make laws for consumer credit to the Queensland Parliament via a ministerial council. I have not heard a real rationale for that today. It is a major concern to us, and it should be a major concern to the Government of the day in this Parliament, that by a majority vote a ministerial council can overrule the Western Australian minister if he or she does not agree to any of those amendments or regulations. We have constantly raised concerns about Executive Governments around Australia making policy decisions without reference to Cabinet through the ability of ministers who attend ministerial councils. That was a concern in the 1980s, the 1990s, and I am sure it is a concern in the 2000s. The ability of ministers to affect policy through decisions of a ministerial council without reference to the Cabinet is a concern. If it is a concern - I have no doubt it is - how much more of a concern is it that the Parliament will lose its ability to scrutinise legislation that affects the people of Western Australia by virtue of a decision of another Parliament through the auspices of a ministerial council, which can override the Western Australian minister? We have all become irrelevant. The minister is irrelevant because he does not have to agree to any of the legislation; he can be overruled absolutely. Therefore, the Executive - the Government of the day - becomes irrelevant. The Parliament becomes irrelevant because it has signed a national, uniform agreement. The pressures applied by the financial institutions will be enormous if the Government even attempts to try to pull out of the agreement. That will not be so easy. The Government cannot withdraw from the agreement with the stroke of a pen. If it were that simple, why is the minister not bringing back any amendments or regulations regarding the consumer credit legislation to this Parliament? It is because it is easier for the Government to delegate its powers of decision and law making in this regard to other bodies.

Mr J.R. Quigley interjected.

Mrs C.L. EDWARDES: Did the member for Innaloo say that the membership of the upper House may change?

Mr J.R. Quigley: It would take two years because you people hold up everything in the upper House. The process would grind to a halt. How many Bills have been held up there now?

Mrs C.L. EDWARDES: We have a reputation in this House for dealing with legislation in a timely manner when it is needed to meet a deadline. Minister, have we not got a reputation of working together in a timely manner when dealing with urgent pieces of legislation? I refer, for example, to the workers compensation and the terrorist legislation. The minister has nodded his head. Therefore, if there is any need to bring forward timely pieces of legislation, we have a reputation in this Parliament for getting that through.

Mr J.C. Kobelke: This Parliament is bicameral. What applies to this House does not necessarily apply to the Parliament.

Mrs C.L. EDWARDES: That is a great derogation of duty and is an insult to this Parliament. The reason the Government has used the Queensland Parliament's legislation is to get around the Legislative Council of this Parliament. That is an absolute derogation of the Government's duty. The right of this Parliament to look at these matters should be reasserted.

I support the establishment of a select committee. I absolutely support any recommendations and/or changes that will bring this legislation back to this Parliament. The model should be changed before the minister becomes totally and absolutely irrelevant. He is attempting to make this Parliament and himself irrelevant through this legislation.

Mr J.R. QUIGLEY: I rise briefly at this late hour, being a quarter past 10.00 pm, to correct a few inaccuracies put by the member for South Perth. I will first address the comments of the member for Kingsley, whose comments I listened to with interest. I disagree with the member because this code must be dealt with in a uniform way throughout Australia, having regard to the manner in which commerce is now conducted over the Internet and the way that consumers can consume across state boundaries. Since 1996, there has been uniformity in every State but Western Australia. Western Australia has had to effect its own amendments to try to reflect what the rest of Australia has done.

The notion that we are handing over our right to amend the legislation is plain nonsense. The member for Kingsley identified it as nonsense. She agreed with me on the issue I raised through an interjection with the member for South Perth; that is, that proposed clause 5 or 6 of the regulations can be repealed by this Parliament at any time. The member for South Perth is an absolutely pompous hypocrite.

Withdrawal of Remark

The SPEAKER: The word "hypocrite" in that context is unparliamentary, and I ask the member to withdraw it.

Mr J.R. QUIGLEY: Should I withdraw the word?

The SPEAKER: Yes.

Mr J.R. QUIGLEY: I should withdraw "hypocrite" but not "pompous". All right; the member is pompous and untruthful in the way he peddles -

Mr D.F. BARRON-SULLIVAN: Mr Speaker, I may be wrong, but I thought I heard you give a direction to the member. The member should have withdrawn in an unqualified way.

Mr J.R. QUIGLEY: I withdraw the word "hypocrite" in a totally unqualified way.

Debate Resumed

Mr J.R. QUIGLEY: The member for South Perth says that I did not read the legislation. This is not rocket science. Once the interpretation clauses have been removed, the legislation is one page long. I would take less time to read this than the member would to spoon another bowl of soup into his mouth. This is one page of legislation plus interpretations.

Mr P.G. Pendal: Tell us about proposed clause 5 of the regulations.

Mr J.R. QUIGLEY: The member said he read clause 5. It is not more than a dozen lines. At any time the Parliament of Western Australia -

Mr P.G. Pendal: What does it mean?

Mr J.R. QUIGLEY: Clause 5 says what it means. It incorporates the Consumer Credit Code of Queensland into our legislation, and states in part -

> as so applying may be cited as the *Consumer Credit (Western Australia) Code*.

It can be repealed at any time. Proposed clause 6 -

Mr P.G. Pendal interjected.

Mr J.R. QUIGLEY: I will not take the member's interjections. I was called to order when I interjected on his gratuitous insults, and I will not have him interrupt me now. He is full of hot air and pomposity and goes on to say that this Bill is passing to Queensland the right to legislate. What a load of nonsense.

Mr P.G. Pendal interjected.

Mr J.R. QUIGLEY: He is trying to break up my speech because he does not want the exposure.

Clause 6 can be repealed by the Western Australian Parliament. Western Australia can pull out of the scheme any time it wants. As the member for Kingsley properly stated, the member for South Perth was wrong. He is consistent; I will give him that. He stood before this Parliament and confessed his embarrassment at voting for previous similar legislation. I was not here to listen to him 10 years ago - thank the Lord - but he has voted for such legislation. He came in here today breast beating and saying, "I was wrong when I cast my vote 10 years ago, as wrong as I am today as I make my speech."

Proposed clauses 5 and 6 can be amended at any time. It is untenable that different rules apply to consumers in Western Australia who order goods across state borders from those that apply to consumers in other States of Australia. That is palpably bad for business in Western Australia. There needs to be certainty and consistency in commerce. This is not the only area in which States have chosen to introduce uniformity by either using template legislation or passing powers to the Commonwealth, and the member for South Perth well knows it. He

called a quorum and performed his dramatics saying, "I want to make sure there are enough members in the Chamber to hear me whilst I carry on - woo, woo - in my fake Churchillian tones." Yet, when he resumed his seat he came out with the most disgusting insults, including calling the member for Albany gutless. What a damned insult to call this honourable man gutless. The member for South Perth was ordered by the Speaker to withdraw. The member does not want that in the *Hansard*. He wants to present two faces to Western Australia: the statesman and, in the third row of this Chamber, the venomous snake who insults decent and courageous men like the member for Albany. That is absolutely appalling conduct. I have nothing more to say about the member for South Perth.

I will vote against this Bill going to a select committee.

Mr J.C. KOBELKE: This is a referral motion. The member for South Perth wasted an hour when he could have said what he did in five minutes. He did not have much to say.

Several members interjected.

Mr J.C. KOBELKE: I allowed him to speak because there was a good reason he was not here for the second reading debate. The member for South Perth has an interest in this area. He was not here for the second reading debate; therefore, I felt it appropriate to allow him to use - or abuse - his time to try to get his thoughts on the record. The debate on this matter has already been held. Without contravening the standing orders relating to relevance in a referral motion, I will briefly put on the record why template legislation is being put forward and why members opposite are more than 10 years out of date.

The member for South Perth referred to a select committee report of 1991. In 1991 the concept of template legislation was new. The Parliament was worried that its use might somehow get out of control. Template legislation has been in force in every other State and Territory since 1996. No-one has given any example of any State or Territory finding a problem with it. Since 1996 we have been the only State or Territory that does not have template legislation for the Consumer Credit Code. It has meant -

Mr P.G. Pendal: That does not make it right.

Mr J.C. KOBELKE: The member should at least give an example of a problem. He gave no example. He went back over 10 years to the concerns we had in 1991, which have proved to be totally groundless. The reason for enacting template legislation has nothing to do with the allegations of the member for Kingsley that we want to do less work and make it easier on ourselves. The reason is that we want to look after the people of this State, who have been disadvantaged by our not having had template legislation in areas such as payday lending, the legislation regulating which was held up throughout Australia because we had to put it through two Houses of Parliament. There is a range of matters in which Western Australia has either lagged behind or held up Australia in providing protection to consumers. Business clearly wants template legislation because this is a national market. It wants one set of rules. The member for Innaloo was absolutely right; it is garbage to say we are giving up our rights. That statement has no basis in fact. We gave up those rights in 1993 when Hon Peter Foss signed the agreement. We gave them up when we said we would join in with a national Consumer Credit Code but that we would legislate for it here. Under that model, as delaying as it is, we can at any time opt out by not passing the legislation. The member for Innaloo was also absolutely right when he said that if we sign up to the code through template legislation and then decide that we do not like the way it is going, we can come into the Parliament and legislate to pull out of it. That is the end of it.

I heard exactly the same sort of garbage from Liberal Party members in 1990, when the member for South Perth was in the other place. In 1990 Liberal members came back to the Parliament between Christmas and New Year with their tails between their legs to put through a Bill because they were found to be totally wrong about it. They held up legislation; they said it would not go through because we could not pass legislation that would allow the Commonwealth to take over responsibility for corporations law and remove state powers. When the absolute stupidity of their move was pointed out to them by the business sector, the Parliament was recalled between Christmas and New Year, a very unusual time for the Parliament to sit. We were in here in the middle of summer patching up the stupid mess caused by the member for South Perth and his colleagues, who had the numbers in the other place. The arguments are 10 years old. They were wrong 10 years ago; they are still wrong now. This matter will go to a committee in the other place according to its rules. There is absolutely no need to use this delaying tactic to the Bill's passage through the Legislative Assembly.

Dr E. CONSTABLE: I support this motion to send this Bill to a select committee. Mr Speaker, given your experience on the Standing Committee on Uniform Legislation and Intergovernmental Agreements, I am sure you will understand what this is all about, unlike some of the other members of the Government. I am very disappointed with this minister. He seems to have contracted the same disease that all Leaders of the House get; that is, he is obsessed with time -

Mr J.C. Kobelke: I was, for the people who were being ripped off by payday lenders when we could not put legislation through quickly.

Dr E. CONSTABLE: He is obsessed with doing things quickly.

Mr J.C. Kobelke: I am concerned with time as it relates to consumers being ripped off. You are not worried about their protection. That is the issue.

Dr E. CONSTABLE: I am concerned about what goes on in this Parliament and how the minister abuses it. That is exactly what he is doing now.

Mr J.C. Kobelke: How am I abusing it?

Dr E. CONSTABLE: He is abusing it by handing over the power of this Parliament willy-nilly to another Parliament. It is absurd.

Mr J.C. Kobelke: That is nonsense.

Dr E. CONSTABLE: He is, and he knows he is.

Mr R.C. Kucera interjected.

Dr E. CONSTABLE: The Minister for Health has not read the Bill either. I would be quiet if I were him.

Mr J.C. Kobelke: Sit down before you embarrass yourself with this absolute nonsense.

Mr P.G. Pendal: She knows far more about it than you know!

Dr E. CONSTABLE: Far more. There have been two uniform legislation committees in this Parliament, and I have been on both of them. I have analysed the issue far more than has the minister by the look of his legislation. He is obsessed with time.

Mr R.C. Kucera: Does that make it right because you think it is right?

Dr E. CONSTABLE: The minister should go and do something about psychiatric care for young people, and do his job. He should not come in here and interrupt in this way.

Several members interjected.

The SPEAKER: Order!

Dr E. CONSTABLE: They are not malcontents. They are parents of children who need the help that the minister is taking away from them. He should go and do his job.

Several members interjected.

The SPEAKER: Order, members! The member for Churchlands has the call.

Dr E. CONSTABLE: The minister who has the carriage of the legislation is obsessed with time. We saw it this afternoon when he allocated 20 minutes to this lot, 20 minutes to another lot and five minutes between all the Independents if they wanted it in a debate on arguably the most important issue the Parliament has dealt with for a long time. He was cavalier about time. He said "Let's get it over with." It was a little stunt.

Mr J.C. Kobelke: It is not important for you because you do not spend a lot of time in the Chamber. Others spend a lot of time in the Chamber.

Dr E. CONSTABLE: I spend a lot of time in my office listening to the minister carrying on as he does.

Mr J.C. Kobelke: It's good to see you here.

Dr E. CONSTABLE: That is gratuitous. The minister is introducing template legislation because he is obsessed with time. The Parliament needs time to consider matters. He does not want this Parliament to do that work any more, so he wants to give the job to the Queensland Parliament. I was not elected by the people of Churchlands to give my job away to another group of elected officials in another jurisdiction - nor was any other member here elected to give away that role. Nevertheless, the minister asks us to do so through the legislation. That is why it is important for a select committee of this Parliament to look at the matter. It does not matter if it takes another two or four weeks as this is a very important process. The minister might be setting a precedent he will be sorry for in the future.

The minister should have looked at the work done by the parliamentary committee. I am sure the minister agrees that the Parliament should have committees to look at important issues. Good; he is nodding - we agree on something. If the minister had seen the Eighth Report of the Standing Committee on Uniform Legislation and Intergovernmental Agreements of 1994, he would have found an out on this matter. I would have agreed to the

use of that mechanism, which was considered fully by the committee. No, the minister handed over willy-nilly our responsibility to another Parliament. I wonder what the people of Western Australia would think if they knew what he is doing; namely, giving to another group of elected officials the job we have been elected to do. It is an extraordinary situation.

I am wary of uniform legislation, which should be looked at very carefully in each case. Uniform legislation is appropriate in some cases, such as with consumer credit laws; however, it is not appropriate to hook our destiny onto the Queensland Parliament. That is the problem. The sheep in the minister's party are following him without thinking about the issue.

In 1994, we recognised the pitfalls of template legislation. We produced a mechanism that would have allowed for this Parliament not only to hand over the matter to Queensland through adopting template legislation, but also to adopt a scrutiny mechanism at the same time. Frankly, it was a clever response to the notion of template legislation. The Court Government rejected the proposal in 1994 and enacted alternative consistent legislation. The minister's problem is with time delays. If the minister had adopted the recommendation of the Standing Committee on Uniform Legislation and Intergovernmental Agreements, inordinate delays in amendments to the credit code would not have occurred; it would have been quite a quick process. A short number of sitting days would have been required during which changes would sit on the Table of both Houses to be noted by both Houses. It was a very good mechanism as a compromise between handing over the powers willy-nilly to the Queensland Parliament and retaining the legislation in this State. It is a pity that the minister has not read that report and absorbed it as he could have adopted a novel proposal that, I venture to suggest, everybody would have supported. He could have acknowledged the importance of putting safeguards in place for the people of Western Australia by retaining our ability to scrutinise, while also making up for the delays the minister is concerned about.

The legislation should be referred to a select committee for a number of reasons; they are obvious. First, it is a major step to give up the powers to Queensland. If this measure were to pass through both Houses of Parliament, I hope it is the first and last time it will happen. It is a worrying precedent. Any legislation should be subject to the scrutiny of this Parliament. That is what we are here for, and the minister knows it.

The second reason it is important for a select committee to look at the legislation is that the committee would have an opportunity to re-examine the alternative proposal of 1994. As the member for South Perth said, the process would happen quickly as the work has been done. It would present an opportunity to revisit the matter in a small number of weeks to ensure we know why we are engaging in the process sought by the minister.

The third reason that the legislation should be referred to a select committee is that we do not want to create a precedent. This has never happened before. We should consider it carefully. I do not want an unhealthy precedent set by the passage of the legislation. The only reason that the minister has given for this mechanism is that he wants to save time. That is not a good enough reason to give up the powers of this Parliament.

Dr J.M. WOOLLARD: I support the member for South Perth's motion. I have listened to the debate and the minister has stated that he is quite happy for the Bill to be referred to a select committee in the upper House. When the planning appeals tribunal legislation was on the Table in this House 18 months ago, I raised the issue of third-party appeals. When the Bill went to an upper House committee, its members were told that time was not available to consider third-party appeals. Therefore, everything else was looked at very quickly. I believe that Hon Dee Margetts and a couple of other members of the committee wrote a separate report to ensure that the issue was covered.

The member for South Perth and others have stated that this process represents a major change to the way Parliament conducts its business, and the Bill should be referred to a select committee and be returned to this House for a full discussion. It should not be pushed through quickly and sent to another place as members of this House, including government members, will not have the opportunity to consider the views put on the table following a full committee review. Therefore, members in this Chamber will not necessarily know all the implications of the Bill.

Everyone accepts the minister's statement about not wanting to see time delays. Is the minister running a good department? He stated in the Bill's second reading speech -

> It is his intention as a matter of policy to advise of any amendments prior to their introduction into the Queensland Parliament.

If the minister is able to advise of any amendments, why is he not able to set in motion the process for getting any necessary amendments through this Parliament? The minister says that there has been a two-year delay, although I did not hear him say where that delay had occurred. I have listened to the member for Churchlands, who stated that she has been on two uniform legislation committees that looked in depth at the possibility of

handing over these powers, and looked at other options to give the Western Australian Parliament greater control in this area, and not to hand over power completely. It is therefore appropriate that this Bill go to a select committee now, and come back to this Parliament for review before it moves to the upper House.

Mr D.F. BARRON-SULLIVAN: The arguments we have heard tonight from a number of members reinforce the concerns raised some days ago by the Liberal Party during the second reading debate and the consideration in detail of this legislation. In view of some of the things said here tonight, it is important to go over some of the most salient matter again. The first thing I wish to stress is that the Opposition has no dispute whatsoever with the need for uniformity of legislation on these credit matters. The argument tonight is all about how to achieve that uniformity. When people talk about finance companies wanting to be able to advertise the same way in each State, or that complications in the industry might result from a lack of uniformity, that does not in any way reduce the need to debate and discuss the way in which that uniformity of legislation is to be achieved.

Some days ago there was an interjection from the Minister for Planning and Infrastructure which really summed up the attitude of the Government on this legislation, and particularly its acceptance of this template facility. The minister, if I recall rightly, said that, under this arrangement, the whole thing would be quicker and easier. She was probably right - it does make the process quicker and easier - but at what cost? A number of members have pointed to the precedent this whole situation could create. As the members for Kingsley and South Perth alluded to earlier on, and as was discussed some days ago, the simple fact is that, under the Government's proposal we would be handing over the legislative decision-making power of this State to ministers from other States. This gives rise to some very interesting scenarios. For example, at the ministerial council, if two-thirds of the ministers in Australia agree to a particular measure, and Western Australia does not, as I pointed out the other day, and as the member for South Perth has reinforced, we would be bound to adopt that measure in our legislation.

Mr P.G. Pendal: Under proposed section 5(a), more particularly, it is automatically made a part of our legislation.

Mr D.F. BARRON-SULLIVAN: It is automatic. There shall be a draft proclamation for our Governor to sign. It gets interesting, too because let us say that two-thirds of the ministers agree on a particular measure and Western Australia is included in that number. We agree with this particular measure, and it goes off to the unicameral Parliament in Queensland. Then suddenly someone realises that the Queensland Government does not agree with that particular measure and feels very strongly about it, because, in its opinion, it would be a terribly bad thing for the consumers in Queensland. We would be in a situation in which the Queensland Government does not have to put that measure through its Parliament if it does not want to. The Queensland Government has a double-whammy advantage over us. It in effect gets a power of veto. It gets a say on the ministerial council and it gets a power of veto when the matter gets to its Parliament, and, as has been discussed, because it is a unicameral system, there is no requirement for a legislative review process when the matter gets to that State. For all the reasons that have been mentioned, this really is a very decisive step towards changing the legislative procedures in this State.

Another State looked at this matter and decided that it was abhorrent that laws should be made outside of that State's boundaries without reference to its Parliament. It looked to see whether there was a compromise. The Tasmanian Government decided that it would make provision in its legislation so that there could be a template arrangement, which was decided on in the ministerial council and which was then acted on in the unicameral Parliament in Queensland and that a draft proclamation would go to Tasmania for consideration. My understanding of Tasmania - it is not only my understanding; I also have a copy of its legislation - is that the Parliament in that State gets to scrutinise the legislation and gets the opportunity to reject that legislation if it so wishes. I even have reservations about that process. However, during the second reading debate I asked the minister whether he had considered that as at least a halfway option to give some degree of accountability to the people in this State for the sort of legislative provisions that would arise out of this process. However, there is not a great deal of interest in going down that path. Indeed, on 4 December in his second reading speech, the minister said -

> . . . it is my intention as a matter of policy to advise of any amendments prior to their introduction into the Queensland Parliament.

Here the minister is saying, "Trust me; I will tell you as a matter of policy when we will make some legislative amendments when we put them through the Queensland Parliament." There is no requirement for those amendments to come before the Parliament, there is no requirement for them to appear in the *Government Gazette*, there is no possibility of any sort of disallowance of any sort, but we are to trust the minister of the day to simply notify us as a matter of policy of what is happening. I thought that on an issue as important as this, perhaps the Solicitor General's Office would have been contacted to find out whether there were any

constitutional ramifications. The minister advised us in response to questioning on the matter that that sort of advice had not been sought. We have a situation in which we are giving up our legislative authority in this area. We are opening up a potential Pandora's box of legal implications; yet the minister has not sent the matter to the Crown Solicitor for appropriate advice in that respect.

We have heard superficial arguments from those on the other side that if we do not like clause 5, clause 6 or whatever, we can amend it, abolish it, come back to the Parliament and so on. Superficially that might be correct. However, what happens in the meantime if bad legislation is in place? What happens if our consumers are suffering as a result of that bad legislation?

Dr E. Constable: It could take a long time to fix it.

Mr D.F. BARRON-SULLIVAN: It could indeed, because the minister criticised the legislative process for being a slow process. I wonder how long it would take to change this legislation. The member for South Perth was absent when I made comment on this. I hope he does not mind my saying that he once told me - I will not get him into too much trouble over this - when I was very new in this House and had made a flippant comment about it being good to put through some legislation quickly, that good legislation is legislation that has been dealt with in earnest and in detail in this Parliament. He told me that legislation should not be rushed simply to get a quick result. Those were some of the wisest words I have heard in this Parliament. Legislation is not something that we should put through in a hurry; however, it is something we want to put through the Parliament so we have a strong degree of accountability. It raises the question of where we draw the line. As I pointed out earlier, perhaps we should start bringing in template legislation for other portfolio areas such as criminal law and environmental legislation. I wonder what the Minister for the Environment and Heritage would think if the Queensland Parliament started passing our legislation? Imagine if the ministerial council decided it would be a great thing if States went back into old-growth forests and the Queensland Parliament of the day decided to give the nod of approval and we suddenly had a law in this State that overrode everything and that ordered the chopping down of every tree in Western Australia. That is an extreme example, but it demonstrates the point entirely.

Mr P.G. Pendal: I do not think the minister would get the Order of Australia at the end of that.

Mr D.F. BARRON-SULLIVAN: I am quite sure she would not. I am trying to illustrate where we draw the line.

If we are to go down this path and do not want responsibility for this sort of credit legislation, perhaps the minister should start putting up some arguments why the whole thing should be handed over to Canberra. I am not advocating that, but if we abrogate our responsibilities in this area and are prepared to let Queensland handle the legislation, we may as well have a completely national system in this area and let it all be handled from Canberra. I would be reluctant to do that for the simple reason -

Point of Order

Mr J.C. KOBELKE: As I alluded when I spoke earlier, we are dealing with a referral motion. One member spoke for an hour on the issue rather than the referral. He had not spoken previously and clearly had an interest so I did not take a point of order. The member is repeating all the things he said during the second reading debate. He is not referring his comments to the motion before the House, which is to refer the Bill to a committee.

The SPEAKER: The member should speak to the motion, and I am sure he is about to.

Debate Resumed

Mr D.F. BARRON-SULLIVAN: I will continue to detail the reasons that this is sufficiently important to be referred to a select committee forthwith. As I indicated, why it is so important is that if we go down this path, there is a strong argument that we will be abrogating our legal responsibilities in this area. For all intents and purposes we may as well give up our legislative authority and hand it to Canberra. The minister has indicated that we need to go down this path so that we can speed up the process and obtain the benefits of the credit code that will emanate from Queensland. The point I was about to make a moment ago is that if we look at the legislation, there are aspects of our current credit code in Western Australia that will be retained. Other States will not have these attributes; we will. Some very good provisions put in place by the previous Government very much benefit consumers in Western Australia. Inherent in this legislation is recognition that our consumer legislation is very good; it is better than that of the other States. That tells me something. It tells me that I do not want entirely uniform legislation in this area. If this Parliament writes the legislation, it will, from time to time, get it right and we may have provisions that are better than the provisions in the other States. However, if we

take a uniform approach, who knows, we may end up with something along the lines described by the minister - with a more mediocre set of legislation than we have developed through previous processes.

The bottom line is that the minister is asking us to pass this Bill to provide all sorts of benefits. I will not go into this aspect in detail because we spoke about it earlier. The first benefit will be a rate called a comparison rate which, as I pointed out, could be misleading. Indeed, the regulations that relate to this legislation even include a formal warning about the possibility that the comparison rate could mislead consumers.

The SPEAKER: I have been waiting for the member to return to the motion. He is debating the legislation itself once again. I urge the member to address his remarks specifically to the motion, which seeks to have this legislation referred to a select committee, not the content of the legislation.

Mr D.F. BARRON-SULLIVAN: Yes, Mr Speaker. As I indicated, it is not my intention to talk in detail about the comparison rate. I am trying to say that this legislation will result in a rate called a comparison rate, which will not be a good thing for consumers in this State. It is this rate that the minister and this Government are foisting on us through this legislation.

The SPEAKER: I am asking the member why he is mentioning that in relation to this motion.

Mr D.F. BARRON-SULLIVAN: In answer to your question, Mr Speaker, that goes to the very significance and importance of this legislation and the template legislative process this Government has proposed. That is why this matter deserves to be referred to a select committee.

Mr P.G. PENDAL: I thank members who contributed, particularly members who supported the motion to refer this Bill to a select committee. It is somewhat ironic that the Leader of the House was getting a little testy about whether the previous speaker was sticking to the subject. I recall that in his response to my speech the Leader of the House implied that I had abused the processes of the House by moving my motion. Surely, if members had abused the processes of this House, you, Mr Speaker, or your predecessors in the Chair, would have interrupted them. Secondly, and more pertinently, I triggered the use of the standing orders of this House. If the minister has forgotten in his two years in ministerial office what standing orders say, Standing Order No 171 provides that at any time after the second reading a member may move that a Bill be referred to a select committee of the House.

Mr J.C. Kobelke: You spoke for an hour and only vaguely referred to the motion.

Mr P.G. PENDAL: That is only in the opinion of the Leader of the House. The debate itself was relatively unheated up to the moment when one of the government backbenchers interjected with gross insults. Even the minister at the Table was, I thought, being reasonable and taking on board the points I was trying to make on why the Bill should be referred to a select committee. My first point is that, far from abusing the processes of the House, I used them. The minister was not making any revelation when he said that I was not present for the second reading debate. I said I was not. I was overseas on parliamentary business for a fortnight and, therefore, I lost the opportunity to participate in the second reading debate. If I had been here, in all likelihood I would have triggered Standing Order No 171 in the same way that I did tonight. Why? Standing Order No 171 is available to be used precisely for the purpose for which I used it.

Another matter that I will briefly touch on is that we should take a look at ourselves and the use of the conventions of this House. I heard that the Leader of the House - I was astounded - made reference to one of the members who took part in the debate but did not spend time in the House. It is one of the serious and strict conventions of this place, the other place and other Parliaments that a member never refers to the absence of other members. Every member in this House knows that there are duties extra to this House. If what the minister said tonight was valid, the finger could be pointed this very minute to 75 per cent of the Cabinet. The conventions of this House are, in many respects, just as important as the standing orders, and Mr Speaker knows that. One of them is that a member does not make gratuitous reference to the fact that some members are not present in the House at a particular time. Both sides of the House can play that game and it is equally unproductive when done so. The minister was out of order on that score alone.

Let me return to the substance of why this legislation should go to a select committee. It was not me, the member for South Perth, who raised the alarm bells about what we are doing tonight. Let me repeat; we are passing a Bill to pass to the Queensland Parliament the capacity to take over this State's consumer credit laws and to amend them in the future without their coming back here. I did not raise those alarm bells tonight as an individual. Those alarm bells have been raised in this House previously month in and month out. The same principle was at stake in the sixth report of the Standing Committee on Uniform Legislation and Intergovernmental Agreements, titled "Mutual Recognition - A Consideration of the Mutual Recognitions Scheme" September 1994. In June 1994 that committee put out an "Interim Report on Australia-Wide Mutual Recognition". On 16 June 1994, it produced another report, titled "Parliament and the Executive." Another one

that appears to be undated but it was produced in 1994 is "Register - A Register of Existing and Proposed Uniform Legislation and Intergovernmental Agreements". The list goes on.

I am not the only one raising alarm bells. I raised the alarm bells on behalf of a bipartisan committee of this House that existed over the life of two separate Governments; the first and the second Court Governments. Mr Speaker, you were one of the leading members of that committee, and a very valuable one. The former member for Geraldton was another member, as was the member for Churchlands. The former member for Albany, before he became a minister, was also another. All of those members signed the reports and spoke in this Chamber month after month on the principle that I brought to the attention of the House today. Most people listened with some courtesy and with some interest at the appalling nature of what we are doing. However, there was one exception - it is always the same; the member for Innaloo had to go through his processes of abuse even to the point of having to withdraw remarks. This is not a question of my having nothing better to do with my time. I raise the alarm bells tonight because two separate Parliaments of this State in the 1990s similarly raised those alarm bells.

Let me quote from one of those reports because it goes to the kernel of why this Bill needs to be referred to a select committee. On 24 March 1994 I tabled the first report of the Standing Committee on Uniform Legislation and Intergovernmental Agreements. The report had its genesis in some of those more difficult days of WA Inc from which the committee partly rose. On page v we quoted the then Solicitor General Kevin Parker, who is now on the Supreme Court bench. We were considering the question of uniformity and uniform legislation and our report stated -

> *"For most… subjects… the need for or the advantages of national uniformity are usually exaggerated and there is not usually much real justification for the monotonously frequent calls heard in recent years for 'national uniform legislation' . . .*

That is what the Solicitor General had to say, but I now refer to a reason for its going to a select committee. This observation is made on the same page -

> *To this concern -*

That is, to Mr Parker's -

> *can be added that of the Royal Commission Into Commercial Activities of Government and Other Matters -*

Which we all know is the royal commission into WA Inc -

> *which made a number of observations relevant to this report, -*

And which I say are relevant to a select committee -

> *including the view that:-*
>
> > *"(the) parliamentary role -*

This is all I was arguing tonight; no more, no less -

> > *must rest solidly upon the independence of the Parliament as an institution."*
>
> *The Royal Commission went on to observe that governments:-*
>
> > *"… should not be allowed… to blunt the capacity of the Parliament to review the government itself."*

Tonight we are doing precisely that. We are blunting the capacity of this Parliament in the future to be involved in amending consumer credit law in Western Australia. Is that me only raising the alarm? Is that me waking up in the middle of the night and thrashing my gums because there is nothing better to say? No. It is also shared by the then Solicitor General, and it was shared by the royal commission that inquired into the activities of a previous Labor Government of this State; and, as the saying goes, those who do not know their history are apt to repeat its mistakes. The royal commission went on to observe that Governments should not be allowed to blunt the capacity of the Parliament to review the Government itself. That is another reason, even at this late stage, for asking a select committee if there is a better way to achieve what the minister wants to achieve. Based on my reading of those reports, there is, and nothing that will unduly hold up the minister from bringing about his legislation. The same report provides another reason for this legislation going off to a select committee. It states -

> *Given on the one hand Mr Parker's comments, and given on the other the undoubted case to be made out for <u>selective and necessary</u> uniform agreements or legislation, it now falls to parliaments across Australia to stir themselves from their slumbers.*

What is the slumber referred to? The slumber is this notion that we do not have to bother our dear, old heads in reviewing legislation for which this Parliament is responsible. How are we to get out of that? We will get out of it by sending it to Queensland. We are not only sending it to Queensland, but also we are sending the right and the capacity to amend our future legislation. We do not get a say. Members should not take my word for it. When I interjected on the member for Innaloo, I said, "Read clause 5(a)", and he said that those words meant what they said. It was clear that he had not read clause 5(a) and it became another reason for this to go to a select committee. A final comment came out of this first report on the principle that we have got at stake, and the principle that we could so easily overcome tonight. It states -

> *Simply put, the parliaments by inaction and easy compliance* -

It is easy compliance on the part of the government members. They have fallen into line -

> *can end up as lapdogs for executives . . .*

I will read that again -

> *Simply put, the parliaments by inaction and easy compliance can end up as lapdogs for executives, or they can take significant steps towards calling a halt to their submissiveness.*

That is another reason for the Bill going to a select committee. It is not as though there are no solutions. The solutions have been identified in the seven, eight or nine models that have been identified by those committees. I will advance another reason. The March 1994 report dealt with structures. That was shorthand for the genesis of the model that the minister has chosen. I will explain that point. All the minister has done is to choose one structure or model to achieve uniform legislation.

Point of Order

Mr J.C. KOBELKE: The member has been speaking for some 13 minutes and has skilfully alluded from time to time to the motion, but has really not spoken to it. The motion seeks to refer the Bill to a committee. The member for South Perth has been going over the arguments, which he spent an hour on during the debate, rather than concluding this debate on why the matter should be referred to a select committee.

Mr C.J. BARNETT: I have been listening to the member for South Perth. I assure the House that he has been talking about the motion and the case for referring the Bill to a select committee. He has not veered from that at all.

The DEPUTY SPEAKER: The member was drawing his comments to the motion at hand. I ask him to continue in that vein. However, he should keep in mind that this is his reply to the debate on the motion.

Debate Resumed

Mr P.G. PENDAL: Thank you, Madam Deputy Speaker. One reason a bipartisan select committee would be helpful is that it would come back to the House and endorse the fact that seven, eight or nine models or structures were identified in that period through which we could achieve uniform legislation when that was seen as desirable. My point is that the Queensland option is the least attractive of the options. I believe that a select committee would tell the minister that, and also that there are at least two, three or four other models. I believe that the select committee would advise the House that, at the very least, some concession would be given to local scrutiny if we included in this Bill a provision whereby any amendments made by the Queensland Parliament would have to be tabled here as regulations, and therefore capable of disallowance. That is another reason this Bill should go to a select committee. Ordinarily, one sends something to a select committee because one does not know the answer to something. Perhaps that is why the minister does not want this Bill to go to a select committee; we would be sending it to a select committee knowing that logic dictates that there are seven or eight models that are more in line with parliamentary practice and protocols than the one chosen by the minister. Again, that is another reason it should be referred to a select committee.

I find an associated matter to be of supreme irony. If I remember correctly, this Parliament is currently examining a part of the Western Australian Constitution which has bothered people for a long time and which touches precisely on this issue. I refer to that part of the Western Australian Constitution that ensures that the privileges and immunities of the House of Commons in London apply here. I do not know how many people know that. Section 36 of the Constitution ensures that. Many people are of the view - I am one of them - that that is objectionable. All these years later, if the House of Commons were to alter its view of the world on the privileges and immunities of its members, we would be locked into that here, yet we have bipartisan support in this Parliament to find ways to break that. I always believed that the passage of the Australia Act back in the 1980s had overcome those problems, but we still have those residual hangovers which mean that the standing orders could be changed in London without our knowledge, and we would have to pull into line here. If you find

that objectionable, Madam Deputy Speaker, and I think you do, why would we find it less objectionable for Queensland to make a change to Western Australian law and we have no chance to influence it here? What is good for the goose is good for the gander. That is another reason a select committee should look at this matter. I am convinced that the minister is only frightened of the Bill being referred to a select committee because of what he might be told by the committee, not because of what I am saying. His own members said as much in these six reports and in a few more that I cannot lay my hands on. Those reports were bipartisan.

Even at this stage I implore the minister to make a reversal in form, to stop us here and refer the Bill to a select committee to find out whether we can achieve uniformity - with which, incidentally, I agree for credit laws - and whether we do it in a better way than by giving our laws to Queensland to amend. How anyone can take pride in that, I do not know. The wheel will turn. I said earlier in my remarks that it is very rare that when a member makes a prediction in this place it comes true the next morning. What happens with monotonous regularity is that two years or five years down the track something happens that makes people rue the day that they did what we are being asked to do tonight. The minister will be in the position of having to wear that.

I have quoted from the WA Inc royal commission report. When those things were being done in this and another Chamber in spite of the objections of other people, those objections were brushed aside. The Opposition of the day was swept aside, including people like me. However, eventually the chickens came home to roost. That is why the royal commissioners condemned that Government and those ministers for seeking to bypass the scrutiny of the Parliament. That is what is at stake tonight. I ask members to vote in favour of a reference to a select committee.

Question put and a division taken with the following result -

Ayes (19)

Mr C.J. Barnett	Mr J.H.D. Day	Mr W.J. McNee	Mr T.K. Waldron
Mr D.F. Barron-Sullivan	Mrs C.L. Edwardes	Mr B.K. Masters	Ms S.E. Walker
Mr M.J. Birney	Mr J.P.D. Edwards	Mr P.D. Omodei	Dr J.M. Woollard
Mr M.F. Board	Mr B.J. Grylls	Mr P.G. Pendal	Mr J.L. Bradshaw *(Teller)*
Dr E. Constable	Ms K. Hodson-Thomas	Mr M.W. Trenorden	

Noes (22)

Mr J.J.M. Bowler	Mr R.C. Kucera	Mrs C.A. Martin	Mr D.A. Templeman
Mr A.J. Dean	Mr F.M. Logan	Mr M.P. Murray	Mr P.B. Watson
Mr J.B. D'Orazio	Mr J.A. McGinty	Mr A.P. O'Gorman	Mr M.P. Whitely
Dr J.M. Edwards	Mr M. McGowan	Mr J.R. Quigley	Ms M.M. Quirk *(Teller)*
Mr J.N. Hyde	Mr A.D. McRae	Mr E.S. Ripper	
Mr J.C. Kobelke	Mr N.R. Marlborough	Mrs M.H. Roberts	

Pairs

Mr R.F. Johnson	Mr A.J. Carpenter
Mr R.N. Sweetman	Ms S.M. McHale
Mr A.D. Marshall	Dr G.I. Gallop
Mr R.A. Ainsworth	Mr S.R. Hill
Mr M.G. House	Mr C.M. Brown

Question thus negatived.

Consideration in Detail Resumed

Mr D.F. BARRON-SULLIVAN: We have had a fairly extensive debate today, which goes back to 27 February, on the principles underlying the template legislation provisions that the Government is attempting to bring in through this legislation. Any further comment on that would be superfluous.

I turn now to the matter of the comparison rate. Again, a fair amount of discussion on that matter took place on 27 February and today. The minister kindly provided a summary of how the comparison rate will work. I have now had time to read through it, and it conforms to my understanding of how a comparison rate is supposed to operate. However, using the table the minister has provided, I will make a couple of points. If any of the loans from lender X, Y, and Z on the document provided attached a redraw facility or an equity account to any of these loan facilities, or if there were differences between the repayment schedules of the three lenders, there would be a very different result to the actual cost to the borrower. Things cannot be included in the formula that will

determine the amount of money that consumers will spend on their loan facility. As I said earlier, members do not have to take my word for it. I suggest that before the legislation gets to the upper House, government members talk to the Australian Finance Conference Ltd. That organisation is very keen to see uniform legislation enacted. It does not have the same priorities as we on this side of the House do about how that uniformity is achieved. However, it certainly has some very strong views about the comparison rate.

The President of the Australian Finance Conference stated its formal position on this comparison rate. He said that it is a nice but impracticable idea, it is fraught with so many assumptions that it is sort of misleading and it has the potential to confuse. I spoke to the President of the Australian Finance Conference in his office in Sydney on 11 March. My information is current. Members of the Australian Finance Conference are at the cutting edge of the provision of financial services around Australia. I implore the minister to take into account what this comparison rate means. I have looked at the table that the minister gave me earlier today. I can see the flaws in it, and I can see the other questions that I would need to ask lenders X, Y and Z to get an accurate idea of what will be the real cost of these loan facilities to me. That is only because I have spent a lot of time looking at this legislation and have spoken to some of the best financial advisers in Australia. However, consumers may get this comparison rate and say, "This is the official government comparison rate. The cost is the same for all three, so it does not matter whether I go for option X, Y or Z." However, they will not realise that had they gone for option Z, which might have an equity account attached to it, that might have better suited their financial needs and reduced the cost to their household budget.

The minister's own regulations contain a warning. I think I have the latest one - it has changed so many times I am not sure - but it states that care should be taken in using this comparison rate; the comparison rate is accurate only for the example given, as other factors may influence the final cost of the loan. The minister's own regulations indicate that the comparison rate is not accurate. I know I will not change the minister's mind on this matter, but that is another reason that we should be very sceptical of what this legislation sets out to achieve.

Mr J.C. KOBELKE: I will respond by going through the model, because although I handed the piece of paper across, it is not on the record. This is an example of how the comparison rate will work. We take a consumer who is seeking a home loan of $300 000 over 25 years and who obtains information from three different lenders. Lender X offers a flat variable rate of 6.31 per cent per annum with a $675 application fee and an ongoing account-keeping fee of $10 a month. Lender Y offers an introductory honeymoon rate of 4.99 per cent for 12 months, which reverts to a variable rate that is currently 6.7 per cent, with no application fee and an ongoing account-keeping fee of $12 a month. Lender Z offers an introductory rate of 4.25 per cent for six months, which reverts to a variable rate that is currently 6.57 per cent, with a $500 application fee and an ongoing account-keeping fee of $8 a month. When a consumer compares the cost of these loans to try to find out which is the cheapest, none of the figures from the different lenders is the same; there are different interest rates, different account-keeping costs and different features. However, the comparison rate - which is a mathematical method of reducing all of the interest rates, fees and charges to a single percentage figure - for the three different products that are offered by lenders X, Y and Z is the same at 6.55 per cent. In other words, in terms of the key components, there is no difference. However, clearly there are myriad fees, charges, introductory rates and interest rates that cloud that fact and make it difficult to compare the cost of the different products on offer. My view is very different from that of the member for Mitchell. He considers the fact that there is still complexity and that the comparison interest rate does not tell us everything and says the consumer may be misled. I consider the fact that if we have a comparison interest rate, we have reduced the complexity to some extent and the consumer has a better chance of making a comparison. It does not give the final answer on every aspect, because people can enter into other arrangements that are not taken into account in the formula. That is why it contains a warning that people should take care if they intend to pay off their loan by making weekly instead of monthly payments, for example. However, such a change is minuscule. It is there, but it is very small. They pay off the loan more quickly, but not by very much. It is a tool to help consumers better understand. It does not provide all the answers, and there is no suggestion that it should or could. However, it is misleading to suggest that it will confuse people. It will make what is already a confusing situation somewhat simpler, and that is all it is intended to do.

Mr D.F. BARRON-SULLIVAN: It is not my intention to dwell on this matter except to correct one thing. The minister implied that the point of view I put earlier was my point of view. I am trying to stress that I am passing on advice obtained from some of the best financial managers in this nation. According to my notes, one of them said that this provision "is meaningless to a consumer". Another said, "It is misleading in its simplicity", and another said, "It has the potential to confuse." How many quotes from people involved in the financial industry do I have to provide to get the minister to at least question whether the comparison rate could be misleading? That is not my word; it is the word of the financial managers. These people do this for a living. They do what the minister and I do not do; they operate in the financial industry. One of them heads the peak industry body in

the area of consumer credit finance. All I suggest is that it would pay the minister to make a personal phone call. I have this man's phone number, and I am sure he would be delighted to take a phone call -

Mrs C.L. Edwardes: Not now!

Mr D.F. BARRON-SULLIVAN: No, preferably not at this time of night, as it is almost three o'clock in the morning in the eastern States. I and the Liberal Party have genuine concerns -

Mr J.C. Kobelke: If you give me his name and number, I will give him a call.

Mr D.F. BARRON-SULLIVAN: I will do that right now. I thank the minister.

Mr J.R. QUIGLEY: The member for South Perth went on for a long time about clauses 5 and 6 and how I had not read the Bill. Lest his speech give his constituents the impression that he is genuinely concerned about clauses 5 and 6, I put on record that he has packed it in and gone home across the Narrows Bridge. He is not in the Chamber. He took up an hour of this Chamber's time with his waffle, and he is not even here to debate the Bill or scrutinise the legislation. His speech was absolute nonsense that wasted this Chamber's time.

Mr A.D. McRae: Nor is the member for Alfred Cove.

Mr D.F. BARRON-SULLIVAN: In view of the member for Innaloo's comments, I point out that this clause has very serious policy implications and at the moment only three members of the Gallop Labor Government's Cabinet are in the Chamber. I have no doubt that the member for South Perth is in his office listening to this over the speaker. I know how intense is his interest in this. It is clear there is very little interest from the Government's front bench in the matter of template legislation or the detail of this financial Bill.

Clause put and passed.

New clause 7 -

Mr J.C. KOBELKE: I move -

Page 5, after line 6 - To insert the following -

7. Sections 7 and 8 amended

Sections 7(1) and 8(1) are amended by deleting "*Consumer Credit (Western Australia) Regulations*" and inserting instead —

" *Consumer Credit (Western Australia) Code Regulations* ".

The effect of this is to include in the legislation the word code, which was left out of the reference to the Consumer Credit (Western Australia) Code Regulations.

Mr D.F. BARRON-SULLIVAN: What would happen if the Queensland Parliament made a small error of this nature and it became part of the legislation that was automatically adopted in Western Australia? How would we tidy that up?

Mr J.C. KOBELKE: It would be done the same as is done here, except that it would be put through the Queensland Parliament.

New clause put and passed.

Clauses 7 to 15 put and passed.

Title put and passed.

House adjourned at 11.36 pm