THE PRESIDENT (Hon Clive Griffiths) took the Chair at 3.30 pm, and read prayers.

BILLS (4) – ASSENT

Messages from the Governor received and read notifying assent to the following Bills –
1. Commercial Tenancy (Retail Shops) Agreements Amendment Bill
2. Evidence Amendment Bill
3. Misuse of Drugs Amendment Bill
4. Iron Ore (Mount Newman) Agreement Amendment Bill

PETITION – DUCK SHOOTING

Prohibition Legislation Support

Hon Cheryl Davenport presented a petition bearing the signatures of 2 050 citizens of Western Australia urging the Parliament not to declare a duck shooting season for 1991 and to legislate for the prohibition of any future duck shooting in this State.

Similar petitions were presented by Hon Fred McKenzie (2 062 citizens) and Hon Reg Davies (1 988 citizens).

[See papers Nos 826–828.]

PETITION – FISHING

Recreational Anglers – Compulsory Licence Opposition

Hon George Cash (Leader of the Opposition) presented a petition from 21 citizens of Western Australia indicating that they did not support the introduction of compulsory licences for recreational anglers and urging the Parliament to reject any proposal to implement such a licence.

[See paper No 825.]

PETITION – DUCK SHOOTING

Controlled Season Support

Hon George Cash (Leader of the Opposition) presented a petition from eight citizens of Western Australia supporting controlled duck seasons and objecting to further infringement on their rights and rejecting any proposal to ban duck hunting in Western Australia.

[See paper No 824.]

PETITION – DUCK SHOOTING

Ban Support

The following petition bearing the signatures of 114 persons was presented by Hon Reg Davies –

To the Speaker of the Legislative Council Parliament of Western Australia.

We, the undersigned citizens of Western Australia, humbly present our petition:

We believe that
1. Duck shooting is cruel and unnecessary.
2. Lead contamination that occurs during the season is destroying our native wetlands and birds.
3. It is not only the unprotected species that are being shot, but also the protected. This could lead to the extinction of certain species.
4. Much environmental damage occurs when shooters drive their vehicles into the wetlands.
We therefore appeal to you, Members of the Legislative Council, to BAN DUCK SHOOTING.

[See paper No 829.]

MOTION – HEALTH (PET MEAT) REGULATIONS

Disallowance

HON P.H. LOCKYER (Mining and Pastoral) [3.47 pm]: I move –


I would have asked my colleague, Hon Norman Moore, to assist me with the motion, but I have allowed him to do a more pleasant task this afternoon; and if members glance at the President’s Gallery they will see that he is carrying out duties which I would normally swap with him.

Several members interjected.

The PRESIDENT: Order! I cannot see any relationship between those comments and pet meat.

Hon P.H. LOCKYER: It is not the first time I have spoken in this House on the insistence of the Health Department and, more recently, of the Department of Agriculture for pet food processors to inject dye into pet food processed in Western Australia. I have always objected to this proposal. Previously this requirement has been brought to this House by way of legislation and we have been able to reject it. However, on this last occasion it was brought to the House by way of regulation. I am happy I noticed the regulation and have moved for its disallowance, which I do for a number of reasons. –

The most important reason is that it is no secret that the pet food industry, particularly the kangaroo shooting industry, in Western Australia is in dire straits. Kangaroo shooters operate in country areas to prevent kangaroos from reaching plague proportions and they are having enormous difficulty getting rid of their product. The reason is that, because of the depressed stock prices for sheep, an enormous amount of cheap mutton is finding its way to the marketplace and people are finding it as cheap to buy mutton for their pets as it is to buy pet food processed from kangaroo meat.

This regulation requiring pet food producers to inject a dye into pet food will be the straw that breaks the camel’s back for the kangaroo shooting industry. The industry has never been in favour of this regulation. I have listened carefully to the arguments from members on the other side of the House and to those from the industry.

The Government’s view is that this regulation will bring Western Australia in line with the other States and will prevent pet food from being illegally exported in place of the proper product; that is, it will prevent horse meat from being sent overseas in place of beef, as happened in the Eastern States. I reject both those arguments. Western Australia does not need to be brought into line with the Eastern States. Western Australia has its own problems, not the least is the vastness of the State and the importance of the kangaroo industry. Secondly, this regulation is an unnecessary impost and, regardless of what some people say, it will affect people’s ability to make their pets eat this food, and the pet food industry will go down the gurgler.

Another argument which is very important is that it is no secret in the north – and I have said it in this House previously – that a number of Aboriginal people go to the kangaroo pet food processors and buy kangaroo meat for their own consumption. I have always supported this; it is their right to do so. They do this because kangaroo tail is considered by Aboriginal people, and also by a large number of white people, to be a delicacy. I have gone to the trouble of speaking to some reputable doctors who have been working among the Aboriginal people in the north of Western Australia for a long time, and they support my argument. I believe it would be detrimental to these people were we suddenly to place a blue and yellow dye in the meat; they would hardly buy that meat to eat.

Another argument used to support the idea of injecting dye into the meat is that the meat is processed in the bush and may not be fit for human consumption. I have never heard of a black fellow or a white fellow dying from eating kangaroo which has been shot in the bush,
but I can tell members that many of them will not eat that meat if it is shot full of yellow and blue dye.

Hon D.J. Wordsworth: How would you dye a kangaroo tail which still has the skin on it?

Hon P.H. LOCKYER: It is done by injection.

Hon Mark Nevill: When it goes green, you cut off the green bits and make curry out of the rest!

Hon P.H. LOCKYER: Obviously Hon Mark Nevill has spent some time in the bush. This is a very serious subject and we should not accept this regulation. It is unnecessary, and it will place in jeopardy an industry comprising small business people. Were the industry to collapse and the kangaroos not harvested, the pastoralists would not tolerate that situation and would poison the kangaroos which congregate around their properties by putting strychnine and similar poisons in their drinking water. That is a very unfortunate way for an animal to die. People may think I am exaggerating but I can assure members that I do not bring this matter to the House lightly; it is of enormous importance to those people who choose to go out and shoot kangaroos.

Hon Mark Nevill: What were the problems in Queensland?

Hon P.H. LOCKYER: I am not concerned about the other States. The other States did not want this regulation either. We cannot compare the pet food industry in Queensland and New South Wales with that in Western Australia, because many people went broke over there. It is said that after a while pets will eat this meat. They sure will; if we starve our pets for five days, they will eat us! Pets will learn to eat anything. I am worried not so much about pets but about the people who are trying to make a quid out of this industry. Those people battle to make a livelihood living in the back of beyond. They drive four wheel drive vehicles, and shoot kangaroos all night. It is their choice to do this, and we should support them. They are doing a great service to this country in getting rid of a pest. Kangaroos are a pest and they do more damage than they are given credit for.

These are not good regulations and the Parliament should reject them out of hand. I call on members to support my motion that the regulations be disallowed.

Debate adjourned, on motion by Hon Fred McKenzie.

MOTION – EQUAL OPPORTUNITY AMENDMENT REGULATIONS

Disallowance

HON P.H. LOCKYER (Mining and Pastoral) [3.54 pm]: I move –


During my 11 years in this Parliament, this is the first time I have ever had to move twice on one day for the disallowance of regulations.

Once again we are seeing bureaucracy gone mad. The local government associations in Western Australia agree with the equal opportunity arrangements and requirements that are presently placed on them. They believe that people should not be discriminated against because of their sex, colour or creed. However, this legislation imposes on local government the greatest cloud of bureaucracy I have ever seen in my life. Local governments are required to report to the Director of Equal Opportunity by way of four or five sheets of questions that would stun any person who read them carefully.

A question seeking the reason that equal opportunity has not taken place over the months of July to August is quite out of order.
The Government should withdraw these regulations and so make it unnecessary for us to disallow them. The Government should discuss this matter with the various local government associations to a point where they can agree with the type of report that will be required from them. I can tell members that not one local government authority in Western Australia agrees with the regulations in their present form. It is bureaucracy gone mad, and the sooner we get rid of them the better.

Debate adjourned, on motion by Hon Fred McKenzie.

**MOTION – TOWED AGRICULTURAL IMPLEMENTS REGULATIONS**

*Disallowance*

Order of the Day read for the resumption of debate from 22 November.

Debate adjourned, on motion by Hon George Cash (Leader of the Opposition).

**MOTION – GOVERNMENT AGENCIES**

*Business Transactions – Documents Tabling*

Debate resumed from 21 November.

HON J.M. BERINSON (North Metropolitan – Leader of the House) [3.58 pm]: I oppose this motion on four grounds. Firstly, its timing is based on a motion to which I have previously objected and to which I again record an objection. I do not need to go into detail, because we have gone through the same story so often that it will be as well known to Opposition members as it is to me; but the fact remains that the procedure adopted by the Opposition to take out of the hands of the Government the management of the business of the House is one which we do not accept and can never accept.

Secondly, as I have also indicated previously, the need to adapt the sort of procedure which has given this motion priority is especially unnecessary in view of the arrangement which we have with the Opposition allowing it to nominate any of its items for priority discussion on Wednesday evenings.

Thirdly, and more substantively perhaps, the need for a motion of this kind becomes quite obscure given the progress which has been made on the question of a Royal Commission. This motion was moved after the Government indicated that a Royal Commission was to be established. It is just remotely possible that the motion could have been justified at that time on the basis that the terms of reference of the Royal Commission were not then known. Since then, however, those terms of reference have been announced, and so far as I am aware there has been a general agreement that not only are they satisfactory in general, but also they fully cover the area which this motion seeks to cover in particular. There can be no doubt that the Royal Commission will deal with all aspects of the questions which are raised by the papers which Hon Max Evans seeks to have tabled; and with due respect to Hon Max Evans and his capacity for thorough analysis of such matters, I think even he would not claim to be in a position to follow up these issues in the same way as a Royal Commission can.

Finally, I think I should draw the attention of the House to the fact that, as much as we have become used to requests for papers, every single one of which I should stress has been complied with, I am advised that this motion, if agreed to, would involve the provision of an unusual bulk of papers, much of which would be of very doubtful relevance to any serious inquiries.

It is mainly on the last two issues that I suggest to the House that there is no point in taking this matter further. The Royal Commission will deal more than adequately with all relevant questions, and to attempt in what must necessarily be a less effective way to duplicate its consideration of them by the production of these papers is a pointless exercise. It is indeed so pointless, and I think so clearly pointless, that I do not think the matter needs to be stressed any further. I suggest to the House that we have reached the point on the matters generally related to this present motion and to all other matters which have been provided within the terms of reference of the Royal Commission that we can safely leave the inquiry to the commissioners.
HON GEORGE CASH (North Metropolitan – Leader of the Opposition) [4.03 pm]: I support the motion moved by Hon Max Evans, which requires the Government to table certain documents as listed on pages 2 and 3 of today’s Notice Paper. The Government, as usual, has used the argument that it is opposed to the Opposition’s using its numbers in this House to bring matters to the top of the Notice Paper. If the Opposition in this House did not use its numbers from time to time to bring matters to the top of the Notice Paper we would never see some of the Orders of the Day again; that is to say, they would be buried so deep at the bottom of the Notice Paper that it would not be worth printing a number against them. I reject completely the notion that the Leader of the House proposes that the members of this Parliament, whether they be Liberal, National or Labor, should not use their independent votes to carry out a purpose in which they believe.

I refer now to the second position the Leader of the House advanced, which was that the Opposition has an opportunity to nominate one item of business each week that could be dealt with on Wednesday evenings. That is true, and I have said in this House before that I appreciate the opportunity of consulting with the Leader of the National Party in this place, Hon Eric Charlton, in determining just which item of business the Opposition invites the Government to consider on a Wednesday evening. Perhaps the greatest mistake that I, as the Leader of the Liberal Party in this House, have made in that regard is that I have always agreed that it should be only one item. As we come to the end of the session, I see clearly that I should have said a long time ago that we want an opportunity to nominate three items of Opposition business so that we might get through much of the Notice Paper, which comprises important Opposition business. It is clearly necessary, therefore, from time to time to use other opportunities that are available to members of this House to ensure that matters of importance are dealt with in the House and that the Government does not continue to run away from its obligations.

The Leader of the House said that now that the Government had given a commitment to establish a Royal Commission in Western Australia there was no need for these papers to be brought forward. I think all members of this House would see those comments for the spurious comments that they are.

Hon B.L. Jones: Only those on your side, not all members.

Hon GEORGE CASH: Hon Beryl Jones may be right, it may be those on our side; but if she considers those comments in a reasonable and logical way, she will see that they are nothing more than spurious comments designed to prevent an Opposition member – and indeed, the House, because the papers tabled would become the property of the House – from learning just what is being inquired into by Hon Max Evans’ motion. Just because a Royal Commission has been announced it does not mean that the Opposition can sit back and say that everything is in order and that it does not have to do anything else to assist the House in its understanding of Government business dealings in recent years.

The other matter raised by the Leader of the House was the old argument that he has used on so many occasions in the past; that is, that to comply with the motion would require him to table a considerable volume of papers. I cannot understand the logic of the argument that says, “I do not want to comply with the motion because I am going to have to lay on the Table of the House a number of banana boxes full of papers.” Boxes of papers have been tabled before, and quite rightly so. In fact, it has been only by the tabling of those papers that the Opposition has been in a position to pursue much of the important detail that it required in respect of some of the business dealings – in particular, the city property business dealings – that the Government has entered into in recent years.

I turn now to the question of accountability of the Government to the Parliament. This motion seeks quite properly to require that certain documents be tabled. It is, in effect, a motion that deals with the accountability of Government, and if members cast their minds back a month, or indeed a year or so, they will find it interesting to have listened to the arguments the Leader of the House himself put forward to the effect that the Government wanted to carry out all those recommendations contained in the report by the Burt Commission on Accountability; and, more than that, on numerous other occasions the Leader of the House has stood in this Parliament and claimed that the Government itself wanted to come clean and to be accountable.

It seems that every time the Opposition presses the button marked "accountability", the
Leader of the House quotes the four points to absolve himself of any responsibility for producing the documents. The motion before the House is proper and should be considered. It is a motion that will enable members to learn more about the valuations and agreements regarding certain property deals in which the Government has been engaged over a number of years.

The motion should enjoy the support of the House.

HON MAX EVANS (North Metropolitan) [4.10 pm]: Now that we have a Royal Commission, it is 10 times more important that this motion be passed than it was when I moved it. I can bring forward a great deal of material to the Royal Commission, as I have more knowledge than anyone in this city about the dealings undertaken by this Government. I gained a great deal of that information from the papers tabled in this House on 1 May. I have a responsibility to the Parliament, and to the people of Western Australia, to make certain that these deals, which were not commercially orientated, are put before the Royal Commission. It would take at least 12 months for the staff of the Royal Commission to pick up all the threads of these deals, which I, and others, have examined over the last couple of years.

As I have said in this Chamber and in the Press, I indicated 12 months ago that these deals were uncommercial and were done for the wrong reasons. At the end of the day these deals will have a serious impact on Western Australia. Why were certain sums of money paid to persons after the deals were done in those crazy days of November 1987 and January 1988? It is important, now that we have a Royal Commission, that I obtain this information in the papers to be tabled. In the past I was trying to obtain the information to increase my wealth of knowledge, but I now seek the information also to make it available to the Royal Commission as that will save the commission months of work.

I am not dealing with hearsay and generalities; I am dealing with facts. My speeches in this House are based on fact. It took me months and months during 1987 to work out the accounts of the Superannuation Board investment trust because the audit of the accounts had not been done for the previous four years and no record was held by the Corporate Affairs Department. I researched the trust documents and discovered that a name change had occurred from Richards Property Trust. That is how I obtained the information about the property deals and the valuations put on the David Jones site and the Westralia Square project.

I also discovered the huge losses incurred by Len Brush in share dealings at the Superannuation Board. If I had not done that work, the information would never have come into the public arena. I was lucky that the Superannuation Board was not a statutory authority, because if it had been it could have hidden everything. The Superannuation Board had to list marketable marginal securities purchased and sold in any year; as a result, we identified every asset it bought and sold and its value to show the $50 million to $60 million loss at the year end. That was hard work. Through this motion I am trying to obtain the facts which were not previously available.

The Western Australian Exim Corporation Ltd had 22 to 25 subsidiary companies. This was the case until the Government wanted to create a corporation to increase the capital of Exim because of the loss of $7 million capital involving the $6 million provided by the Federal Government. The books were cooked with the $2.8 million interest provided from WA Government Holdings Ltd to Exim, and a $1.4 million profit from revaluing the livestock. I asked for the information to be tabled on 1 May so I could obtain the rest of the facts not on the public records.

The Royal Commission will require more information about these deals. The property deals have involved commercial confidentiality with secrecy clauses inserted by the Government and the parties involved – these deals involved Skeat Pty Ltd and Sharland Pty Ltd, two separate companies – as they did not want the interest free factor to be known, or the fact that an option was provided to extend the debt to June 1994. We obtained some of this information because the Auditor General had the power to disclose the information from that board of the State Government Insurance Commission, even though it did not want to reveal the information.

It was only through the Superannuation Board accounts that we picked up the fact that the
debt could be extended to 1994; that fact should have been known to all Western Australians. This related to the $180 million owed to the Superannuation Board and to the SGIC, and we were not supposed to know that the $90 million would not be repaid last December or that $90 million would not be repaid this month. That was important information.

What other information remains a secret? It is absolutely essential that these papers be tabled so that I can tabulate the information and put it before the Royal Commission, along with the other knowledge I have. I referred to the put option regarding the $5 million contained in the papers tabled on 1 May. I might add that in the papers provided at that time I was told that two lines were deleted from a letter because of confidentiality requirements. That letter was referred to by Liam Bartlett of "The 7.30 Report", and he asked what we could do about that case. I did not breach the confidentiality requirements in that instance, and I will put that information before the Royal Commission. Two lines in that letter were so important that I could not be given that information.

The Royal Commissioners should examine that information, as they should examine the deal which involved Warren Anderson's purchase of half the David Jones site from the Bond Corporation. This involved $45 million being loaned to Warren Anderson from the R & I Bank — this was a strange, cosy deal. We must find out more about this, not just for my sake and in the interests of my research, but so that the Royal Commission can be provided with the full story on these deals.

Question put and passed.

**STANDING ORDERS SUSPENSION — BILLS**

*All stages — Business Procedure*

Debate resumed from 29 November.

HON J.M. BERINSON (North Metropolitan — Leader of the House) [4.19 pm]: I seek leave to amend my motion.

Leave granted.

Amendment to Motion

Hon J.M. BERINSON: I move —

To delete all words after the word "sitting" at the end of paragraph (a).

The motion would then read as follows —

That Standing Orders be suspended for the remainder of this session so far as will enable —

(a) Bills to be introduced and put through any or all stages in one sitting.

HON GEORGE CASH (North Metropolitan — Leader of the Opposition) [4.20 pm]: I support the deletion of the words, which relate to the times that the House will sit this week. The motion, as originally worded, would allow the House to proceed beyond the normal sitting and adjournment times of the House as provided for in our Standing Orders. Discussions between Hon Eric Charlton, the Leader of the House and me have indicated that it would be a much more sensible approach to work towards a cooperative system in agreeing to the times we sit, rather than having the open situation which would occur if the words contained in the motion were to remain.

This afternoon, I submitted to the Leader of the House a list of suggested sitting times for the Legislative Council for this week. It takes into account certain periods beyond the 11.00 pm finish on Wednesday and beyond the 6.00 pm finish on Thursday. If there is daily cooperation and consultation between the Leader of the House, the Leader of the National Party and me, we will be able to achieve the objectives that have been set by the Government for the early completion of its Bills.

Amendment put and passed.

Motion, as amended, put and passed.
RETAIL TRADING HOURS AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon Graham Edwards (Minister for Police), read a first time.

Second Reading

HON GRAHAM EDWARDS (North Metropolitan – Minister for Police) [4.21 pm]: I move –

That the Bill be now read a second time.

In 1988 the Government gave a commitment that the operational effectiveness of the Retail Trading Hours Bill would be tested by review after 12 months. The presentation of this Bill fulfils that commitment and reflects the outcomes of the review process.

The Bill will expand trading opportunities for small businesses, bring service station hours more into line with general retail activity, provide opportunity for more flexible but not extended general shop hours, enhance retailer protection during tenancy negotiations, and expand community representation on the advisory committee constituted under the Act. The Bill will additionally address administrative issues and express a number of existing provisions more explicitly to overcome some difficulties identified at law since the introduction of the legislation.

The Retail Trading Hours Act became operational on 11 September 1988. The Act markedly changed the face of retailing in Western Australia, introducing Saturday afternoon trading while preserving after hours and Sunday trading for small businesses and traders providing only essential, recreational or convenience commodities. It was recognised that operational experience of these changes would identify some anomalies. It was concluded, however, that no ad hoc amendments would be made to the legislation. The Retail Shops Advisory Committee was directed to conduct a comprehensive review of the operations and administration of the Act. Provisions of the Act were considered within the framework of the following approved terms of reference –

(a) to examine the effectiveness of the Retail Trading Hours Act 1987 in achieving the Government’s objectives in relation to the Act;
(b) to identify and address anomalies inherent in the operation and administration of the Act;
(c) to identify and examine areas which require flexibility in retail trading hours; and
(d) to examine consultative mechanisms used in the development of policy by the Retail Shops Advisory Committee.

The committee embarked on an extensive consultation program and invited submissions from industry associations, employee organisations, local government authorities and umbrella organisations, consumer organisations, and relevant public sector organisations. A total of 198 organisations and individuals were invited to contribute to the review program. A total of 159 written submissions were received and 31 persons, representing 23 organisations, exercised an option to make personal presentations directly to the committee. The committee concluded its review and reported its findings in November 1989.

As a consequence of those recommendations, Cabinet made decisions which required administrative actions, changes to regulations and legislative amendments. Actions to effect administrative change and amendments to regulations were completed in March 1990. Subsequent to the completion of the review it was concluded that Government could no longer ignore the increasing community expressions of dissatisfaction with fuel trading hours. Accordingly, a further consultative process on that special issue was initiated with all levels of the petroleum industry early in 1990. This Bill, therefore, deals with the final legislative adjustments that emerged from the 1989 review program, together with the outcomes of the consultative process conducted with fuel marketing interests during 1990.

The provisions of the Act that relate to small business presently restrict participation to one
retail shop owned by two persons and operated by not more than four persons including an owner. The small business sector has made representations to the Government that qualification criteria for seven day trading restricted rather than aided the development of that sector. It was also submitted that the restrictive ownership criteria made no allowances for the increasing business purchase costs, often requiring the financial resources of more than one family unit. The Government has accepted the proposition and will move through the agency of this Bill to extend the small business qualification factors to include up to four owners operating two shops staffed by a maximum of five persons in each shop. Concerns have been expressed that the expanded small business criteria may be exploited, particularly through the use of company structures, to establish chains of seven day outlets which would not otherwise have been possible. In that regard the Government proposed to vest discretionary authority with the chief executive officer of the administering public sector agency. That discretion will be exercised within the framework of formal ministerial directions dealing with the extent to which small business ownership and operations conform with the intentions of those provisions. Supporting those arrangements, applicants who are denied access to seven day trading under the discretionary authority of the chief executive officer have been afforded the right to appeal to the Minister.

Government has over a number of years received regular expressions of dissatisfaction with the current fuel trading hours from all community sectors. The increasing volume of those expressions could no longer be ignored. The disparity between general retail trading hours, which includes Saturdays until 5.00 pm, and the closure of service stations at 1.00 pm featured prominently in those expressions of dissatisfaction. Members will be aware that, while improvements have been made to general retail trading hours, no substantial changes have been made to service station trading hours for nearly 30 years. Following consultations with the representatives of all sectors of the fuel industry, it was resolved to extend service station trading hours on Saturdays from 1.00 pm closure to 6.00 pm. This is in line with previous arrangements when the Act resulted in general closure of retail outlets at 12 noon on Saturdays, and petrol retail outlets were permitted to trade until 1.00 pm.

The introduction of the additional Saturday trading hours for service stations will be complemented by supporting provisions to ensure that proprietors will not be forced to trade during the extra hours if they decide that it is uneconomical or unnecessary to do so. Any clause in a lease or franchise agreement that requires a filling station proprietor to open for more than 61 hours in a week will be null and void. In addition to this legislative prohibition, I have also received commitments from the major oil companies that they will not coerce proprietors to open the extra hours. Provision is also made for service station proprietors in zoned country areas to seek, through relevant local government authorities, a prohibition on the additional hours. It is the Government’s intention that the Retail Trading Hours Act should protect traders from lease clauses forcing them to open at hours not of their choosing.

Practical experience has shown that the intention was often subverted by the placement of contractual trading hours arrangements in documents other than lease agreements, such as franchise agreements. Accordingly, those prohibitions have been strengthened to now apply to all contractual documents commonly used in the business sector. The initial structure of the Retail Shops Advisory Committee provided, in part, for one industry position to be shared jointly by the WA Chamber of Commerce and Industry and the Retail Traders Association of Western Australia. Throughout the life of this Act, the Retail Traders Association has made strong and convincing representations for independent participation in committee activities. Government has acceded to those arguments providing full independent membership for the association and the Chamber of Commerce and Industry. Consequential adjustments in the interests of balance have also been made to the level of representation from unions and consumers.

The Bill also provides for the Minister to have the flexibility to grant exemptions to all retail activities covered by the Act and to have the opportunity for the substitution of prescribed hours from one trading day to another when the need arises for the benefit of both traders and consumers. It was found that the existing provisions did not allow the significant discretionary powers of exemption which were foreshadowed with the implementation of the Act in 1988.
In the interests of efficiency, the chief executive of the administering agency will be provided with authority to delegate responsibility for some administrative functions to other agency officers. I am confident that these changes and the adjustments already completed will continue to serve the best interests of retailers and consumers while preserving for small business the special opportunities foreshadowed with the introduction of the initial legislation. I commend the Bill to the House.

Debate adjourned, on motion by Hon George Cash (Leader of the Opposition).

APPROPRIATION (GENERAL LOAN AND CAPITAL WORKS FUND) BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon J.M. Berinson (Leader of the House), read a first time.

Second Reading

HON J.M. BERINSON (North Metropolitan – Leader of the House) [4.31 pm]: I move –

That the Bill be now read a second time.

The purpose of this Bill is to appropriate sums from the General Loan and Capital Works Fund to finance items of capital expenditure. The capital works expenditure program proposed for this year amounts to $1,387,788 million. Of this amount, $285,366 million is to be appropriated by this Bill from the General Loan and Capital Works Fund.

The 1990-91 planned works program continues the Government's determination to provide the necessary services to support the State's economic growth. An amount of $771.8 million is programmed to be spent on electricity generation and servicing, water and sewerage schemes, and transport services. In addition, $319.1 million will be spent on housing, education and health facilities.

The Treasurer referred to the more significant matters of interest in the Capital Works Program in the Budget speech. Financial details are contained in the Estimates and further descriptive information is provided in the document "Supplement to the Capital Works Estimates" which was tabled in the Legislative Council on 27 September.

I turn now to the main purpose of the Bill, which is to appropriate from the General Loan and Capital Works Fund the sums required for the works and services as detailed in the General Loan and Capital Works Fund Estimates of Expenditure. An amount of $285,366 million is sought from the General Loan and Capital Works Fund as part of the total financing arrangements required for the Government's planned works program. The amount to be provided from the General Loan and Capital Works Fund, which is subject to appropriation in this Bill, is clearly identified in bold type on page 5 of the Estimates.

The Supply Act 1990 has already granted supply of $200 million and the Bill now under consideration seeks further supply of $85,366 million. The total of these two sums, namely $285,366 million, is to be appropriated for the purposes and services expressed in schedule 1 of the Bill. As well as authorising the provision of funds for the present financial year, this measure also seeks ratification for amounts spent during 1989-90 in excess of the Estimates for that year. Details of these amounts are provided in schedule 2 of the Bill although, as members will be aware, it should be noted that ratification of the redemption of WA Government Holdings Ltd's $55 million loan facility with the ANZ Bank is the subject of a separate Bill. I commend the Bill to the House.

Debate adjourned, on motion by Hon Max Evans.

LOAN BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon J.M. Berinson (Leader of the House), read a first time.

Second Reading

HON J.M. BERINSON (North Metropolitan – Leader of the House) [4.35 pm]: I move –

That the Bill be now read a second time.
This Bill seeks the necessary authority for the raising of loans required to help finance the State's Capital Works Program as detailed in the General Loan and Capital Works Fund Estimates of Expenditure tabled on 27 September 1990.

Borrowing authority is being sought this year for the raising of loans of $175 million. The level of borrowing authorisation required is determined after taking into account the unexpired balance of previous authorisations as at 30 June 1990. It is also necessary to have sufficient borrowing authority to enable works in progress to be maintained for a period of up to six months after the close of the financial year pending the passing of a similar measure in 1991.

The Treasurer has outlined the highlights of our Capital Works Program in the Budget speech and I do not intend to cover that ground today. The task of framing our Works Program for 1990-91 was difficult due to the substantial funding commitments needed for our major works in progress and a 10.3 per cent decline in real terms in our global borrowing allocation. Nevertheless, the Government believes the program framed is a responsible one and accommodates our high priority and urgent works. In particular, the planned increase in expenditure on infrastructure services by the State Energy Commission and the works program of the Water Authority provides an essential base for the State's continued economic growth.

The machinery nature of this Bill is well known. In accordance with clause 4 of the Bill, the proceeds of all loans to be raised under this authority must be paid into the General Loan and Capital Works Fund, as required under the provisions of the Financial Administration and Audit Act. Moreover, no funds can be expended from the General Loan and Capital Works Fund without an appropriation under an Act passed by this Parliament. In addition to seeking to provide the authority for loan raisings, the Bill also permanently appropriates moneys from the Consolidated Revenue Fund to meet principal repayments, interest and other expenses of borrowings under the authority of this Bill. I commend the Bill to the House.

Debate adjourned, on motion by Hon Max Evans.

CORPORATIONS (WESTERN AUSTRALIA) BILL

Second Reading – Defeated

Debate resumed from 29 November.

HON MURRAY MONTGOMERY (South West) [4.39 pm]: I do not wish to repeat what has already been said but obviously some of my comments will have been made before. It is interesting to note that this legislation was introduced in this Parliament only 12 days ago and we have been allowed only three sitting days in which to debate it. The Government wants the House to debate this Bill, make some judgments on it, and ratify it before the end of the session so that it can be proclaimed on 1 January. It is somewhat of a farce for the Government to expect this House to approve such dramatic changes to the corporate structure in this State in a matter of a few days. The situation can be compared with that in the Federal Parliament when the Commonwealth Government introduced a 300 page Bill, which this Bill is the mirror of, and wanted to ram it through the Parliament in one hour. That represented about 12 seconds per page. That is not too bad; I am sure that in respect of such major changes we could see that happen all the time. The problem is that the Government sees itself as having the right to do so without due consideration. No-one is saying that there should not be some changes, but we want to give careful consideration to those changes so that we will pass good legislation. The Attorney General indicated last week that there might be some flaws in the legislation but that we could sort them out as we went along. I believe we should take the time to ensure that the flaws are taken out before the legislation is enacted.

I now refer to a paper written by Barry Sargeant, Commissioner of Corporate Affairs, which was presented to a seminar of the Australian Society of CPAs on 22 November. The paper outlines a few questions in the legislation about which I am sure accountants will be scratching their heads and wondering how they will work them out.

Hon J.M. Berinson: Are you referring to the Commonwealth Bill or the State's enacting Bill?
Hon Murray Montgomery: The State legislation. I am sure the Attorney General would be aware of that paper. It is 20 pages long, and I will make available a copy to the Attorney General. The document reiterates some of what has been said about this legislation. It says that the Australian Securities Commission will be accountable only to the Commonwealth Attorney General and the Commonwealth Parliament. State Ministers will have no authority, and the State Parliaments will have no responsibility.

The paper states on page 2 that Commonwealth law enforcement officers will be given powers under State laws to deal with State offences which they come across in the course of investigating a corporations offence. As I understand it, the Federal Police will act in the dual role of both State and Federal Police. I wonder where that will lead us in the future.

Another area of concern is the supply to the Corporate Affairs Department of annual returns. Proprietary companies which are exempt companies have an annual meeting around December which relates to the previous financial year, and are given one month's grace to the end of January to supply a return to the Corporate Affairs Department. As I understand it, those companies will have to supply that return to the Australian Securities Commission, and send all their papers across to the Eastern States. If they furnish their return to the State Corporate Affairs Office they will pay $145, but they have no idea what costs will be incurred in the future. The Australian Securities Commission will ensure that the charges cover its costs, and goodness knows what the charges will be because no-one has seen a schedule of charges.

The paper states on page 4 that under the Commonwealth regime the administration of companies will not be significantly different from that operating under the cooperative scheme. That scheme has been in force for the last 12 years. However, if there will be no great difference in the administration of companies under the proposed Commonwealth regime, why change?

Hon J.M. Berinson: Because the existing regime will not be there after 1 January.

Hon Murray Montgomery: Why change it?

Hon J.M. Berinson: We have argued that with the Commonwealth for three or four years, but we have now passed that point. It is no longer in our hands.

Hon Garry Kelly: A decision has been made.

Hon Murray Montgomery: But not by this State.

Hon J.M. Berinson: But by every other State and the Commonwealth.

Hon Murray Montgomery: That is not true. South Australia is still –

Hon J.M. Berinson: Are you still hanging your hat on South Australia?

Hon Derrick Tomlinson: What you just said is not true.

Hon J.M. Berinson: It is agreed to by every other State Government. Try that.

Hon Derrick Tomlinson: That is better.

Hon J.M. Berinson: It will be agreed to by the South Australian Parliament in short order.

Hon Murray Montgomery: But even the Commonwealth has not passed its legislation, and the Attorney General is asking this House to pass legislation without its knowing what the Commonwealth will do.

Hon J.M. Berinson: Yes we do.

Hon Murray Montgomery: How?

Hon J.M. Berinson: This will not take effect unless the Commonwealth legislation is passed.

Hon Murray Montgomery: So why pass it beforehand?

Hon J.M. Berinson: Because there are only two and a half weeks to 1 January.

Hon Murray Montgomery: The Government is trying to ram through this legislation without our having the opportunity to give it due consideration. If this legislation had been introduced and we had been given three or four months to look at it, as a major piece of legislation, I am sure alterations and amendments would have been made, but the Government has not given us that time.
Hon J.M. Berinson: Not to the State legislation because that is purely a procedural Bill. The Commonwealth Bill is the substantive company law.

Hon MURRAY MONTGOMERY: What if we wish to amend the Bill?

Hon Garry Kelly: Everyone is out of step, except Western Australia!

Hon MURRAY MONTGOMERY: They may well be.

Hon J.M. Berinson: Not for the first time.

Several members interjected.

Hon MURRAY MONTGOMERY: If members opposite want to make some comment, they can have their say at some stage down the track, and I am sure the Deputy President will give them that opportunity.

Page 4 of this document states that the powers of the commission in some ways are the same as those of the National Companies and Securities Commission, but in a number of respects the ASC will have greater powers than those of the NCSC. I am fascinated by that. That statement contradicts itself because the powers will be the same.

Hon J.M. Berinson: In some respects.

Hon MURRAY MONTGOMERY: I did not say in some respects. I said in some ways.

Hon J.M. Berinson: In some ways means the same as in some respects.

Hon MURRAY MONTGOMERY: The paper says they will be greater.

Hon J.M. Berinson: That is in other respects.

Hon MURRAY MONTGOMERY: It does not say that at all.

Hon J.M. Berinson: What else can it mean?

Hon MURRAY MONTGOMERY: I do not know. Perhaps the Attorney General can answer that.

Hon J.M. Berinson: I have just explained it.

Hon MURRAY MONTGOMERY: One of the areas of interest is that of takeovers. The paper states on page 8 that a takeover is deemed to be registered within 24 hours of lodgment unless the commission refuses registration. So it would be possible to lodge in Townsville, Queensland the takeover papers for a company in Western Australia, and within 24 hours that takeover would be registered.

Hon J.M. Berinson: That is what a national scheme is.

Hon MURRAY MONTGOMERY: I know, but if a person wanted to take over a company without that company's having a say in it, the papers could be lodged, and clearly in that time period it would not be possible for the commission to examine fully the takeover documents, and responsibility or compliance would therefore lie fairly and squarely with the party submitting the document. In other words the company starting the takeover bid can decide for itself. Even if the papers and everything else are not correct, the commission takes no responsibility; it does not even play a guiding role. It is not being a watchdog; it relies on corporate people to be watchdogs.

Hon J.M. Berinson: That is the nature of the new Commonwealth law, and it is one which we cannot influence either way.

Hon MURRAY MONTGOMERY: Perhaps it is one we should be querying, and I am querying it.

Hon J.M. Berinson: We cannot change it; we either accept it or we do not.

Hon MURRAY MONTGOMERY: The Attorney General is asking us to accept it.

Hon J.M. Berinson: Over the weekend Hon Derrick Tomlinson was saying that you should accept it.

Hon MURRAY MONTGOMERY: We should not be accepting it because of the area covered.

Hon J.M. Berinson: What are you going to do instead?
Hon MURRAY MONTGOMERY: Perhaps the Attorney General will have to wait and see. A number of areas concern us greatly, and one interesting area is that of company and business names, and what will differentiate them. It is possible for companies to have almost identical names. As I understand it from talking to people in the accounting profession, if someone wishes he can start up a company with a name similar to BHP, but differentiating the name by using B.HP. That is different because of the way it is identified through the computer system. The computer system has no way of identifying those names.

Hon J.M. Berinson: That was the position originally, but the ASC has changed that.

Hon MURRAY MONTGOMERY: That was the position a week ago. It was not explained as such, and it is causing a lot of confusion. It would be very interesting to see how the ASC explains that to the members of the profession, because they are the people who will take over that position.

Hon J.M. Berinson: That is quite a recent change in approach.

Hon MURRAY MONTGOMERY: It is interesting to see that the ASC can change its tactics, but we are not allowed to.

Hon J.M. Berinson: That is right. That is precisely the nature of the takeover.

Hon MURRAY MONTGOMERY: That is exactly why we are concerned: This is another takeover bid. It may be that WA no longer exists and we should call ourselves Australia now.

Hon J.M. Berinson: Do you think New South Wales is not existing either?

Hon MURRAY MONTGOMERY: By the same token, that is what the Attorney General was saying.

Hon J.M. Berinson: No it is not.

Hon MURRAY MONTGOMERY: It is a takeover bid, is it not?

Hon J.M. Berinson: Of this area of regulation.

Hon MURRAY MONTGOMERY: Western Australia and some of the other States are giving away something they have administered totally, and that is of great concern. We are not saying that there should not be change; we are saying that the change should include the States as joint partners. That is where many problems for the community stem from.

All documents forwarded to the local business centre which represents the ASC will eventually end up in that computer centre for imaging and then be returned. But one of the big problems is that everything will be centred on one location in Victoria. Nothing will be here for this State other than some people to administer the operations within the State for the Commonwealth. I wonder why the Attorney General did not try to have the centre placed at Eyre, or Eucla, or somewhere like that. It would have been much more central to the whole of Australia. If it were at Eucla we would have felt that Western Australia had benefited as a result. Obviously the powers that be are in Victoria and New South Wales where they believe everything is centred and they have decided to have the major centre in Victoria.

Hon J.M. Berinson: One of the realities of the federation is reflected in the fact that Sydney and Melbourne between them account for the registration of 80 per cent of all companies. That reflects the nature of the problem.

Hon MURRAY MONTGOMERY: That is very interesting, because the Attorney General indicates that New South Wales and Victoria represent 80 per cent. Western Australia contributes 10 per cent and that makes 90 per cent. Queensland must have a fair representation.

Hon J.M. Berinson: We are a bit less than 10 per cent.

Hon MURRAY MONTGOMERY: Well, nine per cent. For the purpose of the exercise, we are talking about three other States plus the two Territories making up 11 per cent of the companies.

Hon J.M. Berinson: That is about right.

Hon MURRAY MONTGOMERY: That is a very interesting exercise in itself.
Hon J.M. Berinson: It is.

Hon MURRAY MONTGOMERY: I do not wish to go on a great deal further. We have certainly gone through some of the areas which are of great concern to the accounting profession. Members of that profession to whom I have spoken do not see this Bill as being of benefit to the State, particularly to their profession, other than perhaps in the use of a joint database. That would mean that more information would be available. At some stage that may be proposed.

We have grave reservations about the Bill. We therefore do not support it in its current form.

HON R.G. PIKE (North Metropolitan) [4.57 pm]: This is an historic debate, and because it is I intend to begin by quoting the Attorney General, Hon Joe Berinson, –

Hon George Cash: He will soon be history.

Hon R.G. PIKE: – the Attorney General from South Australia, and Mr Henry Bosch, formerly of the National Companies and Securities Commission. I commence by referring to a Press release published in The West Australian. Unfortunately it has no date on it, but it is under the heading "Company law snub". It reads as follows –

The State Government has rejected a compromise proposal from the Federal Attorney-General Lionel Bowen on the proposed takeover of companies and securities law.

WA Attorney-General Joe Berinson said that though presented as a compromise, the scheme represented a complete Commonwealth takeover of companies and securities matters and would reduce the states to merely acting as a Commonwealth agents.

Mr Berinson said Mr Bowen’s proposal – the latest in a series of attempted compromises – would eliminate the states’ role of developing corporate law.

He said the Bowen proposal would also remove the local discretion in administration of the law and the assistance to WA-based industries which had made this possible.

"I am sure this proposal will be as unacceptable to WA commercial and professional groups as it is to the State Government," Mr Berinson said.

Hon J.M. Brown: That would have to be 1988 or 1989, because you said Mr Bowen.

Hon R.G. PIKE: That is right.

Hon J.M. Brown: You did not say the date.

Hon R.G. PIKE: I purposely did not because it is not on the Press release.

Hon J.M. Brown: As I say, it would have to be 1988 or 1989.

Hon R.G. PIKE: Correct. Members will recall that I have been very fair in this House in saying hitherto that the Attorney General had adopted a proper and responsible attitude to the question of the transfer of corporate affairs powers. The problem is that he has capitulated to the heavy hand of the Federal Labor Government and the Opposition in this place has not. That being the case, I pass to a comment by Mr Hawke on 22 August 1989 – and I ask members to pay particular attention to this quote. Mr Hawke said that his Government was prepared to bring down the full weight of constitutional powers including the corporations power to resolve resource use conflicts. He repeated that statement on 11 December 1989.

[Questions without notice taken.]

Hon R.G. PIKE: While on the subject of Mr Hawke, on page 18 of his Boyer lecture he said –

I believe the logical implication of this analysis is that Australians would be better served by the elimination of the second tier of government – that is the States – which no longer serve their original purpose and act as a positive impediment to achieving good government in our current community.

I also have an Australian Securities Commission document of which the Attorney General is aware, which is entitled "Guide for 1990 Annual Return". I am informed that when this document was sent out by the Australian Securities Commission it was without foundation in law, and that the commission assumed an authority that it did not have.
The basis of this debate today has been principle versus expediency. This House by resolution on 16 May of this year very clearly indicated to the Attorney General and to the Government that it would not be party to any proposition to transfer corporate affairs powers such as remained with the State. We now know that the Commonwealth set out willy-nilly to take all the powers constitutionally and that the Attorney General, to his credit, was party to a case before the High Court; however, a significant number of appeals to the High Court, by agreement, were not dealt with and therefore have not been tested. There was merely an assumption of those powers, and it was determined to proceed with the powers of incorporation, and the States won.

What is terribly relevant here is that when there was an appeal to the High Court in the case of the Tasmanian dam and the High Court ruled for the authority of the Commonwealth, development on the dam stopped. The High Court made a determination and development stopped. Significantly, when the High Court made a determination in regard to the States' rights action to which the Attorney General was party, and the Commonwealth lost, did the Commonwealth cease as was the case in Tasmania? It did not; it proceeded relentlessly along its path of "Slips, no go; what a pity that the High Court has said the States have still got that right. We will continue anyway."

Hon J.M. Berinson: The Commonwealth said it would continue in a way which accommodated the High Court decision.

Hon R.G. Pike: The Attorney General, better than anybody else in this House, would be aware that many of the cases to which he was a party in the High Court were not heard by the High Court but were set aside. Many of the changes to be made, such as the ongoing corporate affairs registration income, is now in limbo. Western Australia holds steadfastly to that revenue which is worth approximately $9.5 million a year. I repeat that the Attorney General is aware that many of these matters have not been so determined.

I want to get back to the point about principle versus expediency. As we now speak, and as we are aware in regard to the recent Premiers' Conference in Brisbane, there seems to have been something of a damascene conversion in the attitude of the Prime Minister and all the Labor Premiers and, to be fair, Mr Greiner. We are now looking at supposedly a new era of consultation regarding the powers of the Federal Government and the States. Members should bear in mind that simultaneously — almost on the very day that it was happening — Federal Minister Brown had said to this Government that if it did not change from 0.08 to 0.05 blood alcohol content the State would not get a $12 million grant; and the same Minister had said to the Government of each State that if they did not hand over their vehicle licensing control and money, the Federal Government would withhold petrol tax moneys and, as a reserve barrel, it would use the undoubted powers of the Commonwealth to take away their vehicle licensing powers and transfer them to the Commonwealth. That was front page news in The Sydney Morning Herald three weeks ago. That is a matter of record and fact. As we now speak, under the Federal Resources Assessment Commission Act 1989, the Commonwealth Government has given its Resources Assessment Commission the power to make determinations by compulsion. The commission can compel anybody by subpoena from anywhere in Australia to appear before it and to give evidence.

Hon Mark Nevill: What has this to do with the Corporations Act?

Hon R.G. Pike: The Commonwealth has threatened to use its "reserve powers" — for want of a better name — or its constitutional powers, which theoretically give it power over anything, to deal with this matter. Very significantly, in a meeting yesterday with Mr Hartnell, the Chairman of the Australian Securities Commission, the hypothetical question was put about whether the Commonwealth would use its registration powers — if it had them — to deny registration of somebody who was trying to develop a resource. Mr Hartnell was asked whether, in the event a company wished to incorporate to develop alumina, for example, and part of the prospectus was that it needed permission to mine the product — it does not matter what it is — would he be directed or influenced by the Resources Assessment Commission which allegedly makes an independent determination in regard to resource development. He said that as far as he was concerned and for as long as he was in that position the answer was a categorical no. That was the proper answer. What was improper — and members opposite should think about it — is that he made it quite clear — and I respect his determination in this matter — that he did not expect to be holding that position
for longer than one and a half to two years. He thinks that position should change. If members refer to the quotation I gave to the House wherein Mr Hawke said he was prepared to bring down the full weight of constitutional powers, including the corporations power, to resolve resource-use conflicts, and given the proper exception of Mr Hartnell and his proper attitude, do we not have a bloody-minded willy-nilly determination by the Commonwealth to control all power in the centre and to use the varying corporations power which the Attorney General is proposing, admittedly by reciprocal mirrored legislation, to transfer to the Commonwealth direction and control of resource development in this country?

Hon J.M. Berinson: From your account, the Commonwealth, if it were minded in that way, would not need the corporations power. It would use either the external affairs power or the export power.

Hon R.G. Pike: The Attorney General and I know that the political reality of being able to use those powers in front of a State demanding a development is a little tenuous.

Hon J.M. Berinson: It would be much more tenuous if they were trying to rely on the corporations power.

Hon R.G. Pike: The Attorney General’s shouting will not overcome the issue.

Why did Mr Hawke then feel constrained to say on 22 August 1989 that he was prepared to bring down the full weight of the constitutional powers, including the corporations power, to resolve the resource use conflicts? He repeated that on 11 December 1989. Let the Attorney General’s argument be admitted for the sake of this debate. The Prime Minister is telling us, in categorical terms, what he is prepared to do because it is an immediate and an accessible power and I am sure the Attorney General would be the last to deny that.

Hon J.M. Berinson: So would the others.

Hon R.G. Pike: Members really have to view the overall situation; that is, at that time when, in Brisbane, Hawke was extending the olive branch — they were all going to be friendly and talk about a review of Commonwealth and State powers — Brown was running around with the disposition of a runaway circular saw carving up the States saying, "Unless you do this we will exercise all our power and take the authority from you." If we think about that, we have the Resources Assessment Commission powers of 1989 — the Commonwealth Act — and we have Mr Dawkins confronting the Minister for Education. The State Minister is confronting him over that issue and I commend him for that. It is not the business of the Commonwealth Government. We know that in a confrontation between the Commonwealth and the State, the State usually has the constitutional power and the Commonwealth has the money power. The Commonwealth usually ends up winning, witness Mr Brown who will not give this State $12 million unless it changes the 0.08 blood alcohol content law to 0.05. I am sure members opposite will not argue that point.

We have conflict over environmental control where the Commonwealth is seeking to impose its views and powers on the State. We have the manifest activity of the Commonwealth Government trying to put control over local government into the Commonwealth Constitution. Originally, that had the support of some of the States, but it was turned around by this State. We have already dealt with vehicle licensing. For those members who do not know, I advise them that there is already an embryonic move for the Commonwealth to exercise control over the Police Force in all the States. When there was a Liberal Commonwealth Government, resistance had to be made to that Government to prevent Commonwealth police from taking over areas of responsibilities belonging to State police. As I now speak the Commonwealth is attempting to take over the totality of the control of industrial relations throughout this country. In regard to national parks — witness Shark Bay — as I now speak the Commonwealth is endeavouring to use its powers, influence, pressure and knuckle-dusters to impose its will on the State. I have not even started.

Hon J.M. Brown: I wish the shark would get a pike!

Hon R.G. Pike: Pikes are more voracious.

I have listed nine areas and in most of them the Ministers of this State’s Labor Government are in conflict with Federal Labor Government Ministers and are telling them that under no circumstances will they allow them to interfere with what undoubtedly are the rights of the State.
With all that as a background we are sitting in this place and asking whether this is an argument which is worth dealing with. Is it an argument of principle versus expediency? I have already told members about the Tasmanian dam case. The High Court made a ruling – Commonwealth won, dam stopped. With regard to the corporate affairs power the High Court made a ruling – States won, Commonwealth kept on going.

The issue is very clearly this: The Commonwealth does not have the absolute power to control corporate affairs and what we are now looking at is a bastardised version of the previous cooperative federalism, using the powers of the States now as hitherto was the case, except that with the voting procedures the Ministerial Council has significantly less power. I ask the Attorney General to listen carefully to this point on which I have legal advice: Are members aware – perhaps the Attorney General will correct me if I am wrong – that in regard to the reciprocal legislation which the Attorney General has introduced into this House, whereby it is mirrored legislation and it is proposed we will grant within that Act to the Commonwealth the supervision and the actual carrying out of the provisions of the corporations legislation, the bottom line is that prospectively where the Commonwealth Government – Mr Deputy President could I have some order? I am trying to think and I find it difficult with the conversations that are taking place.

The DEPUTY CHAIRMAN (Hon Doug Wenn): Order! I will adjudicate as to who calls order. If Hon Robert Pike wishes to continue I am sure the other members will come into line as they know they should do.

Hon R.G. PIKE: I will start again and I will keep on starting again until I get it complete. The Commonwealth Government prospectively, once this law is passed by the State, will have the power to introduce amendments and introduce regulations which the State Governments then willy-nilly will have to follow, and they will have no rights to disagree. I am not categorically saying that is the case, but I am very competently advised that it is the case.

Hon T.G. Butler: By whom?

Several members interjected.

Hon R.G. PIKE: What I want to say to members –

The DEPUTY PRESIDENT: Order!

Hon R.G. PIKE: Each time I am interrupted I will drown out the interruption and repeat what I am saying. We will have a long speech if members opposite want to carry on with their claptrap.

The DEPUTY PRESIDENT: Order! I ask Hon Robert Pike to address his comments to the Chair and I will maintain order in the House. I ask members to assist me in doing that – no further interjections please.

Hon R.G. PIKE: Thank you, Mr Deputy President.

Therefore, we are looking at the proposition under this takeover that it is merely a retreaded version of the existing cooperative corporate affairs arrangements which we have had in place. We have unfortunately the capitulation by the Attorney General and by this Government – unfortunately it is the reverse of their stand hitherto which I have commended in this place – and they are handing across to the Commonwealth Government control willy-nilly.

Hon Mark Nevill: And a capitulation by the Greiner Government.

The DEPUTY PRESIDENT: Order!

Hon R.G. PIKE: Lest it be thought these are my words on the matter I will now quote from a letter from the Attorney General and Minister of Corporate Affairs of the South Australian Government, Mr C.J. Sumner, which is addressed to Hon M. Duffy and is dated 24 April 1990. I will not read the entire letter because it is a six page, single spaced letter, but I will read excerpts from it. On page 1, in addressing Hon Mike Duffy, his letter states –

> Despite the loss in the High Court and continual Constitutional uncertainty the Commonwealth continues its obdurate attitude.
There has been criticism of the Co-operative Scheme, yet the Senate Standing Committee noted that "under the circumstances, the scheme performed remarkably well".

With regard to the High Court case and the fact that Victoria agreed he said in his letter –

Referral even from Victoria requires State legislation and there is no guarantee that this will pass the Victorian Parliament. Indeed my discussions with the Shadow Attorney General in Victoria, Mr. McLelland confirm (sic) that there are doubts about whether such legislation would be supported.

The letter goes on to say that, regretfully, the criticism of the cooperative scheme has been exaggerated, and, more particularly, there has also been criticism that the cooperative scheme has not acted on the spate of corporate collapses, and that that is not true. On page 3 the letter goes on to make the point to Mr Duffy –

I know that you are concerned about Australia’s international reputation in the area of corporate regulation. Constitutionally uncertain laws cannot assist our international reputation. Your preferred option for insuring constitutionality is for the States to refer all their companies and securities powers to the Commonwealth. Without going into the question of State versus Commonwealth powers, I repeat my political assessment is that this is not an unattainable end.

The States are in essence, in the face of Commonwealth determination to legislate unilaterally, attempting to find a solution which assists the Commonwealth in achieving its national and international aims but does not sell out the State business communities which do not support the Commonwealth proposal.

On page 4 it states –

The ASC without the experience in the State Corporate Affairs Commissions is not the answer. . . .

It is this and the tendency, despite the best of intentions, towards central decision making that State business communities and Governments are seeking to avoid.

Finally, on page 6 the letter continued –

However I do not believe that the history of Commonwealth administration in the smaller States bears out the likelihood of success.

Lest the view be taken that these are merely my opinions, I will quote from the book entitled The Cooperative Scheme and the Commonwealth Takeover by Henry Bosch, the gentleman formerly in charge of the National Companies and Securities Commission. Some of his comments are revealing and provide the background about what the Commonwealth is up to with this mischievous ambition to take over corporate affairs. He states on page 214 –

The reluctance of the Commonwealth Government to help or support the NCSC is understandable. The Formal Agreement gave the Commonwealth Attorney-General only one vote out of seven (one out of eight after the Northern Territory joined the scheme in 1986) and, while on some matters State Attorneys-General were prepared to give special weight to the views of the Commonwealth, their influence fell far short of what they took to be their right.

We should detour here because my understanding of the new arrangement is that the Ministerial Council has been bastardised to the degree that the Commonwealth has four votes and the States seven. The Commonwealth therefore needs the support of only two States to carry the Ministerial Council.

Added to that, the Ministerial Council does not have the power to direct the Commonwealth which hitherto was the case. I make the point by quoting Mr Bosch on page 215 –

... Commonwealth officers nearly always lacked the practical experience of individual market situations that were widely found in the State CAOs we often found the input of the Commonwealth officers to be rather academic.

He continues on page 216 –

. . . It was natural for them to wish to increase their control over both the policy and the administration of companies and securities law. I have no doubt that this was a
significant though unexpressed motive behind the Commonwealth attempt to change the system.

Continuing on to page 217 he deals with the Labor Party –

A Commonwealth takeover of the whole field of companies and securities law had been part of the policy of the Labor Party since the early 1970s. It fitted perfectly with the ambitions of the Attorney-General’s Department. It was first manifested in 1974 when Lionel Murphy introduced his Corporations and Securities Industry Bill in the Senate. That Bill would have removed the States entirely from the companies and securities field and would have established a national commission. It would have transferred enormous power to the Federal Government and some indication of the way it could be used was given by the provisions in the Bill . . .

I ask members to note this comment –

That would have enabled the new commission to nominate an officer to attend meetings of the directors or debenture holders. . . .

Hon Mark Nevill: Based on the Peter Ray report, too.

Hon R.G. Pike: On page 224 of Mr Bosch’s book he states –

The supreme confidence of the Commonwealth bureaucracy at that time amazed me. Late in 1987 I was shown a letter from a senior Treasury officer to one of his counterparts in the Attorney-General’s Department which contained the words ‘while there is to be no further legislative amendment in the content of the Co-operative Scheme . . .’ It was clear from this and other indications that the Commonwealth, while legally remaining a member of the Co-operative Scheme, had ceased to try to make it work.

I ask members to note those words well. The book continues –

It was clear to the Commission and its staff that the Commonwealth wished to eliminate it as soon as possible and that difficulties would be put in the way of Commission initiatives particularly in the legislative area.

Also, one of the reasons that New South Wales and Victoria capitulated to the Commonwealth Labor Government was that between them they control 61.49 per cent of the vote of the House of Representatives. I quote from page 229 –

The fourth way in which pressure was brought to bear on the States concerned the location of the headquarters of the ASC. The issue applied only to New South Wales and Victoria but it was used with great skill and was ultimately the most effective of the Commonwealth’s weapons.

I interpolate here that Hon J.M. Berinson is nodding his head. He knows, and I know that he knows, that the reason he put up such a valiant fight was because he was fighting the States of Victoria and New South Wales. He was not only fighting the Labor Party in those States, but also the Liberal Parties who were more than prepared to do a deal to transfer these powers to the east coast to the detriment and continuing disadvantage of all Western Australians.

I reinforce that with the words of Henry Bosch – which I repeat – that the issue applied only to New South Wales and Victoria, but it was used with great skill and was ultimately the most effective of Commonwealth weapons. He continued –

Both States were very anxious to provide the headquarters which they believed would contribute to making them ‘the financial capital of Australia’ and would help to attract other business. Both proved ready to compromise on the issue of Commonwealth control and States’ rights for the sake of such an advantage.

We are debating the unfortunate failure of the leader of this place, notwithstanding his attempt to propose what was then the proper wish of the Labor Government of this State, to have a scheme which will represent Western Australia in a reasonable way. It is that capitulation which this House will not accept. Mr Bosch’s book continues –

There were many twists and turns down a long negotiating road and many of the steps
have not been made public. However, it is clear that in mid–1989 the Victorian Government thought it had made a successful deal and had secured the headquarters in exchange for not participating with the other States in the High Court challenge –

The Attorney General would know about that. The quote continues –

– and by agreeing to legislate to transfer its powers and that it subsequently felt betrayed. Later it was somewhat consoled by being awarded a national data centre in the LaTrobe Valley and a larger ‘chairman’s office’ in Melbourne. For several months after Tony Hartnell’s appointment as chairman of the ASC and his decision to live in Sydney, New South Wales thought it had won the headquarters, with Melbourne having only a relatively small deputy chairman’s office. Subsequently it appeared that provision would be made for the chairman, and consequently the de facto head office, to be located in either city. What ever the final outcome of the location question it is clear that the Commonwealth used the argument with great skill to break up the unified position of the States and to salvage a compromise from the disaster of the High Court decision.

I think Henry Bosch is going absolutely to the bone when he makes that statement. He goes on at page 231 –

The form of the new arrangements –

That is, the present arrangements. The quote continues –

– was even more uncertain than the date. It was clear that the Commonwealth needed State powers at least to some extent and that the mechanism by which the States passed complementary legislation to that of the Commonwealth seemed the logical course to take.

This is what this Bill is all about. Mr Bosch continues –

It was, after all, a tried and proven solution which had worked for a decade to underpin the Co-operative Scheme. Certainly it was complex and somewhat untidy, certainly Mr Bowen had criticised it publicly for years; but, after all, he had come up with nothing better and in mid–1990 the Commonwealth could not afford another defeat. It had ample reason to fall back on the established constitutional underpinnings of the Co-operative Scheme, whatever defects it had formerly claimed to find in them.

I asked the House to bear this in mind, and I will repeat it. Mr Bosch says at page 231 of his book –

...but, after all, he had come up with nothing better and in mid–1990 the Commonwealth could not afford another defeat. It had ample reason to fall back on the established constitutional underpinnings of the Co-operative Scheme, whatever defects it had formerly claimed to find in them.

Now we get to the real guts of the issue. This is Mr Bosch speaking –

The position of the States was less easy to understand. They had won in the High Court; the business communities of Queensland, Western Australia and South Australia were still strongly opposed to the Commonwealth initiative; and it seemed open to them to call the Commonwealth’s bluff.

That is what it is – a Commonwealth bluff. The quote continues –

It appeared to me that, –

This is Mr Bosch speaking, and who knows more? He continues –

– however much the Commonwealth might bluster about going it alone, a resolute stand by the States would have proved decisive.

Those words are worth contemplating. Mr Bosch goes on –

However, in the event, New South Wales and Victoria decided on a compromise which gave the Commonwealth much but not all of what it wanted, and the governments of the smaller States felt that they could not hold out alone and agreed to make an agreement.
Here is one House, the upper House of Western Australia, where the Government does not have the numbers and where we will not be bluffed by the Commonwealth Government.

Hon Mark Nevill: We should go back to having a narrow gauge rail, shouldn't we?

Hon R.G. PIKE: On page 237 of Mr Bosch's book he says—

It now appears highly probable that the Commonwealth's first objective as set out in the second-reading speech will be achieved.

Members should hark at these words—

A single parliament, a single minister, and a single government department will take responsibility for companies and securities law, probably some time in 1991. This will be good for federal politicians and bureaucrats who will gain power as a result and it will give comfort to some constitutional theorists, but its practical benefits are questionable and its practical risks are real. This change could not have been brought about within the Co-operative Scheme, an essential characteristic of which was the diffusion of power.

This House should be reminded that historically Hon Ian Medcalf was the author of that power sharing basis which gave the States real rights. The Commonwealth has bastardised the Ministerial Council to the degree that it now has four votes out of seven plus a casting vote, whereas before it had one out of seven; so it can manipulate it; but in any case, are members aware that, should this become law, that Ministerial Council could not direct the Commonwealth Government in any way at all?

I conclude with a quote from Mr Bosch at page 240 of his book—

The constitutional mechanism that will underpin the new scheme is the same as that which supported the old: parallel Commonwealth and State legislation. The Commonwealth Government has increased its power and the States have agreed to diminish theirs. . . .

The power of the Canberra bureaucracy has been increased and business influence over companies and securities law has been reduced.

A summary of all of that takes us back to where we began; that is, a capitulation by this Labor Government, unfortunately; and a recognition by me, and I think by many thinking business people in Western Australia, that up to a point Hon Joe Berinson put up a commendable effort to retain this power but in the end he was overwhelmed by the pressure of what he incorrectly saw as the practicality of the necessity to introduce it.

The President of the Law Institute of Victoria is on record in today's The Australian as saying that the interpretation of the introduction of this law on 1 January is a joke; it is laughable; they are not ready; it cannot be implemented in a practical way; their computers are not in place. I have shown members already where they sent out a Bill which had no legal base, and that each State is in a similar position. It is not an unreasonable view to take, in view of the point made earlier by our shadow Minister, Hon Derrick Tomlinson, that this House, in proper consultation with the Government, ought to work out an amendment which will preserve the prerogatives and privilege of this State, absolutely in line with those put forward by the Attorney General in The West Australian article headed "Company Law Snub" which I have quoted already. There he sets out, probably even better than have I—

Hon J.M. Berinson: You are too modest, Mr Pike. It must be nearly recess time.

Hon R.G. PIKE: Members should bear in mind that the Attorney General set forward there a quite correct, proper and responsible State attitude and I am quite certain that it is a realistic proposal for us ask the Prime Minister, Mr Duffy and the Commonwealth Government to defer the introduction of this legislation to 1 July 1991.

Let us work out, with consultation between Hon Derrick Tomlinson and Hon Joe Berinson, an amendment to the law which satisfies the State. That statement by Mr Berinson is enough upon which to predicate it; it is very precise and very accurate. Then, come 1 July—we will have that Bill ready by 17 March, appropriately the feast of St Patrick—we will have a solution that is practical and has commonsense, and the businessmen in Australia will not be put off by what must be regarded as a first class snafu in a bloody-minded attempt by the Commonwealth Government to get its own way at a time when all reputable institutions in Australia are saying, "We acknowledge it is not ready." I oppose the Bill.
HON J.M. BERINSON (North Metropolitan – Attorney General) [5.48 pm]: Mr Deputy President (Hon Doug Wenn) –

The notion that somehow the rights of the Western Australian Parliament, sovereign and all that it might be, the notion that somehow those rights would lead one to the conclusion that Western Australia ought to have a separate form of companies regulations from the rest of Australia in the second century of our nationhood! That notion seems to me to be so far fetched, so removed from reality, and most importantly so removed from the national good, that simply to state it, suggests that you ought to reject it.

Those are not my words, those are the words of Premier Greiner of New South Wales.

Hon P.G. Pendal: And he is wrong.

Hon Murray Montgomery: And what benefits did he get?

Hon J.M. BERINSON: Like it or not, Premier Greiner in this instance is correct. When the debate on this Bill came on in this House last Thursday I was genuinely surprised – in fact, not to put too fine a point on it, staggered – at the position taken by the Opposition parties. I adjourned the debate on Thursday in the hope that wiser counsel would prevail. In the meantime there has certainly been wiser counsel but, unfortunately, it has not prevailed. I have already referred to the wiser counsel from Premier Greiner.

The same view has been put by spokesmen for the Confederation of Western Australian Industry, the Institute of Chartered Accountants in Australia and the Law Society of Western Australia, not to mention others. Among those others are the Australian Stock Exchange, and in the weekend edition of The Australian of 1–2 December the Deputy Managing Director of the Australian Stock Exchange, Mr Ronald Coppel, was quoted in the following terms –

... Mr Ronald Coppel, said ASC legislation had been passed in Federal Parliament and in five State parliaments. Any State which opposed would be perceived as a "joke" by overseas investors.

"The facts are that the National Companies and Securities Commission runs out at the end of the December. And it has no funds to carry on past that date," Mr Coppel said.

"Australia's corporate reputation has been harmed abroad – if people see at the last moment interference with ASC legislation it can only make that State look stupid, and harm the whole country."

Hon P.G. Pendal: You have made us look stupid overseas.

The DEPUTY PRESIDENT (Hon Doug Wenn): Order! The previous speaker was quite upset at interjections while he was speaking. In fact, he deliberately asked me to bring the House to order. The member on his feet has not done that so far but if there are any further interjections – and I hear a strange rumour that the session will be finishing at the end of this week – I would hate to have to implement Standing Order No 106. I ask members to listen to the speaker.

Hon J.M. BERINSON: Coming closer to home I refer to the Sunday Times editorial on 2 December which stated –

What sort of politics are the WA Liberals playing with their plan to block legislation that would make the long–delayed Australian Securities Commission effective in WA?

This is not the time to be parading in the old States’ rights blinkers – and WA certainly is not the place . . .

Attorney–General Joe Berinson describes the Liberals’ attitude as irresponsible. He is too kind. They are bloody mad.

I cannot help my nature and it follows from that that I am too kind. I do not see why it should follow that the Opposition should be so bloody mad, and that is the problem we are facing as we look to the position ahead of us. A few moments ago Hon Bob Pike said that this is a question of principle versus expediency. I say to Hon Bob Pike and to the House it
is also a question of theory versus the practical situation which this State has to face. The practical situation this State has to face, if this Bill is defeated, is deplorable.

Among the many objections to the obstruction being threatened by the Opposition parties is this: From 1 January at least 19,000 companies operating in this State will be subject to two sets of fees. I think Hon Murray Montgomery made the point that we do not know what is the second set of fees and that itself is a measure of the confusion we face.

However, from 1 January at least 19,000 companies in this State will be subject to two sets of fees; they will be subject to two sets of annual returns and, worst of all, they will need to comply with two sets of separate legislation, each of them highly complex. The existing cooperative scheme is based on legislation which is made up of about 1,000 pages. The new Commonwealth Corporations Act involves legislation which totals about 1,500 pages. We have already heard in this debate that in many respects the two sets of legislation are different. Nobody has yet applied himself to the question of whether they are incompatible. Even if they are compatible the need to comply with both would be a positive nightmare from the administrative point of view of commerce and industry in this State which would be involved.

Hon George Cash: Have you applied yourself to the question of compatibility?

Hon J.M. BERINSON: No.

Hon George Cash: Why not?

Hon J.M. BERINSON: Until Thursday I did not imagine that anyone in this State could be so unrealistic as to go against the weight of circumstances which now pushes us to the need to participate in a uniform scheme.

In addition to all the matters with which I am concerned, a serious problem arises from the fact that the viability of Western Australian business depends to a very large extent on ready access to national financial markets. Existing prospectuses and public borrowings will be jeopardised, and the ability of State companies to issue shares and borrow money outside WA will be severely curtailed in the absence of our participation in the new scheme. On top of that — if that were not enough — investigations and prosecutions are threatened with serious confusion and scope for lengthy delay as a result of procedural challenges and haggling.

So, what is the Opposition's alternative precisely? One thing is perfectly clear; that is, as late as last Thursday they had no alternative. They had not applied themselves to the need to consider an alternative. When I asked Hon Derrick Tomlinson by interjection what alternative he was offering he fumbled around until he came out with some obscure reference to the South Australian model. That in itself was interesting in retrospect because within 48 hours the member had moved from that position, and to the extent that it might have been, until then, unclear it became perfectly clear at that point that this confusion was caused because the Opposition had not considered either the consequences of its obstruction or the need for a practical alternative.

Against a background of three years of detailed consideration of relevant questions by the Commonwealth and the States the Opposition then produced by instant inspiration something it purports to be an alternative. It did that within three days. That is not bad if that can be done, but there is nothing to suggest it can be done and, certainly, there is nothing to suggest in the statement made by Hon Derrick Tomlinson and the Opposition over the weekend that that has been achieved. I now refer to a news release dated 3 December 1990 which begins in these terms —

The WA Opposition will introduce a private member's Bill to achieve a working arrangement with the planned Australian Securities Commission — but retaining power and administration in Western Australia.

The legislation, according to Liberal Justice spokesman Derrick Tomlinson, will enable the WA Corporate Affairs Department to work as an agent of the ASC.

Will the Bill enable the Western Australian Corporate Affairs Department to work as an agent of the Australian Securities Corporation? There is something important about the notion of an agent; that is, that it requires concurrently the notion of a principal. That, in this case, could only be the Commonwealth and it has spent two years making it patently clear that it is not prepared to go this route. Had the Commonwealth been prepared to modify its
position we would have arrived at a situation much earlier which would have, quite frankly, satisfied the Opposition and the Government. However, it has not been prepared to do that and it seems strange that the Opposition is speaking in terms of the Commonwealth accommodating us alone of all the States.

_Sitting suspended from 6.00 to 7.30 pm_

Hon J.M. BERINSON: There is little point in Hon Derrick Tomlinson arguing for a system whereby the State acts as an agent of the Australian Securities Commission when the agency proposed will not have a principal. The principal would have to be the Commonwealth, and to talk of the Commonwealth accommodating Western Australia in this way – that is Western Australia alone among all the States – is really an exercise in unreality.

Yesterday evening Hon Derrick Tomlinson had something further to say on ABC Radio, which was quoted in these terms –

... as far as the two sets of laws and two sets of fees and two sets of regulations, I think that’s an absolute nonsense that the Attorney General is putting around. There has been, for some time now, a co-operative scheme where Western Australian laws and registration with Western Australian Department of Corporate Affairs and the payment of fees to the Western Australian Department of Corporate Affairs recognises the registration of that ... company ... throughout Australia without the company having to register elsewhere.

To that point the member’s comments are unobjectionable. Mr Tomlinson then went on to say –

Nothing has changed.

It may be that Mr Tomlinson believes that nothing has changed, but it is the view of everyone else in Australia that everything relevant to this question has in fact changed, because the cooperative scheme to which he refers will not exist after 1 January. In other words, even though our legislation will continue to contain a reference to a cooperative scheme, we will be dealing with a cooperative scheme with which no–one but Western Australia will be obliged to cooperate.

I wonder whether Mr Tomlinson has realised that if this Bill is not passed and we continue with the current legislation, we will be required by that Act to meet four times a year with the Commonwealth, the States and the Northern Territory. One small problem is attached to that proposition; namely, that they will not meet with us. That is one of the simplest indications of the ridiculous position into which we would be led if the Opposition insists on its obstruction of this Bill. We will be obliged to have a meeting four times a year with other people who will not attend.

Hon Mark Nevill: How would we appoint a special prosecutor?

Hon J.M. BERINSON: I have already referred to the difficulties involved there, and, to be fair, we can appoint a special prosecutor under our existing legislation but the powers of that prosecutor would be circumscribed severely by the absence of the ability to operate elsewhere.

As much, if not more than, the Opposition, the Government, and I especially, have been anxious to maintain the present level of service to commerce in Western Australia and to achieve that within an improved cooperative scheme rather than within the ASC scheme with which the Commonwealth has pressed on. We have passed that point and it is simply not possible to achieve that – the agreement of the Commonwealth with every State other than Western Australia surely makes that point crystal clear.

We have to look at the basic needs in that area, and these can be summarised in three words: In the first place, national uniformity, and in the second place, certainty. The defeat of this Bill will make both of these objectives utterly impossible, and that is why the great majority of the professional and commercial community in Western Australia support this Bill, albeit with some remaining degree of reservation. That is why we in this House should support it as well. As the _Sunday Times_ aptly said, our failure to do so would mark us, not only as "irresponsible", but "mad".

I commend the Bill to the House.
Question put and a division taken with the following result –

Ayes (14)

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Noes (15)

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Question thus negatived.

Bill defeated.

ELECTORAL AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon J.M. Berinson (Leader of the House), read a first time.

Second Reading

HON J.M. BERINSON (North Metropolitan – Leader of the House) [7.42 pm]: I move –

That the Bill be now read a second time.

Part IVA of the Electoral Act which deals with the recount procedure to fill casual vacancies in the Legislative Council has been found to have the potential to produce unintended results.

The Electoral Commissioner sought advice from the Crown Law Department which confirmed that the existing recount provisions could lead to a quota of votes becoming locked up with a non-consenting candidate who cannot be elected.

What the existing section means is that unless the next candidate listed in a party group on the ballot paper was able to nominate for the recount, there can be no certainty that a candidate from the same party as the vacating member would be elected. If this occurred it would negate the purpose of the section which is to preserve the intention of voters at the original poll by electing the next available candidate of their choice.

Hon D.J. Wordsworth: You did not tell us this when you put the Bill through.

Hon J.M. BERINSON: We did not know about it when we put the Bill through. That is why we have introduced this amendment.

The amendment proposes the retention of the existing procedure in section 156D which instructs the Electoral Commissioner to disregard a preference for the vacating member and to treat a ballot paper as if the numeral indicating any subsequent preferences had been altered accordingly. In order to preserve the proportional nature of the original count, sitting members must continue to be involved in the recount although this has no effect on their status as members.

To correct the deficiency it is proposed that if a recount results in the election of a person who has not nominated to participate in the recount, that election shall have no effect and a fresh recount will be conducted. At the fresh recount, a preference shown for that person will also be disregarded and the ballot paper treated as if the numeral indicating any subsequent preference had been altered accordingly.
In effect, the fresh recount would treat the ballot papers as if there were two vacating members. Recounts would take place until the first consenting candidate was elected. As a safeguard the potential for a fresh election is added in the unlikely event that a recount does not succeed.

Each recount must be treated as a completely new count for the following reasons: Pathways taken by preferences on some ballot papers may be different at a fresh recount because an additional preference will be ignored. Secondly, if the recount does happen to lead to a non-participating candidate’s being elected, it is unsatisfactory simply to continue with the same count and distribute those votes because the next candidate down the list of preferences could already have been excluded.

The deficiency in the Act should be corrected as soon as possible for the following reasons: It is intended that legislation under consideration to allow appointment by a political party of a replacement of an MLC elected to represent that political party will retain and rely on the recount procedure working properly to replace a member elected as an Independent. The Government has been advised that such legislation would involve a referendum. This may not be passed prior to the occurrence of a vacancy.

Clause 5 proposes to insert some miscellaneous omissions in the Act which are related only by virtue of their being corrections.

I commend the Bill to the House.

Debate adjourned, on motion by Hon P.G. Pendal.

GOVERNMENT RAILWAYS AMENDMENT BILL (No 2)

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon Tom Stephens (Parliamentary Secretary), read a first time.

Second Reading

HON TOM STEPHENS (Mining and Pastoral – Parliamentary Secretary) [7.46 pm]: I move –

That the Bill be now read a second time.

The purpose of this Bill is to enable the restructuring of Westrail’s employees’ benefit funds to ensure compliance with the Federal laws relating to superannuation funds. The key changes involved are the formation under the Companies (Western Australia) Code of a company named Western Australian Government Railways Employees’ Endowment Fund Pty Ltd to act as a trustee for the now aggregated funds and the removal of the element of compulsory membership from the Government Railways Act.

The background to these changes is –

(1) Westrail operated two employee benefit funds – the Western Australian Government Railways Employees’ Endowment Fund Inc and the Western Australian Government Railways Employees’ Provident Fund Inc.

(2) The endowment fund primarily provided benefits to members at retirement although surrender payments were available prior to retirement.

(3) The provident fund primarily provided sickness benefits and, depending upon the number of claims, members were entitled to a bonus on retirement or earlier termination.

(4) Employees of the Railways Commission were compulsorily enrolled in the endowment fund if they did not join the Government employees’ superannuation fund within four weeks of commencing employment.

(5) The funds have been in existence since the early 1900s and in 1952 changed their status from unincorporated bodies to that of incorporated associations under the Associations Incorporation Act 1895.

(6) Investigations have revealed that the funds should not have been incorporated under that Act as the objectives of paying monetary benefits to members are prohibited under the Act.
The funds' status and rules needed to be changed to comply with the Federal Government's Occupational Superannuation Standards Act 1987 from 1 July 1990.

The legislation provides for the Railways Commission to hold shares in the trustee company. The subscribers to the company were the Railways Commission and the General Manager Finance, each holding one share. The General Manager Finance holds his share on trust for all members of the fund. Opportunity has also been taken to ensure that the trustee is self-supporting and meets all of its costs as from 1 July 1990. Prior to that date the commission was responsible for all reasonable costs of the operation of the former funds and the Government is of the view that funds of this nature should not receive financial support from Government. The commission will continue to provide the trustee company with the services of staff at such cost as the commission determines.

The Bill also provides for the element of compulsory membership to be removed. Members affected by this requirement were unable to terminate their membership prior to 1 July 1990, being the date on which the fund was required to comply with the Federal Government's superannuation laws which restricts the manner in which members can receive their entitlements. Westrail has received an assurance from the Insurance and Superannuation Commissioner that he will exercise his discretion and allow those members of the endowment section of the fund who were denied the right to terminate their membership prior to 1 July 1990, to now do so on the proviso that the payments are made in response to a once only offer to terminate membership. This offer will be made to members as soon as practicable after the amendments have been considered and passed by Parliament. Transitional provisions are included in the Bill to validate the necessary actions already taken.

Financial benefits in the order of $100,000 per annum are anticipated by Westrail through the trustee’s being responsible for its own costs. The Commissioner for Corporate Affairs and the Assistant Crown Counsel have endorsed the proposals, as have the Under Treasurer and the Government Employees Superannuation Board. Members of the funds agreed to the proposals at the annual general meeting held in 1989. The standard provisions regarding powers for the Minister to issue directions to the commission with respect to its performance and ministerial access to information in the possession of the commission have been included in this Bill. This Bill is a clear piece of legislation which restructures the funds to comply with the Federal Government’s superannuation laws and removes the operation of the fund from Westrail to a trustee company. I commend the Bill to the House.

Debate adjourned, on motion by Hon George Cash (Leader of the Opposition).

ROAD TRAFFIC AMENDMENT BILL (No 3)

Returned

Bill returned from the Assembly without amendment.

PAY-ROLL TAX AMENDMENT BILL

Second Reading

Debate resumed from 28 November.

HON MAX EVANS (North Metropolitan) [7.51 pm]: The provisions of this Pay-roll Tax Amendment Bill are complementary to those in the Pay-roll Tax Assessment Amendment Bill. The Government, to its credit, and perhaps to its sorrow ultimately, has increased only two lines of revenue in this year's Budget: one is the financial institutions duty and the other is payroll tax. It is now experiencing severe financial problems and in future it may regret that it does not have additional income. However, the taxpayers of this State must be grateful that this tax has not been increased.

I could make a long and complicated speech about the effect of payroll tax on businesses but I am aware that at present many large companies are paying off their staff and, therefore, they are immediately getting a benefit not only from a saving on the cost of salaries but also as a result of no longer having to pay six per cent payroll tax, workers' compensation premiums of two per cent or 2.5 per cent, and the three per cent superannuation levy. In recent years these indirect costs have been added to the payrolls of employers and they have increased the expense of employing additional staff.
Hon Mark Nevill: The directors have not gone backwards.

Hon MAX EVANS: Some have not and, of course, one can always pick out the high profile directors. The salaries paid to television presenters has received some publicity and certainly some have been paid more than they are worth. However, 98 per cent of the companies and businesses in this country are small private companies, rather than the big, flashy, public companies which receive all the publicity. The profits or losses of those companies directly affect the salaries of the directors, who are often not paid very high salaries. I can guarantee that from my long experience in business. They get what is left over at the end of the day or they get nothing at all. Of course, if nothing is left over at the end of the day for too long the companies are sold up and all the capital is lost. Unfortunately, companies at the moment have an incentive to lay off staff because in that way they can save some of the add—on costs of salaries, in addition to the salaries.

The Government has said that more than 85 per cent of employers liable for payroll tax will benefit from the Government’s initiative at an estimated cost of $3 million in 1990–91 and $7 million in a full year. It is proposed to increase the exemption threshold from $300 000 to $320 000. I query those figures. I doubt that 85 per cent of companies presently paying payroll tax have crept into a category just above $300 000. It is a nice statistic which reads well in the Press, but I do not believe that lifting the exemption by $20 000 will mean that only 15 per cent of all employers will be liable for payroll tax. That is the implication of the Government’s statement that 85 per cent of employers will benefit from the Government’s initiative to increase the exemption threshold. It does not make sense to me. Payrolls can increase over the years in a few ways; one is by CPI increases of six per cent which could lift those just below the threshold to above it towards the latter part of the year. It may be that they will be eligible for refunds at the end of the year because they will not have reached the threshold until the latter months.

The level at which the 3.95 per cent rate applies will increase from $1.2 million to $1.28 million. It is still a small percentage and those paying payroll tax will just be paying it at a different rate. The level for the 4.95 per cent rate will increase from $2 million to $2 133 333, while the level at which the maximum rate of six per cent comes into effect will increase from $2.5 million to $2 666 667. The same comment applies. The rate of increase of the creep is not large and many firms will still come within the top category. The difference between 4.95 per cent and six per cent is not a big one. The important rate is the total six per cent rate. Many employers and small businesses have payrolls of $2.6 million and, therefore, are liable to pay the six per cent payroll tax.

The Opposition supports the Bill. Payroll tax has been around for a long time. It was originally imposed under Federal legislation and was then passed to the States. I remind the Leader of the House that for some years at least I saved the Government the cost of paying payroll tax for every Government department, which it was doing when I first came to this place. I made that improvement which gave the appearance of saving the State $50 million in payroll tax for the first year. Premier Brian Burke made a great deal about that. The Press did not pick it up at the time and I could never get it across to them. Commonwealth Government departments pay the State payroll tax and the Government then gives 90 per cent of it back to the Federal Government. That was a nice way for the Federal Government to charge Government instrumentalities, such as Australia Post and Telecom, payroll tax. Those departments may pay $10 million payroll tax to the State Government, but the Federal Government then receives $9 million back which it would not otherwise have received. It is done in the guise of payroll tax payments to the States.

Hon J.M. Berinson: It then goes on increases in stamp and telephone charges.

Hon MAX EVANS: The Leader of the House is probably right. We push up the costs of Telecom by imposing $10 million payroll tax in this State, and total payroll tax paid probably amounts to $100 million throughout Australia. It is then passed on through postage and telephone charges because the Federal Government takes that money back. It says that it is done to make Telecom commercially competitive, but there is no competition at this stage. It is amazing how the Federal Government got away with it. The Press should have blasted the Government for what it did to the system, but it did not pick it up. The payroll tax imposes an enormous burden on those operations with a high manpower content. It amounts to three or four per cent of the total expenditure of those departments. That is how payroll tax has
been abused in this country. As we all know, it is a very large part of the total revenue of every State Government and, in the present economic climate, it will be a long time before anything can be done to reduce it.

I hope that in future the Government will be able to curtail it. If we want to encourage employers to employ more people we should not forget the impositions of the 3.95 per cent, 4.95 per cent and six per cent, the three per cent superannuation levy plus workers' compensation premiums on employers. None of these brings any material benefit to the employer; they are just add-on costs of business. The Opposition supports the legislation.

Question put and passed.

Bill read a second time

Committee and Report

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

Third Reading

Bill read a third time, on motion by Hon J.M. Berinson (Leader of the House), and passed.

PAY-ROLL TAX ASSESSMENT AMENDMENT BILL

Second Reading

Debate resumed from 28 November.

HON MAX EVANS (North Metropolitan) [8.01 pm]: The Opposition accepts this Bill. It shows exactly how the calculations will be done for charging payroll tax on the appropriate payrolls. The Opposition supports the Bill.

Question put and passed.

Bill read a second time

Committee and Report

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

Third Reading

Bill read a third time, on motion by Hon J.M. Berinson (Leader of the House), and passed.

WAGH FINANCIAL OBLIGATIONS BILL

Second Reading

Debate resumed from 28 November.

HON MAX EVANS (North Metropolitan) [8.04 pm]: One can just imagine, in 10 or 20 years' time, someone looking at this legislation and wondering what the "WAGH Financial Obligations Act 1990" is all about. He will wonder what WAGH stands for, and what are the financial obligations. I bet this financial obligations Bill is the first to go through this Parliament in this form. It will test the imagination of historians in 10 or 20 years' time.

Hon J.M. Berinson: I do not think they will have any problem remembering.

Hon MAX EVANS: I will remind them if I am still around.

Hon J.M. Berinson: I think you will probably stay around just to remind them.

Hon MAX EVANS: This is legislation which, I hope, warrants the short speech I shall give tonight, because I hope this House will rise at six o'clock on Thursday night, otherwise I would be arguing the case and giving the Bill the justice it deserves. The whole, sad history of the petrochemical legislation goes back to early 1989 when the Government was racing to establish a petrochemical plant.

Thanks to the National Party, the right decision was made at that time. The Government became involved in the expenditure of $38 million in one year and $62 million in the next year. We now find we are due to outlay another $55 million.
The second reading speech reads –

This Bill seeks an after-the-event appropriation of the General Loan and Capital Works Fund for $55 million from the Treasurer’s Advance Account in 1989-90 to repay the Australia and New Zealand Banking Group Ltd the interim financing that had been provided for Western Australian Government Holdings Ltd.

First, this sum should have come out of consolidated revenue. After all, the Government is borrowing $55 million. The General Loan and Capital Works Fund involves partly borrowed money, and we are looking at a $285 million loan bill. Part of our general loan money is going towards this $55 million. If anyone borrows $55 million for a worthless bit of paper, he will have problems because the interest will accumulate. The Leader of the House might tell us what rate of interest the Western Australian Treasury Corporation is paying these days for the money being earned on short term investments.

That was paying off a bad debt; it was paying off expenditure by WA Government Holdings Ltd. We have still not found exactly what the $62 million, or the last $55 million, was expended on. At the end of the day we have nothing left in WAGH. We have a block of land for which $10 million was paid. The unsecured creditors of WAGH will not receive one cent from the liquidator because the Government has a floating charge over the assets. The assets are the intellectual property, the computers, the vehicles and so on. We ran this story some time ago when the creditors of WAGH were asking why they were left out in the wilderness. We would not have given credit to WAGH if we had not known that it was 43.75 per cent owned by the Government. The Government has a charge over all the assets. The unsecured creditors, who originally thought they might get 20¢ or 30¢, will get absolutely nothing.

This Government is very magnanimous with other people’s money. In the Rothwells saga the Government pushed the cause of the unsecured creditors up to $1 million. There were preferential payments by the liquidator of Rothwells. A deal was done by the major creditors, and the Government was one of them. The small creditors of WAGH found it difficult to believe that the Government could push the case for the creditors and depositors of Rothwells – small depositors who were looking for a very high rate of interest which showed that their money was at risk right from the start. They were paid out all their money because it seemed to be good politics.

Here we have a Government which pushes through quickly the $55 million as a Treasurer’s Advance to repay the ANZ Bank. The Leader of the House might correct me on this, but I think the money was repaid to the Treasurer’s Advance Account very soon after that; it did not have to wait until the end of the 12 months.

If the Government had any integrity it would have allocated the money through the Consolidated Revenue Fund, like the $54.6 million which is interest and reduction of capital on $175 million, which is also part of the PICL saga. That was the money the State Government Insurance Commission borrowed from the Western Australian Treasury and loaned to WAGH, which now has no assets. Under its guarantees the Government is seeing that it is being repaid to the SGIC through the Treasury. That $54.6 million was paid through CRF to give a balanced Budget. The $55 million from last year also should have been paid through CRF. The Budget would have therefore shown a deficit of $55 million for last year rather than a surplus of $300 000. I will quote from the Leader of the House’s second reading speech –

The $55 million bill acceptance facility with the ANZ Bank was backed by guarantee issued by the Treasurer and proved by the Governor under section 5 of the Northern Mining Corporation (Acquisition) Act. The credit facility had been negotiated on 30 June 1989 and there was a clear obligation to repay on or before 29 June 1990.

One wonders about the integrity and the responsibility of the Government’s accepting the facility of the ANZ Bank on the basis that there would be a guarantee under the Northern Mining Corporation (Acquisition) Act. A page of facts was provided by the Commission on Accountability, or the Burt report, criticising how the Government had legal advice to assume correctly that the guarantee was good for any deal it liked to guarantee. However, Mr Justice Burt queried that decision because it was believed no guarantee such as that could be given. As the commission said – particularly in this case – a guarantee is an
appropriation of money. An Appropriation Bill should have been passed at the time the guarantee was given, because if there is only one thing certain in this world it is that it was known in June 1989 that the Government would need to find the money. The money was not going to come from anywhere else. It gave a guarantee at that time of $55 million when the only guaranteed fact was that the Government would have to find that $55 million to pay the ANZ Bank.

An appropriation Bill should therefore have been passed last year rather than by sleight of hand paying the money from the Treasurer's Advance Account and seeking this House's approval for the money as reimbursement from the General Loan and Capital Works Fund.

I commend the amendment moved by the National Party in the other place that such matters should be dealt with by a separate Appropriation Bill. In the past it has been locked into one Appropriation Bill; that is why this is a separate Bill with a separate item of money. The amendment was a far sighted move because it may not be the last of these instances. At least it brought the issue into this form so that we are made fully aware of what occurred whereby suddenly a deal was made with the ANZ Bank requiring the Government to pay all its debts.

It paid the ANZ Bank from the Treasurer's Advance Account and subsequently from the General Loan and Capital Works Fund. Point 8.3 of the Burt commission report's comments and recommendations states –

It will be observed from the company's involvement in PICL that the liability of the company under the debentures taken up by the State Government Insurance Commission, which was the source of the moneys obtained by the company and used by it in the acquisition of 43.75% per cent equity in PICL, has been guaranteed by the Treasurer. This guarantee is said to be entered into by the Treasurer "pursuant to section 5(1)" of the Act so exposing the Consolidated Revenue Fund to the contingent liability to pay out any moneys required by the Treasurer for fulfilling the guarantee.

Whether having regard to the definition of "the Company" in the Act and having regard to the Minister's second reading speech – section 19 of the Interpretation Act – section 5(1) does upon its proper construction authorise the Treasurer with the approval of the Governor to guarantee the debentures issued by the company and whether section 5(2)(a) of the Act is a valid appropriation of Consolidated Revenue to satisfy any liability which may be incurred by reason of that guarantee – section 72 of the Constitution Act 1889 – is a question upon which conflicting legal opinions have been expressed.

The original reason for the guarantee was that Northern Mining Corporation owned a five per cent interest in the Argyle Joint Venture which borrowed $US25 million. The company, as part of that joint venture, had guaranteed that debt. When the assets had been removed from Northern Mining NL – the assets being the shares and the interest in the Argyle Joint Venture which were sold to the Government and on to a diamond trust – it still had a guarantee hanging over it for the $US25 million loan.

As part of the deal to purchase shares in Northern Mining NL the Government agreed to guarantee any deal done by Northern Mining NL. The guarantee went far past that and has been used time and time again. That is another part of the sorry saga concerning those bad business ventures which are still coming home to roost.

I mentioned the $175 million which is referred to in the Commission on Accountability report as having been guaranteed to the SGIC in what it loaned to WAGH. That $54.6 million is the first instalment which the Government paid this year. There is still another $150 million plus interest at 13.9 per cent to be paid on that debt; there is roughly $250 million to be repaid. I hope that money will be paid out of the CRF and not out of the General Loan and Capital Works Fund.

The Leader of the House may like to give us an explanation about why the money was paid out of the General Loan and Capital Works Fund and not out of CRF. Anyone knows that after paying out a guarantee there is nothing left. The Government found that out from the Rothwells Limited deal when it paid the Rothwells' guarantee to the National Australia Bank. It had nothing to guarantee at the end of the day but in that case it owed another $33.5 million because the National Australia Bank was paid with undue preference. That cost the Government another $33.5 million less the $10.5 million adjustment later.
I will quote the following from Hansard of 28 November –

On 27 June 1989 the Government sent a letter informing the other parties involved in the PICL project that it regarded its obligations under clause 4(1) of the shareholders' agreement as at an end and that it would not provide further interim loans to petrochemical industries limited. The letter also stated that the Government would not be able to arrange project financing. So the situation was that three days before the money was agreed the Government formally sent out notice that it would not put more money into the project. However, the Government had a commitment to meet and payments to make so it was necessary to borrow $55 million from the ANZ Bank.

It will be interesting when the answers are given to questions asked in the other House regarding exactly what the $155 million refers to. The amounts of $38 million, $62 million and $55 million were expended on the petrochemical project and all we could see at the end of the day was a long list of assets taken home by the liquidator – much intellectual property comprising the plans and specifications. I hope the facts will be revealed. The Opposition reluctantly supports the WAGH Financial Obligations Bill.

HON E.J. CHARLTON (Agricultural) [8.20 pm]: This Bill represents another $55 million down the drain. As mentioned by Hon Max Evans, the Opposition wishes to see a great deal more accountability by the Government in relation to specific allocations. They should be identifiable allocations. This procedure of accountability is long overdue. In the past such amounts have been part of the whole morass of allocations which cannot be identified. Last year we called upon the Government to give an undertaking that it would honour its commitment to accountability. We must give credit to the Government that it has separated this financial obligation and provided for it with the Bill before us tonight.

The sad point is that we will witness similar amounts allocated in this way year after year. When we were informed about this recurring obligation, the Government stated that the taxpayers would not feel the effects of such a payment. That was a very misleading statement. Nothing could be further from the truth. Fifty-five million dollars is a significant amount these days. Such a payment compounds an already difficult problem, and such payments on an annual basis must have an effect on ratepayers. To give an example, today the inadequacy of Government support for export industries was brought to my attention. The Government does not support new initiatives in the export arena. For example, the Government has not shown a great deal of interest in the new wildflower export industry. A number of operators cannot export from this State because a reliable method of transport is not available, whether by air or ship. Small business people take the initiative and many are family concerns – but they are at the mercy of the large operators. Because small quantities for transport are involved, people do not support such small business developments.

Sadly, however, $55 million is available to pay off Government debts. Such a significant amount would have been of great help to small business people, whether in the suburbs or in country areas, to set up various ventures. Difficulties are being faced in rural areas presently for all sorts of reasons. Many people get into debt; however, they know what they are doing when they get into business and they realise that perhaps profits cannot be made. However, the payment of $55 million provided for by this Bill relates to mismanagement of Government and did not come about as a result of the factors which affect small business people.

We support the Bill, but we look forward to the day when there will be no need for such Bills to come before us.

HON J.M. BERINSON (North Metropolitan – (Leader of the House) [8.25 pm]: Like Opposition speakers who have participated in this debate, it goes without saying that I and the Government look forward to the day when this obligation can be written off our books. As they have acknowledged, however, there is an obligation to be met and in conformity with our undertakings on the issue we have highlighted the provision by a separate Bill.

There is only one matter to be addressed from those which have been raised by Hon Max Evans and Hon Eric Charlton, and that is the question as to why provision to meet this obligation has come from General Loan Funds rather than the Consolidated Revenue Fund.
Of course, as with many other questions Hon Max Evans asks, he knows the answer at least as well as I do, and quite often better. What will be obvious to all members is that our Consolidated Revenue Fund position this year is particularly tight. We are operating in an environment where the overall increase in expenditure has been restricted to something under five per cent and that has been very difficult indeed to achieve. In fact, the truth is we have not achieved it yet. It will take the rest of the year and continuous efforts over the remaining period of the financial year to ensure that those targets are met.

As it happens, we are also in a period where our borrowings are restricted far more than they have been, perhaps for the last 10 years, as a result of Commonwealth policy related to global borrowings of the Commonwealth and State Governments of Australia. That has imposed its own pressures on the allocations that would normally be available from the General Loan Fund. Nonetheless, given the fact that the funds have to come out of one or the other, we have found it preferable to provide the payment out of General Loan Funds so as not to restrict CRF allocations to nil increase over last year’s allocations, which would really be impractical.

I thank members for their recognition that this is just one of those Bills that must be supported in spite of the preference we would all have otherwise.

I commend the Bill to the House.

Question put and passed.

Bill read a second time.

Committee and Report

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

Third Reading

Bill read a third time, on motion by Hon J.M. Berinson (Leader of the House), and passed.

DEBITS TAX BILL
DEBITS TAX ASSESSMENT BILL

Cognate Debate

On motion by Hon J.M. Berinson (Leader of the House), resolved —

That leave be granted for the Bills to be debated concurrently.

Second Reading

Debate resumed from 29 November.

HON MAX EVANS (North Metropolitan) [8.31 pm]: The Opposition reluctantly supports this legislation. The Bills relate to the imposition of a debit tax on liable debits made by financial institutions into an account held in that institution. They give effect to the debit tax which has been raised by the Commonwealth Government and which was previously known as the BAD tax, or the bank account debits tax. That was a far better name than debits tax, because it really was a bad tax. It was brought in before the financial institutions duty tax. It is now being passed to the States, and one might think that is nice of the Federal Government and that we will get more revenue. Of course, the States have found that there is no such thing as a free meal and they will have to pay the price, because the Commonwealth Government will adjust the grants accordingly. At some later date the States may find the tax will be adjusted by a greater amount.

The legislation is to come into effect from 1 December, which was last week, so we are looking at retrospective legislation. It is estimated that collections for the last six months of the 1990-1991 financial year will total $19 million. However that period is in fact seven months, so what will be the collection for that seven month period?

HON J.M. BERINSON (North Metropolitan – Leader of the House) [8.35 pm]: To reply to Hon Max Evans’ last comment, I can only assume it will be seven-sixths of $19 million.

Hon Max Evans: Why did you put it in there?
Hon J.M. BERINSON: I cannot be sure of this and I say this subject to correction, but in spite of the fact that the payment will go from 1 December there will be only six months’ payments in this financial year, and the payment for the seventh month will be due on 1 July in 1991.

Hon Max Evans interjected.

Hon J.M. BERINSON: Again, Mr Evans is indicating that he knew that before he asked me, but it helps to pass the time. Everything that Mr Evans has said is right, and I have great difficulty in understanding the purpose of this transfer, given that there is no net benefit to the State and not even a transfer of the administration of the charge; that will continue to be organised by the Commonwealth. Unfortunately, it is a no-option position since we lose the equivalent of the BAD tax whether we accept it or not, and that leaves us with the alternative only of accepting it. I commend the Bills to the House.

Questions put and passed.

Bills read a second time.

Committee and Report

Bills passed through Committees without debate, reported without amendment, and the reports adopted.

Third Reading

Bills read a third time, on motions by Hon J.M. Berinson (Leader of the House), and passed.

ACTS AMENDMENT (BETTING TAX AND STAMP DUTY) BILL (No 2)
BOOKMAKERS BETTING TAX AMENDMENT BILL

Cognate Debate

On motion by Hon J.M. Berinson (Leader of the House), resolved –

That leave be granted for the Bills to be debated concurrently.

Second Reading

Debate resumed from 29 November.

HON P.H. LOCKYER (Mining and Pastoral) [8.38 pm]: We on this side of the House agree with this legislation.

HON D.J. WORDSWORTH (Agricultural) [8.39 pm]: I am somewhat surprised that this legislation is proceeding with no speeches from this side of the House. I suppose it is very smart to say that we agree and to sit down. However, I was waiting for Hon Phil Lockyer to tell us a little more about it.

Hon P.H. Lockyer: It has been debated once before and it has been brought back because there was a change in the drafting of the legislation, so it has been debated in this House before.

Hon D.J. WORDSWORTH: I understand that one of the main purposes of this legislation is to change the turnover tax paid by bookmakers. I made a few inquiries to try to find out what effect this legislation will have on the racing industry. I was somewhat amazed to find that the turnover of the bookmakers at various racing venues is in the order of $164.5 million. The turnover at metropolitan galloping is $87.5 million; provincial and country TAB clubs, $30.5 million; non–TAB clubs, $10.5 million; trotting, $31 million; and greyhounds, $5 million, giving a total of $164.5 million. The tax collected on this amount totals $4 million and the amount retained by the Government is a little over $2 million.

The bookmakers will receive an increase in profitability in the order of $350 000 from this legislation. The amount to be transferred to the racing industry development fund will be $184 000. In support of what Hon Phil Lockyer said I suppose we can only say that it is good that country clubs will receive an increase by way of the tax while the bookmakers will enjoy an additional $350 000. I am not quite sure how many bookmakers there are in this State and perhaps the Minister can advise us when he replies to the second reading debate.

The country clubs will gain some of that money in varying amounts. There is no doubt that
many of our clubs need extra financial support, although my understanding is that some clubs will lose and some will gain from this legislation.

I must admit that I have not made a comprehensive study of this legislation. I am not a racing man in any shape or form. I am surprised in these difficult economic times, when the Government is in such financial difficulty, that it has decided to give bookmakers $350 000. Perhaps the Minister will explain the reason to me.

HON GRAHAM EDWARDS (North Metropolitan – Minister for Police) [8.44 pm]: I thank the Opposition for its indication of support of the Bills. The proposals contained in the Bills are not proposals which have come on suddenly; they date back to early 1988 when the Quin report into racing was released.

Members will recall that in dealing with those recommendations the Minister of the day, Hon Pam Beggs, brought firstly to the Parliament those matters which had a direct financial bearing on the racing industry. She attempted to address those issues in order to give relief to the industry. It was stated at the time that at a later date other recommendations would be acted upon and further amendments would be introduced to achieve the recommendations of the Quin report.

One of the original recommendations related to the Bills we are discussing tonight and I refer to the introduction of a racing industry advisory group. After serious consideration of the recommendation that group has not been formed. Of course, it was to that group that some of this money was to be directed. I do not know whether the racing industry advisory group will be put in place some time in the future.

Notwithstanding that, the Minister has now brought forward these two Bills which are being dealt with cognately and which will give some relief to bookmakers. I am not sure how many bookmakers operate in the metropolitan area and country areas, but I will ascertain that information for the member.

Hon D.J. Wordsworth: Are they having difficulty surviving? Is that the reason they need $350 000?

Hon GRAHAM EDWARDS: I have no doubt that the bookmakers are finding it hard to survive; bookmaking certainly is an occupation which does not offer the same attraction to people that it did some years ago.

When I was a young bloke I recall that my old man used to have a punt and his friends and colleagues used to say that the bookmakers were the blokes who ended up with all the money. I do not believe that is the case these days, especially with the Totalisator Agency Board and other forms of gambling. I know it is harder for the bookies than it was previously. I would hate to see the situation where bookmakers no longer fielded at the trots, the races or the dogs.

I had the opportunity to visit Meadowlands, an extremely big complex, in the United States last year where they have racing and pacing at the same track, but there is not a live fielder to be seen anywhere. Betting is done at the tote and it detracts from the spectacle of the races. It is estimated that these Bills will save the bookmakers $502 000 in a full year.

The Bill which seeks to abolish the stamp duty on betting tickets will actually save bookmakers approximately $44 000 in a full year. Irrespective of the number of bookmakers in the State, there are significant savings which I hope will flow back into the industry. It is not something we have rushed into – these matters have been around since 1988.

I understand Hon Phil Lockyer has had a close look at what is proposed by way of the legislation and the Quin report. I also understand that the Opposition has indicated its strong support for the legislation.

I hope I have cleared up those matters raised by Hon David Wordsworth.

Hon D.J. Wordsworth: I can assure you that you have not.

Hon GRAHAM EDWARDS: I will make sure that the number of bookmakers in this State is conveyed to Hon David Wordsworth.

Questions put and passed.

Bills read a second time.
Acts Amendment (Betting Tax and Stamp Duty) Bill (No 2)

Committee

The Chairman of Committees (Hon J.M. Brown) in the Chair; Hon Graham Edwards (Minister for Police) in charge of the Bill.

Clause 1: Short title –

Hon D.J. WORDSWORTH: I can say only that when the Opposition indicates its support for a Bill, the Government does not worry about presenting its arguments. I am far from satisfied, from the Minister’s comments, of the need for this legislation. This Bill will reduce from 2.5 per cent to 1.5 per cent the bookmakers’ turnover tax; in other words, bookmakers will receive an additional one per cent that they will not have to pay to the Government in taxation. Bookmakers strike odds, and I would not have thought they could strike their odds so close as to be accurate to one per cent.

I am sure that when the Quin committee made its report there were good reasons for this, but it is a pity the Minister has not been able to tell us those reasons.

Hon P.H. LOCKYER: The reason that the percentage was reduced was that bookmakers in Western Australia were going broke. I am sorry that I did not speak enough about that for the member, but I always stick to subjects that I know.

There is an ever diminishing number of bookmakers in Western Australia; they are going out of business overnight. The Quin report found that to be a fact, and it rightly recommended to the Government that one of the ways to try to stop that was to reduce the bookmakers’ turnover tax. That has reduced in general the number of bookmakers going broke, but not by much.

This Bill is what the industry wants. We have discussed the matter until we can discuss it no more. This Bill needs to go through, and one of the reasons that we are trying to get it through swiftly is that clubs have been holding back the turnover tax they have taken from bookmakers because this legislation is to be retrospective. If the Government does not take steps to introduce legislation like this, we will simply send bookmakers down the gurgler faster than they are going now.

Hon D.J. WORDSWORTH: As the Committee is aware, many members owe their background to the farming community, as I do. It is very interesting that we are rushing to the aid of bookmakers by reducing their tax by one per cent so they can survive, when in the wool industry the income of farmers will be reduced to one quarter of what it was previously, and no-one has rushed to their aid.

Somehow we are rushing to the aid of every bookmaker in the place, and I cannot see that they can blame for their problems the one per cent tax that they pay. The working out of their odds has been more of a problem.

Clause 1 put and passed.

Clauses 2 to 11 put and passed.

Title put and passed.

Bookmakers Betting Tax Amendment Bill

Committee

Bill passed through Committee without debate.

Acts Amendment (Betting Tax and Stamp Duty) Bill (No 2)

Bookmakers Betting Tax Amendment Bill

Report

Bills reported, without amendment, and the reports adopted.

Third Reading

Bills read a third time, on motions by Hon Graham Edwards (Minister for Police), and passed.
Debate resumed from 27 November.

HON P.G. PENDAL (South Metropolitan) [8.56 pm]: The Bill now before the House comes to us under the guise of a conservation issue; and I use the word "guise" advisedly. I regret that the Government has paraded this matter as a question about the environment because in the course of the next few minutes I will indicate why that is not the case. I will also demonstrate that many very decent and dedicated people have had their hopes raised and then dashed by the Government, for some fairly base political motives. The suggestion that this is a conservation issue needs to be exposed. I will demonstrate that the Bill has nothing whatsoever to do with conservation. On the other hand, it has everything to do with some grubby electoral motives on the part of the Government.

Hon B.L. Jones: What a suspicious mind you have!

Hon Fred McKenzie: Are you not concerned about the lives of bird life?

Hon P.G. PENDAL: I will be interested to hear some of the remarks of Labor members in due course, particularly those members who are known to be committed to the defeat of this Bill; indeed, Labor members who share the view that I will put on behalf of the Opposition.

Hon Kay Hallahan: None share that view.

Hon P.G. PENDAL: However, I suggest that I ought to put the Opposition's view for the time being and not concern myself with the interjections from some of those members opposite.

In the last week or so, Western Australia has played host to the International Union for the Conservation of Nature congress at the Burswood Convention Centre. That congress was attended by in the order of 3 000 delegates from around the world. They met in this State to discuss global matters relating to the environment. I might say that among the many delegates attending that congress were people from North America who represent an organisation called Ducks Unlimited. Those people, who belong to the biggest wetlands conservation group in northern America, say that it is absurd for this Government in this part of Australia to see the banning of duck shooting by itself as a conservation issue. In fact they heap scorn on that suggestion because they know that there is no truth at all in the suggestion. Those people attending the IUCN congress as members or scientists do not see the blanket ban which is being proposed by this Government as a valid way to protect water bird species. Instead these people, both visitors to this State and people within Western Australia from the conservation movement, see that the real issue that should be at stake in Western Australia in this whole debate is one of wetlands conservation.

I want to move a little closer to home, since I have quoted the United States, and present some evidence which underscores my assertion that we are not dealing tonight with a valid conservation issue at all. I go no further than to quote from a major document that came out of the Victorian Government only 18 months or so ago. It was called "The Management Of Duck Hunting In Victoria" and was published by the Department of Conservation, Forests and Lands in that State in April 1989 at the behest of the Victorian State Labor Government. I want to quote from that report two quotes which underline my assertion that we are not dealing tonight with a valid conservation issue at all. One of the quotes from that expert review says –

Habitat management has the potential to increase production, –

That is, of bird numbers; the quote continues –

– and must be the first priority in conserving water fowl or any other species.

On that note the experts in this debate put the issue in its true conservation perspective; that is, that the first priority in conserving waterfowl, of which duck is a major species, or any other species is habitat management. Yet we see nothing in this Bill, nor in the actions of the Government, in respect of the conservation and protection of wetlands in Western Australia. Elsewhere in that Victorian report we are told – and this again underlines my assertion that the issue before us tonight is not one of conservation but one of playing to the electoral crowd –
Without suitable habitat, there would be no birds. Therefore, habitat protection and maintenance must be the first priority in conserving waterfowl or any other species.

That begs the question: What has the Government done on that underlying issue of wetlands preservation? In other words, if the Government wants to protect the ducks, as it says it does, what is it doing about what the experts say is the primary issue at stake in protecting those ducks; that is, the question of wetlands preservation? The reality is that the Government is doing nothing. Indeed, in the course of the recent Budget examinations I had cause to ask the Department of Conservation and Land Management, through the Minister, what we were doing in Western Australia to conserve and protect and in some cases rehabilitate the wetlands system in this State which underpins our duck population. I asked who had charge of the wetlands preservation in Western Australia and who had overall control, and the answer that came back and which is now part of the parliamentary record is that no-one has such overall charge. It is currently a fragmented approach whereby the Department of Conservation and Land Management is responsible for some of those wetlands and, by the admission of that officer, other departments are concerned with some of the wetlands and in some other cases local government is responsible for some of those wetlands.

There is the real issue: The protection of the habitats of these birds does not rate a mention in the Bill before us, nor in the second reading speech of the Minister; in fact, it has not rated a mention in the entire debate ever since the Bill was introduced into another place by the Minister, Mr Pearce, several months ago. So the real issue I am presenting to the House tonight is an issue which the Government has utterly and totally neglected in favour of a more popular and electorally appealing argument about whether people should have the right to take ducks in recreational hunting. Therefore I put to the House that the Government is not at all sincere when it comes to the Parliament and says, "We want to legislate to put an end to duck hunting." To prove my point that the Government is insincere I need go no further than an announcement made this year, in January 1990. The then Minister for Conservation and Land Management, Mr Taylor, refused to go down the path that the Government, in its 180 degree turn, is going down today. Mr Taylor said in January this year, "We will not introduce permanent bans on duck hunting." Instead he was content to stick to the real issue as to whether a duck hunting season ought to be declared at that time.

It was not only Mr Taylor, now the Deputy Premier, who was involved; the new Premier has done some very fancy but not very subtle shoe shuffling on this issue. The Premier has undergone the most miraculous conversion since St Paul was converted on the road to Damascus.

Hon Fred McKenzie: Do you know why? Because she listens to the people.

Hon P.G. PENDAL: I will demonstrate that it had nothing to do with the new Premier's listening. It is now claimed by the new Premier that she ordered a review on becoming Premier, yet I point out to the House that, having ordered the so-called review, she then went on the public record and spoke in favour of what I am speaking in favour of tonight. On 2 March, in a letter to a Collie resident, the Premier said —

In regard to duck shooting, the decision to allow a shooting season this year was based on scientific data... which provided evidence that the hunting season would not affect the viability of duck populations.

Those are the words of the Premier of Western Australia, who in March of this year took the position historically held by Labor and Liberal Party Governments; this position is being sustained today by members of the Opposition.

Hon Fred McKenzie: That was March; it is now November.

Hon P.G. PENDAL: Indeed, she changed her mind! This was a miraculous change, considering what she said on 2 March 1990. I ask members to bear in mind that on that occasion the Premier said that a duck hunting season could be justified on scientific data. Then she stated in September —

I have made no secret of my opposition to shooting ducks for recreation. Our community has reached a stage of enlightenment where it can no longer accept the institutionalised killing of native birds for recreation.
The Premier did not think that way six months earlier. She has shown the most remarkable change of heart of anyone, and this is matched only by her remarkable change of heart when she decided to order the Royal Commission she had previously refused to order.

We should not stop with the new Premier. Let us examine what Mr Grill - a former Minister who is still a senior member of the Australian Labor Party - has had to say on this issue. On 12 September this year he said -

I have grave doubts about the decision taken by my colleague the Hon Bob Pearce... It does not stop there. The member for Bunbury was another Labor member who spoke out and has since not been allowed by Caucus to express his view in public. He said -

I personally am in favour of selective season shooting in order to cull ducks and have already made my feelings known to the Minister...

I congratulate Mr Philip Smith, the member for Bunbury, because he expressed the views of the Opposition, as did his colleague, Mr Grill, and as did the Premier, Dr Lawrence. Also some Government members in this House share those views. One such member is Hon Jim Brown.

Hon Sam Piantadosi: We can all make mistakes.

Hon P.G. PENDAL: Hon Jim Brown did not make a mistake when on 20 September this year he said to a duck hunting group - as I am sure you will be interested, Mr Deputy President (Hon J.M. Brown) -

I do not disagree with your comments and therefore regret that this decision has been made.

Hon Doug Wenn: Do they all pass the letters on to you?

Hon P.G. PENDAL: How I came by those letters is of no concern to the member, who may well be one of those closet members of the Labor Party who would like to agree to the Liberal Opposition's view on this issue.

On 25 January this year Mr Taylor, to whom I referred earlier, used a scientific report which was prepared by the chief veterinary pathologist which rejected claims by anti-duck hunting people that non-game birds - those not protected - had been shot by hunters. In other words, on the advice of the chief veterinary pathologist of Western Australia Mr Taylor was told that protected species are not shot by hunters. However, six months later the Premier took a diametrically opposite view when she said on 3 September that "evidence from previous seasons shows that injured ducks have been left to die and protected species have been shot". It is not possible to have a greater contradiction than that! I ask members to judge the Bill according to that light.

Among the sincere people who take a view contrary to mine are those in the Conservation Council of Western Australia. I respect the position taken by these people because at least it does not alter every six months to suit the occasion. Even though these people hold a view which I do not endorse, they have pointed out to members of Parliament during the last 24 hours that something like 15 000 to 20 000 members of the public have signed petitions expressing support for the Bill. I advise those people, in good faith, that similar numbers of people have signed petitions asking us to reject the Bill. Therefore, it is not a matter of who can raise the largest numbers in support as this is a debate which arouses the passion of people on either side of the discussion.

The Labor Party has demonstrated a contradictory and ambivalent view on this matter, and its own branches are in disarray over the issue. I am reliably informed that the Kalgoorlie-Boulder branch of the ALP has publicly stated that the Government is wrong and that the Bill should be rejected, just as the Opposition will do.

Hon Fred McKenzie: That is one of 250.

Hon P.G. PENDAL: It was one of 250 which had the courage to speak up.

Hon Kay Hallahan: Have you heard from your own branches on this matter?

Hon P.G. PENDAL: Of course I have.

In case anyone missed the point I raised, I remind the House of an article in The Kalgoorlie
Miner of 23 November, and refer to a paragraph in which the President of the Kalgoorlie-Boulder Labor branch, Paul Jones, said –

It was the feeling of members that the proposed ban was a city-based decision that didn’t take into account the feelings of country people, ...

That is a very valid observation. The Liberal Party, and I suspect the National Party, are encouraged to see that the South Australian Labor Party Government has refused to go down the path of the Western Australian Labor Government. The South Australian Government announced two matters of significance yesterday: First, the South Australians announced that they would not go down the path of an outright ban on duck shooting; second, the South Australian Labor Government adopted the views of the Western Australian Opposition in that under the new controls the shooters’ fee will be increased. As members would be aware, that is the position taken by the Liberal Party in this State, and the moneys raised through this increased fee would be provided for wetland conservation. The South Australian Government also stated that lead shot would be phased out. That is a matter I will come to in a moment, because it forms part of the Liberal Party’s view. Another part of the South Australian announcement was that hunters would have to pass a species identification test to be introduced by 1993. That is to be done so that hunters do not shoot the wrong species, and the identification test is part of the Liberal Party’s stand on this issue.

So that people are in no doubt about our position, we have decided to allow hunting to continue, but under a new set of conditions which seeks to address the underlying conservation issues, to which I referred during my opening remarks.

Hon Sam Piantadosi: To clarify that statement regarding licences and fees for damage control to wetlands, are you saying damage first and correct later? Is that the purpose of the fees?

Hon P.G. PENDAL: No. The member has his South Australian Labor colleagues’ policy and the Western Australian Liberal Party policy mixed up. I will read to him our policy statement to show where we stand. I repeat that the Liberal Party policy seeks to address the underlying conservation issues and it states –

* All reserves that were not originally purchased or set aside as game reserves (i.e. all reserves with the primary purpose of conservation of flora and fauna) will remain closed to duck shooting.

* All game reserves will be surveyed to assess their conservation value. Where such values are found to be high, they will cease to be game reserves and will be reclassified as nature reserves for the conservation of flora and fauna. Only those game reserves of lower conservation value will remain available to duck shooting and they will be given a new name so that their principal purpose is quite clearly understood.

* Duck hunting licenses will increase to $20.00 each. These monies, together with a further $20.00 to be provided by government, will be placed in a special wetland conservation fund, the purpose of which will be to purchase and manage wetlands whose primary purpose will be to allow controlled duck shooting when appropriate.

* The next Liberal State Government will retain the right to impose the traditional moratorium on duck shooting on a season-by-season basis when duck numbers are not sufficient for culling.

* Lead shot will be banned if sufficient scientific evidence is produced to show, as suspected, that lead poisoning of wetlands and the animals living there is occurring.

* All shooters will gain their license only after they have passed a waterbird species identification test to ensure that endangered or protected species are not taken.

Hon Fred McKenzie: How can they see them in the dark?

Hon P.G. PENDAL: All over the world – including in South Australia under the Labor Party’s legislation – duck hunters are being asked to submit themselves to a test to show that
they can tell the difference between ducks and other water birds. As well as that, duck hunting at night has been banned in some communities, and that is one of the ways to address the question that Mr McKenzie raised.

In conclusion, the Government has not participated in this debate in an ethical way. Firstly, the Liberal Party’s position has deliberately been falsely represented, especially by Mr Pearce, the Minister in charge of the Bill; however, we have adequately dealt with him in the public arena. Secondly, Mr Pearce and some of his Labor Party colleagues — although not all of them — have cynically set about to use the conservation movement as a doormat so they can embrace the people who in recent months, for other policy reasons, they have managed to get offside. It is openly known that this Bill was introduced because Mr Pearce was not considered in a favourable light by the people involved in the conservation movement. His unpopularity was exposed in the ABC "Four Comers" program which exposed Government inactivity in the south west forests. Mr Pearce did not perform well in those arguments with the conservationists. This Bill was deliberately designed by Mr Pearce as a way of appeasing the conservation movement in the wake of the south west debacle.

The dirty tricks and the unethical conduct of the Government have gone even further. One supporter of the duck hunters’ association, Mr Alan Bradshaw, received a letter from a Labor Party member of Parliament thanking him for supporting the ban the Government was proposing. That man was widely known in the community as a duck hunter. That is the sort of effort the Government put into its unethical activities to show the community that the Bill had widespread support.

The Government was never serious about this Bill and this was indicative in the remarks made by Mr Taylor in January this year. The Government is not serious about introducing a ban on duck shooting. It is totally committed to embarrassing the Opposition but it has not succeeded in doing that. If the Government is serious about the conservation of ducks it has the power to ban duck shooting. The Government can exercise the right, under the present Act, to declare or not to declare an annual duck season. It has been able to use that power for seven years and one wonders why it has taken the Labor Party seven years to introduce this Bill. The Labor Party is not serious about this Bill and I ask members to oppose it.

HON E.J. CHARLTON (Agricultural) [9.26 pm]: It is obvious to those of us who have examined the activities of the Government over the past few months that this Bill is another diversionary tactic. This Bill has nothing to do with conservation; it is about floating an idea to gain public opinion in order to take people’s minds off whether there will be a Royal Commission and whether there will be further investigations into the activities in which the Government has been involved. These types of Bills are always introduced at a time when some other issue has been raised which has put the Government under pressure.

Hon Fred McKenzie: Have you asked the Conservation Council about that?

Hon E.J. CHARLTON: Of course, the Conservation Council wants this Bill introduced. However, I can also tell the member that the people who want a decision made about where the next power station will be located have been waiting for a decision for a long time and the people who have called for a Royal Commission have been waiting for a decision for a long time. Those people have not received answers to those questions.

Hon Kay Hallahan: They have got it.

Hon Barry House: They would rather play ducks and drakes.

Hon E.J. CHARLTON: That is the state of the game and if the Government were dead serious about this matter — ethically serious as I heard a member mention earlier — it would have examined the current Act and made a decision on whether there should be a duck shooting season this year.

Hon Kay Hallahan: We have made that decision.

Hon E.J. CHARLTON: The Government did not need to introduce this Bill to do that. It did not need to stir up public opinion and get the public interested in this subject. Instead, the Government should have let those people consider the $800 million or $2 billion that it has lost.
Hon Tom Helm: Use whatever figure comes into your head.

Hon E.J. CHARLTON: It depends on whether one is talking about direct losses that the Government has incurred or whether one is talking about the combination of factors and the financial implications that have resulted from the Government's activities. The Government could have and should have, if it had been more honourable and responsible, recognised that it had the authority to ban duck hunting and responded to the wishes of the Conservation Council. The other day the Minister said that if this Bill were not passed he would ban duck hunting anyway, and that is what he should have done in the first instance. Debate on this Bill has been a waste of time; the Bill has stirred up a hornet's nest of public opinion and has not achieved anything.

Another thing the Government has not been talking about at all — this concerns something on which the Government should have acted and is something the National Party would support if there were scientific evidence — is banning duck hunting in wetlands and waterways in which duck hunting would be detrimental.

These are breeding areas of great significance. They should never be allowed to be used for shooting purposes because of the damage that causes. A number of these areas are close to the metropolitan area. We have been told that there are many outlying country areas where duck shooting is no problem at all. In fact, we have had discussions with representatives of the conservation movement who have told us that there are now more ducks over large areas of Western Australia than there were 20 years ago. I have never shot a duck in my life.

Hon D.J. Wordsworth: You put water where there was no water before.

Hon E.J. CHARLTON: Absolutely, and even where it was there are now more ducks because there is food for them and the environment is now more receptive to them. It is ridiculous therefore for the Minister to place a blanket ban on duck shooting over the whole of the State, although he has the jurisdiction to do it. He has done that without any acknowledgment of the realities of life. There has been no balance in his approach, and life is about balances. It is about looking at one side of the equation and trying to come up with a balance on the other side. He should try to strike a balance in our environment. Very often it gets out of kilter and that is when we have to address matters. It would be irresponsible for the Minister to walk away from trying to establish that balance by placing a blanket ban over the whole of the State. That will achieve nothing. It will certainly not get respect from the duck shooters, who will sneak out and continue to knock over ducks in areas where they should not. People will do what they want regardless of what the Minister says.

If the Minister had taken advice from the conservation people and the people who have studied the breeding habits of ducks, and if he had looked at these waterways and said that they must be protected, we could now be educating the community, identifying areas that need to be protected and encouraging people to go there to look at the water life. That would be a positive approach to the matter. Over a period, people would gain a respect for that part of our environment that some members of the Government and certainly members on this side would like to see protected. The Government has adopted one of two positions: Either it is creating a diversion and dividing the public to get people's minds off their hip pockets for a little while, or the Minister is attempting to place a blanket ban on duck shooting across the whole State. However, in whatever it does nothing positive is achieved. All it has done is to create division in the community.

The wetlands to which I have referred have not been given any attention and will not gain any of the benefits that they would have gained if the views of Hon Phillip Pendal, views with which the National Party agree, were acted on. We should give greater financial support to those areas. By allowing duck shooters to shoot ducks in areas that have no reproduction, breeding or environmental value, those areas would have benefited. The community would be better educated and, in five, 10 or 15 years, greater areas that had been enhanced could be set aside.

Finally, banning shooting in publicly owned areas around the world has become a way of life and has been totally accepted. However, it has been a gradual process and people have achieved that understanding on an ongoing basis. Instead, here we see the heavy hand of the Government trying to impose a decision that the majority of the public would rather have seen imposed in another way and from which they would have benefited.
HON J.M. BROWN (Agricultural) [9.34 pm]: The only reason I am on my feet is that Hon Phillip Pendal referred to a letter that I wrote in response to one that I received from the Duck Shooters Association. I considered I had a responsibility to respond to a letter from an organisation which I consider conducts its affairs in a proper way. The association asked me in the letter if I would be prepared to meet with some of its members. I did not meet with any of its members, but I spoke to them on the telephone and advised them that I was sympathetic to their cause. My grandfathers were hunters. They hunted the wild pig and the wild turkey. That is part of my background.

I also wrote a letter to everyone who wrote to me in which I said that I would be supporting the Bill. There was no doubt about where I stood. I acknowledge that this legislation is Labor Party policy and I acknowledge that I have a responsibility to uphold the party's policy. However, I also have a right to express a view to people who want to confer with me, irrespective of who they might be. The conversations I had with people were conversations of conciliation and consideration. One person wrote to me and told me that when the duck shooting season began, it was like World War II. I suggested it was just as dangerous on the golf course.

Be that as it may, I did not want this matter to pass without expressing the view that I try to respond to everyone who corresponds with me, whether it be the tobacco people, doctors or anyone else. I am particularly sympathetic to the needs of country people. However, I want everyone to understand that I had no hesitation in advising the individual shooters that I would be supporting the legislation.

HON MURIEL PATTERSON (South West) [9.37 pm]: There is much in the present crusade against duck shooting which should alert this House to the likelihood that we shall be called upon, again and again, to weigh similar arguments in similarly orchestrated campaigns. After a while, we will come to recognise certain predictable features. For instance, there will be the maximum amount of emotional heat and legislation will appear, after receiving publicity, with questions demanding answers. That is quite in order as long as the lawmakers do not confuse noble intentions with commonsense.

This "duck Bill" is a case in point. Many of the public who are allegedly concerned about agitating for a total ban on the controlled shooting of specified water fowl could not tell the difference between a mallard and a mongoose. How can it be otherwise when over a million people in this State live in the Perth metropolitan area where their practical experience of feathered wildlife is confined to feeding the swans and ducks on Lake Monger or watching the pelicans paddle across Matilda Bay?

Seriously, what do such well-intentioned people really know about the lifestyles of ducks, geese and quail 500 or more kilometres beyond the Darling Range? What are the facts of this matter? Viewed from a country person's standpoint, the first and most obvious thing to bear in mind is that nature in the raw is really "red in tooth and claw". Sadly, no amount of legislation will ever alter that heartless fact of life, try as some of us will to extend the principles of a welfare State to every living creature in the bush. There are no elderly ducks, geese or quail enjoying their retirement years on tranquil lakes and ponds until alarmed by cruel, red-necked hunters. That is an urban fantasy, a "Disneyland on Parade". The uncomfortable truth is that everything preys on everything else once the bitumen is left behind, and nature herself is the great leveller. Compared with the catastrophic collapse of bird populations through disease, hunger, and the onset of unseasonal weather, the strictly regulated taking of commonly occurring wild fowl during last year's open season was a relatively humane culling of excess mouths to feed. Even in the world's largest controlled park - Kruger Park in South Africa - culling is carried out to even the balance of nature. That park has gained world recognition for preservation of wildlife and it carries out annual culling of many of the birds and many of the animals that overpopulate in the area. I also saw Botswana in contrast where the devastation to the environment was evident because of the lack of control and culling. Good farm husbandry requires annual culling of animals.

Let us assume for one moment that the anti-duck hunting lobby gets its way and the sound of the shotgun is never again heard anywhere in Western Australia. What will have been achieved in practical terms? The hawks and foxes will grow fatter and the Agriculture Protection Board may well be ordered to shoot or poison excess numbers of birds - at public expense - once those numbers reach plague proportions and start destroying crops. That is
presently happening in the Warren–Blackwood horticultural region of my electorate. I also cite the case of a farmer in Woodgenellup whose dam attracts a large number of ducks. This farmer lost 50 grown sheep from botulism – as identified by an officer from the Department of Agriculture. Another one of our neighbours has a large dam on his property which attracts many birds. After a few years the duck population predominated, contaminating the surface water and resulting in the death of a number of household geese. The area had to be fenced to protect the household birds while the ducks were culled.

What will have been gained by this agitation for a total and permanent ban on duck hunting? One can only speculate on the Minister’s innermost reasons for supporting this move, but it cannot be that the number of habitats, and with it the number of birds, is shrinking. Anyone who drives or flies across the south west of this State, as I must frequently, cannot but notice the vast number of farm dams and other man–made bodies of water. Few, if any, of those do not have resident or migrant populations of wild fowl. It is most uncommon to go past any of the expanses of water without seeing some form of wild fowl. Seen in this light, there is no logical, as opposed to emotional, reason why an orderly and controlled duck hunting season should not continue in Western Australia, subject to some sensible modifications which have been suggested during this present debate.

The Liberal Party has suggested a few such modifications. Firstly, that a new system of nature reserves be introduced to recognise areas of high conservation value. Paralleling these should be a series of true game reserves for licensed hunters. Secondly, research should be started to determine what effect, if any, lead shot has on the ecologies of wetlands with deep and muddy bottoms. Thirdly, a water birds recognition test should be introduced of all water birds in this State. This will do much to minimise the mistaken shooting of endangered or protected species. Once enacted, such legislation would strike a rational balance between the extreme positions of both sides in this emotionally charged issue. Most importantly, it would ensure that Western Australia’s wildlife heritage, which is appreciated by every one of us in this House, is conserved. I oppose the Bill.

HON J.N. CALDWELL (Agricultural) [9.49 pm]: I speak on behalf of duck shooters because, like many speakers in this debate tonight, I was once a duck shooter and I indicate that one point has not been raised tonight so far.

Hon Kay Hallahan: I am glad you are putting it in the past.

Hon J.N. CALDWELL: It was almost 40 years ago and I do not shoot ducks now. I believe there are better methods of obtaining a feed than by shooting whatever one wants to eat. Hon Eric Charlton said that there are probably more ducks now than there have been in recent years. That is because the Minister has exercised his right to declare whether there shall be a duck hunting season.

Another factor is that many people have become more conservation minded, especially duck shooters. They are extremely conservation minded and that is evident from their activities on a lake near my farm. Many duck breeding boxes have been erected in the dead trees in the lake to increase the population of ducks. The duck shooters are to be congratulated. I suppose it could be said that "they know on which side their ducks are buttered" because by helping to breed a lot more ducks they can maintain the numbers and ensure there are plenty for everybody. I must admit that when I participated in this activity it was not only a sport to me; I never wasted one of the ducks I shot. I brought them home and they were placed in the freezer. That is an important factor that must not be overlooked. The ducks are a source of food for many people.

Not one person has come into my Katanning office and said he or she supports the legislation. Some people have written to me and complained about it and many have come into my office to express their opposition to the Bill. The people who come to my office, of course, use the ducks they shoot to help fill the larder for two or three months of the year. The Minister, whoever he or she may be, has an absolute right to decide whether the season is open, and that is exactly where that right should stay.

HON KAY HALLAHAN (East Metropolitan – Minister for Planning) [9.50 pm]: We have had a very disturbing and disappointing debate this evening.

Hon P.G. Pendar: I heard you had roast duck for dinner tonight!

Hon KAY HALLAHAN: I certainly did not have roast duck for dinner tonight. I am sure it would not be duck –
Several members interjected.

Hon KAY HALLAHAN: Excuse me, may I carry on with my comments? Had I had duck for dinner tonight, it would not have been game fowl; but I did not have duck for dinner tonight. I have been very disappointed since the dinner break with the whole of this discussion. The Opposition began by denigrating the Minister for the Environment on his very sane and sensible approach to this issue.

Hon P.G. Pendal: He is a disgrace!

Several members interjected.

Hon KAY HALLAHAN: He is not necessarily popular with everyone.

Hon P.G. Pendal: Pilcher Pearce, they call him.

Hon KAY HALLAHAN: It was a very sensible stand for him to have taken. Hon Phillip Pendal has a very poor image as shadow spokesperson for this portfolio. I did not even know that he was the shadow spokesperson in this area. After the speech he gave tonight, we can understand why he does not have much profile, and we realise that he does not have much of an understanding of the issues at all.

Several members interjected.

The DEPUTY PRESIDENT (Hon J.M. Brown): Order!

Hon KAY HALLAHAN: Some members of the Opposition try to make a constructive debate out of a pretty poor position. It is true that very often, with the reform of a law, initially not everyone appreciates what is being attempted. However, given time, people appreciate what is at stake and what is being attempted, and very often the position one has taken in front of public opinion will result in applause. One will often have to change one's position.

Hon P.G. Pendal: Like you did on national parks.

Hon KAY HALLAHAN: It is a great shame the honourable member has not done that in 1990. The one constructive comment I have heard from the Opposition side was with regard to habitat management. That is a significant issue, and one which the Minister responsible for the environment and conservation and land management matters has taken up. He is looking at an overall strategy for dealing with that. On our coastal plain we have fewer wetlands than we had a decade or two ago. They are coming under pressure from various land uses.

Hon P.G. Pendal: I congratulate you. This is the first time a Government member in this debate has mentioned the wetlands preservation. Not even Mr Pearce did that.

Hon KAY HALLAHAN: The honourable member can congratulate me at any time he likes, or he can denigrate me at any time he likes; it will not make much difference to the way in which he and I perceive things.

Several members interjected.

Hon KAY HALLAHAN: That just shows that Hon Philip Lockyer does not know what he is talking about or what he witnesses in the debate.

Several members interjected.

The DEPUTY PRESIDENT: Order!

Hon KAY HALLAHAN: Let us lift the debate a little, because it deals with what I think is an important issue. It is important not only because our bird life needs sanctuaries; other species and organisms within the ecology are dependent on that as well. We are looking at a very complex system. We are focused tonight on a very narrow but very significant area of our ecological heritage.

It is true that the culling of water birds where they are a nuisance can be achieved by the issue of damage licences. Where a nuisance develops – I am not saying in some areas of our State that this does not happen – there is a way of overcoming it. So rather than allow duck shooting in all areas, as members opposite would like to have it, we should restrict it. As Hon John Caldwell has suggested, in some areas water fowl could come under enormous pressure. We should not allow duck shooting in those areas.
I accept that we do not have the numbers to achieve success tonight. We should rather turn the debate around and allow damage licences to be issued where a particular pest or problem arises. I would like to see the debate turn around that point.

Some issues need to be addressed, and I would like to deal with them very briefly. One is botulism, which is a very great problem, particularly in the height of summer. At present when duck shooting commences ducks seem to migrate to metropolitan wetlands, where they die as a result of botulism on the depleted wetlands. The Department of Conservation and Land Management has carried out research work on the movement of ducks which shows that when duck shooting has not been permitted, migration has not taken place in the same numbers as it has in years when shooting has been allowed. This is a significant factor which should be examined.

The second question is lead pollution, which is one of the most controversial illnesses concerned with water fowl, and which occurs mainly as a result of the ingestion of lead shot. I am given to understand that death can result from a bird ingesting only two lead shot. The other side of that is that the creatures living on the carcase, the scavenging species such as birds of prey, then become victims of this lead poisoning, leading to a rather unfortunate chain of events. It seems that in a number of other States lead shot is being banned.

Hon P.G. Pendar: It has been addressed in the Liberal Party policy, as I announced.

Hon KAY HALLAHAN: It would be a startling thing, because the Liberal Party has had an abysmal record in policy –

Hon P.G. Pendar: The South Australian Labor Government endorsed it today.

Hon Graham Edwards: What did Mr Greiner say about your stand on that Bill earlier?

Several members interjected.

The DEPUTY PRESIDENT: Order!

Hon KAY HALLAHAN: There is the question of identification tests. It sounds a good idea, and it is useful, but the fact of the matter is that where that has been in place, more protected birds have been shot. That rather indicates that identification licensing, while it precluded some people from the process, was not the insurance some people hoped for. The Government comes back to the position that the only real protection is the outright banning of duck shooting. I would like to think that perhaps one or two members opposite who have seen the horrors of it will vote for the Bill. It is horrible. I remember the pictures in the newspaper of Mrs Joan Payne, who is a very concerned person. Many members I am sure have been contacted by her.

Hon P.G. Pendar: It is not very nice to cut a lamb’s throat either, but I bet you eat lamb.

Hon KAY HALLAHAN: I have known her and I have seen her work.

Hon Graham Edwards: Or fish?

Hon KAY HALLAHAN: She had people working on rescuing birds affected by botulism. She has been involved in the most exhaustive campaigns to try to rehabilitate the various water fowl caught up in our depleted wetlands. Those people, including Joan Payne, have a great deal of dedication. They do not take a radical or unacceptable position; indeed, they take a responsible stance and have a full understanding of conservation issues. They certainly are very concerned about the whole matter.

It was apparent during debate that some members were confused. I point to the contribution by Hon John Caldwell who said that he used to go duck hunting for food and that it is not the best way to get food. He also questioned duck hunting for sport which has caused the death of so many birds in a wanton way. People who shoot ducks for food do not act in a wanton way. Throughout history people have hunted ducks for food; however, as a sport, one would have to say it is a poor type of recreation. It does nothing for people who are genuinely interested in the quality of our wetlands. We could not condone a sport where people shoot birds which fall to the ground and as a result of the release of lead, our wetlands are contaminated by the carcasses of birds. It is a bizarre cycle. I was surprised to hear the tenor of debate tonight.

Hon P.G. Pendar: Why has the Government waited for eight years to introduce this legislation?
Hon KAY HALLAHAN: This is a very good Bill. Hon Phillip Pendal could ask the same question in relation to a number of Bills. The fact is that this is a very good Bill.

Hon P.G. Pendal: Five years ago you were not in as much political strife as you are now.

Hon KAY HALLAHAN: The only way Hon Phillip Pendal can defend the indefensible, as shadow spokesperson on environmental matters, is to attempt to denigrate the Government’s action. He has nowhere else to go, so it is not surprising.

Hon P.G. Pendal: I have announced our alternative policy.

Hon KAY HALLAHAN: Hon Phillip Pendal denigrates the Minister for the Environment. That does nothing to lift Hon Phillip Pendal in the eyes of his colleagues or in the eyes of the community who are interested in matters environmental. I suggest that he give up on that argument and accept that he is in an unsatisfactory position for a person pursuing, as he should be, the greater protection of our environment in all its complexity.

This is an important Bill and I ask all members to support it. I suggest that one or two members opposite do not feel comfortable with the stance taken by the Opposition on this legislation. It is difficult to cross the floor, but at times that action is warranted. Given the great freedom, the great rhetoric we hear about Liberal Party independence, I would expect that we would see two or three members cross the floor.

Hon P.G. Pendal: We will not see any Government members come this way, even though they want to.

Hon KAY HALLAHAN: The member certainly will not see any Labor members cross the floor.

Hon P.G. Pendal: On any Bill!

Hon KAY HALLAHAN: Government members have given serious consideration to this legislation. It is a Bill which receives the full support of Government members, as does the Minister who proposed it in another place. I ask all members to support the Bill.

Question put and a division taken with the following result –

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Question thus negatived.

Bill defeated.

WORKERS’ COMPENSATION AND ASSISTANCE AMENDMENT BILL

Second Reading

Debate resumed from 27 November.
HON SAM PIANTADOSI (North Metropolitan) [10.07 pm]: The Opposition outlined five areas of contention in this Bill, namely partial insurance, the setting of fees relating to medical and other expenses, representation on the Workers' Compensation Rehabilitation Commission, the definition of occasional rehabilitation and the Workers' Compensation Board.

Some time has elapsed since discussion in an attempt to reach a compromise on those matters. However, some progress has been made. I wish to outline the proposed role of the Workers' Compensation Board. Currently, membership of the board comprises employer and employee groups. Such representation on the board has been in place for some time; indeed, the collective experience of all representatives probably totals more than 100 years. The method of operation of the board has been successful for around 40 years. It performs well and with little complaint from either side. The changes being pushed at the moment are somewhat disturbing, and I refer to the views of the Law Society.

The PRESIDENT: Order! I remind honourable members that these audible conversations are not acceptable. Six or seven conversations are going on and the member addressing the Chair is having difficulty being heard.

Hon SAM PIANTADOSI: The experience which both employer and employee groups bring to the board will provide a balance. They will bring varied experiences gained from their respective fields, and they are closer to the workers than other members could be. It has been said that board members could be seen as a permanent jury developing expertise in specialised areas. That can be likened to medical practitioners who specialise in one field, and it would ensure a balance and fairness in the board’s deliberations. Too often workers’ compensation matters result in emotional trauma, especially if the dispute drags on for some time and ultimately ends up before the court. In that case both parties are in dispute and the person who suffers is the injured worker. It is important that a balance is retained. It has been said that representatives from the employer and employee groups would not be qualified and that they would not necessarily ensure fairness. Another comparable situation is the Industrial Relations Commission, which arrives at decisions relating to employer and employee groups; the commission has demonstrated that the system works. Members should keep in mind that the Workers' Compensation Board is a workers' court and not a legal court. Too often legal arguments take precedence over the entitlement of the injured worker. It becomes an argument between two professional people trying to outperform each other, and the person who loses is the worker – he is not considered. Independent members would ensure that balance. I will outline a case as an example of the costs associated with a matter which did not even go to court. It is difficult enough for the person who is injured, without being placed at the mercy of some unscrupulous person in the legal fraternity. I remember reading not so long ago where a solicitor was ordered by the court to pay costs to one of his clients. He had charged a considerable fee. That lawyer was Pat O'Hallorahan, who intended to appeal to the State Full Court against the judge’s finding that his $4,000 fee to an injured client was unreasonable. Mr O’Hallorahan maintained that it was reasonable.

I have another example of one case that did not go to court, and relates to an assessment of whether the case should go to court. This was sent to me by the Trades and Labor Council which said –

This account was rendered by lawyers for the simple task of checking a statement by an injured worker before it was handed to the insurance company. Amount $2448.

Unfortunately she didn’t go to her union first. She would have been referred to the union retained solicitor and not had a problem.

Now the union is helping her as best it can after the fact.

This account was sent after her written request for an itemised account. Originally she only got a bill for the bottom line. As an itemised account it probably isn’t worth the paper its written on since the individual amounts aren’t shown.

This makes a mockery of their comment that the account is 3 months overdue. She had to wait 2 months to get this rubbish. See they’ve charged an extra $10 for her trouble & that’s the only amount shown – intimidation or what!?

The legal firm charged the injured women an extra $10 for sending an itemised account. The legal firm, Silbert & Silbert, wrote the following letter –
We refer to your letter dated 24th September 1990.

With respect to paragraph 2 of your letter we advise that the account is in respect of the professional costs and disbursements incurred in relation to the advice furnished to you, in accordance with our professional scale of costs. There has been no error in the preparation of the account dated 8th August 1990.

As requested we enclose our itemised account dated 12th November 1990.

Let us have your cheque in the sum of $2,458.00 within 7 days from the date hereof, as this account has been outstanding for over 3 months.

The itemised account is two pages long and the only amount shown is the figure on the final page. The account includes postage and petty's and lists such things as telephone calls, personal attendance on client, perusing client's facsimile transmission and statement, research Act, telephone from client, drawing file instructions, and perusing letters. The tally is $2,448. I contacted the State Government Insurance Office and while it does not have a set fee for settling cases out of court, the standard charge is $800, which is a far cry from $2,448. The legal firm made the statement that it had given the client an itemised account, yet no figures were shown. That goes to show that many injured people are placed at the mercy of unscrupulous lawyers. They have enough problems coping with their injuries without having to experience the further trauma of being ripped off and not knowing what their true position is. As well as facing the trauma of injury they face the uncertainty of high legal charges.

I followed up another case; one of my constituents, Mr Tony Georgie was charged $3,300 to settle a case out of court. I tried to contact his solicitor Mr Joe Persich; however he did not respond to my letter and would not arrange an appointment to see me.

When that happened, and because I raised the matter with Mr Georgie, he went to Mr Persich's office and Mr Persich reduced his account from $3,300 to $1,800. Had Mr Persich itemised his account in the first instance and carried out the work that he stated he had done, and that amounted to the value of $1,500, he had every right to try the case. However, because I entered into the argument and challenged his account he found it necessary not to meet me but to reduce the account by $1,500. That is only one example where I have evidence of people being ripped off. However, there are many instances where people are not familiar with the legal system, cannot obtain access to information on assistance and advice and are at the mercy of some unscrupulous people within the legal fraternity.

There are also many solicitors who, once appointments are made to appear before the board, have failed to attend a court hearing. In those instances the cases have had to be postponed for two or three months. A person who comes to my mind and who seems to be notorious for such action is a solicitor that I recommended to a number of members of the water supply union when I was secretary of that union. That was one of my few errors of judgment. I do not mind releasing his name because it may warn people from using his services. That man was Mr Patrick Mullally. I heard of approximately 15 people who had used his services - I had recommended him to some of those people - and he failed to attend on their behalf and represent their interests in court.

The Opposition's attempt to legalise the board and to do away with the employer and employees' representation on that board worries me. It seems that that amendment will turn the board into another court room. The potential for people to be ripped off by the system and to be put at the mercy of unscrupulous operators also worries me. I hope that members take my concerns into consideration. I am happy for members of the Opposition to peruse the documents that I have mentioned which illustrate these cases because they are all factual.

At the same time examples of misunderstandings have occurred with the medical fraternity in relation to injury suffered by people. Once an injury occurs unless there is early intervention, both the injured worker, his or her family and the community bear an unacceptably high cost. I would like to give a few examples of people who have been injured and some of the actions that have been taken by medical practitioners. In order to save time I seek leave to have these documents included in Hansard.

[The material in appendix A was incorporated by leave of the House.]

[See page No 8301.]
Hon SAM PIANTADOSI: Another area that I am concerned about concerns rehabilitation. The simple task of doctors in the area of rehabilitation is to issue a certificate certifying that a worker is fit for light duties. Doctors often feel that their responsibility ends with that recommendation. The onus is then on the employer to determine what comprises light duties and what does not comprise light duties and whether a person who may have injured his back can carry out certain light duties. In many instances, because not enough data has been given by the doctor, it is difficult for an employer to determine what light duties a worker can perform and there is a reluctance on the part of the employer to take on that responsibility. As a result there is a permanent group of people who have been injured who, even though they are certified by doctors as being fit for light duties, are of no use to anybody. No employer wants to take the risk of giving them any work.

In these cases what needs to occur is that both the employer and the doctor must review the position. The medical fraternity must reassess their position when making certain recommendations that persons are fit for light work. They should spell out exactly what light work those people can do because what may be considered to be light work for some people is not light work for an injured person. Some people may consider that sitting in a shed chipping at steel pipes all day is a light duty but if it is carried out by a person who has a back injury it would not do him any good. It is in these areas that classifications must be clarified. Doctors should spell out what they mean when they assess a person as fit for light duties.

Another area which includes support services should be examined because many people who have been on workers’ compensation for many years face social problems. I hope the rehabilitation system will be examined to ensure that whatever can be done for those people is done. That is not immediate in some instances because some employers that I know of have had an employee who has been injured on one day and he receives a phone call the following morning informing him that he is to be rehabilitated and he is asked to attend the office to answer the phone. This should not occur some 24 hours after the accident has occurred. The whole process needs to be reviewed and the Opposition needs to examine a number of factors when making its decision about the amendments. Members opposite should remember that a number of people and their families have been suffering and continue to suffer while this Bill is in limbo. It has been in limbo for some time now and I urge the Opposition to consider those people and to support the Bill.

HON PETER FOSS (East Metropolitan) [10.30 pm]: Hon Tom Helm was correct when he spoke on this debate to draw the attention of the House to the real intent of the Act; that is, to provide a system of compensation for workers who are injured in, or arising out of, the course of their employment. It was intended to provide that compensation whether or not the worker could show any fault on the part of his employer. Quite definitely, the principal interest to be considered in any of this legislation is the interest of the worker. The problem that has arisen is how that is best carried out.

It was interesting to hear Government members disavowing any intent to do what was done in Victoria. Everyone has worked out that the workers’ compensation system in Victoria has turned out to be an absolute disaster. While in no way claiming that the Western Australian system is perfect and cannot be improved, it is fair to say that Western Australia has one of the better, if not the best, system of workers’ compensation in Australia. It is interesting to note that the principal disavowal being made by the Government has been of an intention to set up a centralised insurer. I certainly would agree that the Opposition is very much opposed to a centralised insurer. However, that is missing the point why the Victorian system has been such a disaster.

Anybody who has been involved in workers’ compensation – I was for some time involved in acting in workers’ compensation matters for an insurance company – knows that probably the worst thing that can ever happen to a worker is for him to have a protracted period of unemployment where psychological problems start to overlay his physical problems. It is extremely difficult for a person who has been an active worker to sit at home in pain and without work. He would probably be receiving considerably less money than he would if he were working and he would have to maintain the appropriate mental incentive to go on.

Hon Sam Piantadosi: Who would employ a partially fit person?

Hon PETER FOSS: Hon Sam Piantadosi is missing my point: It is a difficulty for the
worker because he loses the mental ability to fight the problem. If he is kept at home for lengthy periods, without being able to recover his health, he gains, on top of any physical problem he has, a psychological problem. Speaking from the point of view of the insurer, it was always considered to be one of the warning signs of a potentially large claim that a person had not returned to work within about six months. It could be for a considerably shorter period, but by the time a person had been off work for six months an insurer would know that he would have a large claim, and that is irrespective of the nature of the injury. Some injuries were obviously instantly large claims and I refer to people who were paralysed and who would never return to work. However, other people who appeared to have a small injury and who should have returned to work within a short time might not have returned to work within six months and the insurer would have known he was facing a large claim. This is a vital area which this Bill tries to address: The Bill attempts to get people back to work quickly and it attempts to identify those workers who, if they do not receive special treatment, are likely to become the hard cases. The intent and the emphasis on identifying potential problems, drawing in the resources of the various people involved in that particular case and getting the person back to work is the important part of this legislation.

Hon Sam Piantadosi: Doctors play a role.

Hon PETER FOSS: Doctors play a fundamental role.

Hon Sam Piantadosi: That is where the problem lies.

Hon PETER FOSS: In Victoria that is so. Although the Victorian legislation tried to deal with this problem, it set up a bureaucratic system which aggravated it. In Victoria rehabilitation went mad. People who probably would have gone to the doctor and been given some medication or been patched up and sent back to work have got into the rehabilitation grind. They were sent for X-rays, pathology tests, physiotherapy treatment or other treatment. What would normally be a small claim for a couple of days' lost time and some medical costs turned into enormous claims as people went through the rehabilitation grind. In some cases those people have been termed permanently incapacitated because they have rotated through the system as opposed to being sent back to work. It is a classic example of the best of intentions having the absolute reverse effect to that which was intended.

We have to recognise that there is no difference of intention between the Government and the Opposition – I do not think there has been at any time. All the people involved have agreed that one of the most important things to do is to identify the possible problem cases and to take direct and effective action to prevent those people from becoming hard cases simply because of neglect. Neglect and a failure to focus proper attention on a particular case can be a reason for a person's becoming a hard case. That neglect may merely be ignorance or it may be neglect because nobody considers it is his job to get that person on a particular form of treatment. Perhaps the employer, worker, insurance company or lawyer does not recognise that a person is heading in that direction.

Many different people are involved in this procedure and it is important that they all recognise that attention to these possible hard cases at the earliest possible instance is important. The workers should not be given the vast quantities of servicing which they do not need. It is important to make sure that the treatment they are receiving is useful.

It is that concern which has motivated the Opposition to be certain that this legislation is not setting up a bureaucratic procedure which is dangerous and is similar to the system which has led to the terrible situation in Victoria. The worker is badly served in Victoria. He may be treated by many people, but he is not getting back to work and the cost is phenomenal. Ultimately, that cost will become a social cost and one cannot say that it will be paid by the insurance companies. The insurance companies do not pay for workers' compensation out of their pockets – it is the employers who pay the premiums, and they have to recover that cost somewhere along the line and it becomes a cost to the community. We cannot afford to have a system which wastes money and which commits people to a life of misery simply because they are not properly dealt with.

Some remarks have been made that doctors and lawyers over-service, and that insurance companies delay. However, most of that delay occurs not through people purposefully delaying matters but because it is a large system; it involves a lot of work, and people do not have the ability to select the special cases which need to be pushed along.
It is not in the interests of a lawyer to delay a case in order to make money, because more
money is made out of getting a case through quickly and getting paid quickly. That does not
mean that people do not do things slowly. I know there are lawyers who, because of the
pressure of work, slackness, or for whatever reason, are slow at getting the job done, and that
is a problem, but it should not be said that people deliberately do things slowly. A good
lawyer will get the job done quickly, not only for the interests of his client but also because
he will make a lot more money out of doing that.

Similarly, doctors have no interest in having perpetual patients. They get more personal
satisfaction out of being able to get their work done and their patients back into operation. I
admit that may have been an unfortunate turn of phrase! Doctors have no desire to do things
slowly, but through the pressure of work, and their seeing hundreds of patients a day, they
may not be able to give an individual patient the personal attention and consideration for his
future that ideally he will receive if he is to be treated properly.

It has been said that insurance companies like to delay their dealing with claims. However,
quite the contrary is the case. The experience of insurance companies is that if they can get a
person back to work as soon as possible they will reduce the magnitude of the claim they are
facing and the possibility that they will have a difficult case. Even in cases which are
obviously difficult, where, for example, a person has become a quadriplegic, it is of
absolutely no benefit to insurance companies to postpone their dealing with that claim.
Experience indicates that the rate of increase in the total amount of lump sum settlement goes
up faster than does the interest which would accrue on that claim.

If insurance companies want to make certain that they will pay the smallest possible claim,
they will settle early, because at that stage the person is usually prepared to accept a more
reasonable amount of money. It is only as time goes on and as the person gets ground down
by the system that he starts to get expectations about his receiving a large amount of money.
In fact, from a good claims management point of view, insurance companies would rather get
the matter out of the way. So it is quite wrong to approach the matter from the point of view
that people seek to delay the compensation process.

We must recognise that there are people who handle large numbers of these cases, and
perhaps they do not take the proper case management to identify those people who will need
special treatment. Rather than our attributing motives to people for this delay, it is important
to recognise that we are all human, we often handle a lot of work, and when we are in that
situation we tend to not give the attention to individual cases that we should. We must
recognise that the practitioners in this area are no different from people in any other walk of
life and that the pressure of work often means that they do not give the appropriate amount of
attention to the job at hand. Those people recognise that it would be in their best interests
and in the best interests of workers to do the job properly.

We were disappointed when this legislation first came up to learn that the consultation was
on a tripartite basis alone because we believed it left out some important people who are
involved in the workers' compensation system. We cannot leave out the insurance
companies, because they are the people who actually administer the claims. It is important to
try, as this Bill does, to involve employers in the case management of workers' accidents, but
ultimately insurance companies will be the ones who will manage the case. So to not consult
them, or to consult them in the manner in which they were consulted, was a serious error
of judgment.

Secondly, to not consult in detail the doctors and lawyers was a serious error of judgment
because they are the most important people in actually getting the show on the road. Doctors
must always take the prime responsibility for the case management of the physical injuries of
workers. No—one else is in a position to do that. We have heard talk about rehabilitation
professionals, and all sorts of ideas were floated about how this could be done, but ultimately
it is silly to think of anyone other than a doctor being the person responsible for that
rehabilitation. Similarly, if a case has to go through the Workers' Compensation Board we
may wish to set up all sorts of alternative professionals, but we must face the fact that those
people who get into difficulty want to have a good lawyer acting for them. So lawyers,
doctors and insurance companies will continue to be involved and must be consulted in any
review which is to take place.

One of the problems when this legislation was first drafted was that the essential people had
not been properly consulted. It is missing the point to say that there was tripartite consultation. We were pleased to hear that there will be a total review of this Act and that it will involve all the people I have mentioned, because only in that way will there be a proper review. I do not wish to repeat what the Leader of the Opposition said about the unfortunate manner in which this legislation has been delayed, but I merely confirm the fact that what appears now to be the agreed basis for our going ahead could have been reached many weeks ago. Meetings were set up, but they were not attended. Certain understandings were arrived at, but when the meetings came on, those understandings were not carried through.

We were surprised at the inactivity of the Government in bringing forward this matter. The Government appears to have little motivation to get things going because we took the very reasonable attitude that because the review was coming on, although we would have preferred to see certain changes made to the Act, we were happy to leave the status quo for the time being. This relates particularly to such things as the composition of the board. In that respect, I see no reason that this legislation need not have gone ahead. We obviously had our views, but in the interests of getting some legislation passed to get things going, we were prepared to make those concessions.

It is most unfortunate that the Bill has come forward so late in this session. Since the Leader of the Opposition spoke to the House, I believe there has been consultation between the Trades and Labor Council of WA, the Confederation of Western Australian Industry, the Chamber of Commerce and Industry and the Law Society of Western Australia with respect to the position of Deputy Chairman of the Workers' Compensation Board. Members will probably recall that there is a problem with the situation of the secretary of the second board, and the preferable position is that that particular person's appointment be made a little more certain than it is at the moment.

I think it is undesirable that any judicial appointment be on a day to day extension basis. It is improper, according to the most usual ideas of judicial independence, and the second board chairman has for some considerable time been in that form of limbo. The proposed amendments suggested by that group to which I referred do not completely solve that point – they still provide for appointment for a specified time and reappointment – but I believe they will go some way towards meeting some of the objections and will at least allow that person to be appointed deputy chairman pending the review, when I would hope that as a result of the review some more normal form of judicial appointment would take place. In the light of that, we will be moving a further amendment during the Committee stage on the basis of that agreement between the relevant parties.

I have great pleasure in supporting this Bill. I am pleased to see that it is before the House at long last, and that the measures which are plainly in common between the parties and which meet the needs of workers – who, it must be kept in mind, are the most important aspect of this Bill – will be enacted and that we can deal with some of the other aspects, which I believe are not quite so much directed to the workers as to the administrative function, at a later stage.

SITTINGS OF THE HOUSE – EXTENDED AFTER 11.00 PM

Standing Orders Suspension

On motion by Hon Kay Hallahan (Minister for Planning), resolved –

That the House continue to sit beyond 11.00 pm to complete consideration of Orders of the Day Nos 14 and 12 and to the second reading stage of Order of the Day No 13.

WORKERS' COMPENSATION AND ASSISTANCE BILL

Second Reading

Debate resumed.

HON KAY HALLAHAN (East Metropolitan – Minister for Planning) [10.52 pm]: This is very important legislation. It has rather a long history and the negotiations on it have been very long indeed in order to improve on legislation which currently has practices resulting from it which actually disadvantage injured workers. It seems that vested interests have pursued their own goals without recognition of the total needs of the workers' compensation
system so that it can carry out its functions in a way that assists workers who are injured on the job.

It is very clear, and everybody who has taken part in the negotiations over this Bill sincerely believes, that the negotiated position will provide immediate benefit to workers. In my view the Minister responsible for the Bill has conducted this whole protracted negotiation in a very responsible manner in order to accommodate the major concerns that have been raised. There are matters which will not now be pursued in the way they would have been as the Bill currently stands. Some of those matters are to be the subject of further review, and perhaps further legislation, but we need to await the outcome of a review of some of those matters, which will become evident in the amendments that will be put to the Committee.

There is a great desire to see this legislation passed. It will improve a very ponderous system and thereby assist workers to treatment, to earlier rehabilitation, and therefore to a much improved quality of life and economic situation. I ask all members of the House to support this very important Bill. Question put and passed. Bill read a second time.

Committee

The Chairman of Committees (Hon J.M. Brown) in the Chair; Hon Kay Hallahan (Minister for Planning) in charge of the Bill.

Clause 1: Short title

Hon MAX EVANS: Everyone has talked about the paperwork of the doctors, the lawyers, the rehabilitators and so on. My wife has worked in rehabilitation for 20-odd years. One of the problems with the delay in settling workers’ compensation claims is that the patients lack incentive to get better when they have a compensation claim coming up. The physiotherapists have difficulty getting patients committed to getting better. Sometimes patients waste six or 12 months, and by the time the claims go through it is impossible for those people to become rehabilitated as their muscles have wasted away. The settlement of those claims really needs to be speeded up, rather than having people just playing around with paper. The patients should be convinced that they must get better. At the moment patients have a negative attitude towards rehabilitation. They think they might get extra money from their claim, but at the end of the day they suffer and because of the delay in their rehabilitation they might never get back to work.

Clause put and passed.

Clauses 2 to 5 put and passed.

Clause 6: Section 4 amended

Hon KAY HALLAHAN: A schedule of amendments is before the Committee, and because very long negotiations have taken place my intention is to move quickly through these amendments.

I ask that members defeat this clause.

Hon GEORGE CASH: I will be brief. However, I just turned and asked the acting Whip, Hon Bill Stretch, to ensure that breakfast had been organised! Inasmuch as we shall try to be brief, we need to explain fully our intentions with this Bill. I intended to move an amendment which appeared on an earlier Notice Paper as follows –

Page 2, line 16 – To delete all words after “by” and to substitute after the word “liabilities” the words – excluding those amounts prescribed pursuant to section 176(c) and to include those words pursuant to section 1(6)(c).

The Minister indicates that substantial negotiations have taken place. The amendment that I intended to move had to do with partial insurance. As has been explained, the Government has agreed to consider the question of partial insurance in the review of the legislation, which is about to take place. Therefore I shall not move my amendment, and the Opposition agrees with the Minister’s intention to delete the clause. If it is deleted, this will allow the matter of partial insurance to be discussed at a later stage.
Clause put and negatived.

Clause 7: Section 5 amended –

Hon GEORGE CASH: It had been my intention prior to recent negotiations to move to insert before the word "rehabilitation", on page 2, line 25, the word "vocational". It was also my intention to move –

Page 3, line 5 – To insert a definition of "medical rehabilitation" meaning "that part of the process which is concerned with the use of medical, physical or psychological therapeutic measures in the management of persons disabled by injury or illness and includes any treatment of the kind approved by the Minister by notice published in the Government Gazette for the purposes of the restoration of workers for the purpose of gainful employment for which they are capable.

Another amendment I intended to move was –

Page 3, lines 6 and 7 – To delete the lines and substitute the following –

Rehabilitation in relation to workers who have suffered a disability and are compensable under this Act, including medical and vocational rehabilitation.

There will be no need to move that amendment as the word "vocational" is somewhat superfluous as it is covered by clause 44 of the Bill. This is a matter we will not push at this stage as, again, it will be the subject of the review.

Clause put and passed.

Clause 8 put and passed.

Clause 9: Sections 57A, 57B, 57C and 57D inserted –

Hon KAY HALLAHAN: I move –

Page 6, line 7 – To delete "or partially insured".

Page 6, line 24 – To delete "permission under section 160(1a) or (1b) or".

The Government proposes to delete the words "permission under section 160(1a) or (1b) or", in line 24 of page 6, and the reference to partially insured employers. Specific reference to uninsured employers and self–insured employers are appropriate and they should remain as part of the Bill.

The Committee is in the early stages of the Bill, but the Liberal Party has agreed not to pursue a number of amendments that it had previously thought it would pursue. The Government, likewise, has not proceeded with some clauses in the Bill with which it previously indicated it would proceed. We will be discussing this Bill for quite some time and I ask members of the Committee to listen very carefully to each clause.

Amendments put and passed.

Hon GEORGE CASH: I move –

Page 6, line 29 – To delete the figure "17" and substitute –

14

After some discussion with the Government I made it clear that the Opposition intended to proceed with this amendment. Members will probably be aware that this relates to a time limit which applies to certain obligations under the claims procedure.

Hon KAY HALLAHAN: The Government certainly would prefer not to have this amendment passed. We believe that reducing the days from 17 to 14 overlooks the fact that in these cases the employer is acting both as the employer and the insurer and therefore should receive the same time allowance as both of these entities combined; that is, three days plus 14 days. The provision of the Bill ensures equality of treatment between workers employed by insured employers and those employed by non–insured employers. This would relate very much to companies that carry their own insurance; major companies with big bureaucracies. There is a case for allowing it to remain at 17 days. However, in the spirit of trying to achieve improved legislation, the Government will not push this to a division and indicates that it would have preferred not to have this minor amendment.

Amendment put and passed.
Hon GEORGE CASH: I move—
Page 8, line 20 – To delete the figure "14" and substitute —
21

After discussions with the Government, the Opposition agreed that we should delete the figure "14" but, instead of substituting "30", we should substitute "21". That relates to the time period that employers will be provided with in respect of certain notifications that they are required to make to the commission.

Amendment put and passed.

Hon GEORGE CASH: I move—
Page 8, line 26 – To delete the figure "14" and substitute —
21

I move this amendment for the same reasons that I moved the previous amendment.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 10 to 13 put and passed.

Clause 14: Section 70 amended—

Hon GEORGE CASH: A number of amendments standing in my name relate to clause 14. Following negotiations with the Government, it is not my intention to move those amendments.

Clause put and passed.

Clause 15 put and passed.

Clause 16: Part III, Division 5A inserted—

Hon GEORGE CASH: Again, following negotiations with the Government, it is not my intention to proceed with my amendment.

Clause put and passed.

Clauses 17 to 19 put and passed.

Clause 20: Section 75 repealed and a section substituted—

Hon KAY HALLAHAN: I move—
Page 19, line 10 – To insert before "(c)" the following —
(b) or
Page 19, line 11 – To insert before "(c)" the following —
(b) or

This is a very minor amendment. The words "(b) or" were deleted during the Committee stage of the Bill in the other place. However, on further examination it was decided that those words should be reinstated. They relate to the amendment to clause 9 which removed the obligation on insurers, self-insurers and uninsured employers to notify disputed claims to the registrar. They make an appropriate adjustment to section 75 by ensuring that employers and insurers can notify the worker that liability is disputed when there is an obligation to commence weekly payments under section 73 of the principal Act. It is a technical matter. It is not one of the matters that has been a real worry to us in our negotiations, but it is something that is being put right following debate in the other place.

Amendments put and passed.

Clause, as amended, put and passed.

Clause 21: Section 95 amended—

Hon KAY HALLAHAN: I move—
Page 19, lines 16 to 20 – To delete the lines.
The status quo concerning membership of the commission should remain except that the medical practitioner should not necessarily be appointed from the occupational health, safety and welfare area of the Public Service.

Amendment put and passed.
Clause, as amendment, put and passed.
Clause 22 put and negatived.
Clauses 23 to 29 put and passed.
Clause 30 put and negatived.
Clause 31 put and passed.
Clause 32: Section 112 amended and transitional provisions –

Hon GEORGE CASH: Considerable discussion has taken place on this clause between the Opposition and the Government. It had been agreed until less than half an hour ago that clause 32 should be deleted to enable the Government to consider the composition of the Workers' Compensation Board as part of the review to which members have referred previously. In the meantime, however, a proposition has been put to the Opposition that the clause should not be deleted as a whole but that only part of it should be deleted. However, the question remains as to whether that would allow the intentions of the Opposition to be carried forward. Rather than delay the Committee it would be proper for the time being, prior to the Minister reporting the Bill to the House, for the Liberal Party, the National Party and the Government to further discuss the proposal that was handed to the Opposition less than half an hour ago. At the moment about 17 people are inviting certain people to take instructions and the one handed to me was a fax from the Builders Labourers Federation. It is not often that I take instructions from the BLF and it is proper for me to consult with some of my colleagues before pursuing this matter further.

The CHAIRMAN: I presume that Hon George Cash either wants the Minister to report progress before the Committee stage is concluded and to recommit clause 32, or he wants to postpone this clause.

Hon GEORGE CASH: Yes.

Hon KAY HALLAHAN: I do not agree with the Leader of the Opposition on this matter. He indicated that this proposition had been put to him half an hour ago; that is, at 11.00 pm on 4 December 1990 - even though we have had inordinate discussion on this subject. I do not know whether the Leader of the Opposition normally takes his instructions from the BLF, but on this occasion I do not think he is being wisely advised. A number of amendments have been agreed by the Opposition and the Government because there is to be a review of a number of matters relating to the board. This clause would be part of that review. Therefore, it is inconsistent with the agreements that we have so far arrived at to suddenly depart from the commitment that a review would be carried out and its outcome considered.

Clause 32 is caught under that review and, therefore, I ask the Committee to defeat this clause. Despite the representations the Government has received on this matter, it believes there is consistency with what has been negotiated and arrived at with regard to this review.

Hon E.J. CHARLTON: The point made by Hon George Cash is simply that a group of people want an opportunity to make a suggestion with regard to this clause. Hon George Cash was right to bring it to the attention of the Committee; it would have been remiss of him to have done otherwise. However, I am sure he will agree that having made the position very clear, and given the warning at this stage, that matter could be taken as part of the review process. The National Party has long held the view that this clause should not be included in the Bill but should be subject to review, along with a number of other matters, and people should be given an opportunity to make an input during that period of review. The National Party is happy to maintain its position of defeating clause 32, while acknowledging that Hon George Cash has raised that point.

Hon PETER FOSS: I have been trying to work out the effect of this amendment, but not having regular lines of communication with the BLF, I have not fully understood it. I understand the idea is not to change the status quo except to allow for the deputy chairman of
the board to be appointed on a slightly different basis than at present. The composition of the board would remain unchanged but the deputy chairman would be appointed to hold office for such term as specified in the instrument of his appointment. The present unsatisfactory situation of the deputy chairman of the board having an almost "at will" appointment would be avoided. Rather than the Minister’s rejecting this proposition out of hand, she should take the offer of Hon George Cash and recognise that the amendment would not make a substantial change. I spoke to Hon George Cash because I was concerned that the amendment might not achieve what the people who suggested it wanted to achieve. If that were the case, I would hate it to be put forward as a means of achieving that, only to find that it substantially changed the board. I assure the Minister that the intention is not to change the status quo of the board or the present arrangement of who is a member or who does what. In fact we want to deal with the present uncomfortable position of the chairman of the board with his somewhat indeterminate appointment. I understood Hon George Cash to recommend that the Minister proceed in the fashion she presently proposes, and that is to defeat clause 32, but without reporting the matter finally to the House. When we get to the end and have the opportunity to look at the effect of the amendment, we could see whether it can be accepted within what we are vrying to achieve without changing the status quo.

My understanding is that the origin of this amendment, although it came to us from the BLF, is an agreement between the TLC, the confederation, the chamber and the Law Society, which is a fairly reasonable agglomeration of people. If that is the case, and it has been agreed to by all those people — and we are all aware of the present unfortunate situation of the second board chairman — that would be a good thing to do, I ask the Minister to consider it.

Hon KAY HALLAHAN: I have given very deep and thorough consideration to what is being put to the Committee because it is offered in a spirit of cooperation and I think it is a reasonable approach. What is unreasonable is that it cuts across everything else we have said is reasonable in regard to what we are doing in relation to the board. The whole structure of the board is a major issue; we all accept that, and that is why we are moving the number of amendments and deleting the number of clauses that we are. I can advise the member that the Minister is at present attending to the appointments, and they will go through to the end of 1991. By that time the proposed review will have been completed and we will be considering in the spring session next year the results of that review, so there will be no problem about the status of the board; it will continue and the review will go on. We will then have the opportunity to consider the outcome of that review.

I appreciate this cooperative, conciliatory and very sensible approach to a very complex Bill. I think the Leader of the Opposition understands the point I am making, and I hope Hon Peter Foss also does. The review is important, and it is because of that review that a number of agreements have been achieved and both the Liberal Party and the Government are not proceeding with a number of their amendments.

I would not want to reflect poorly on members in this spirit of conciliation, but it would seem inconsistent to do other than those things we are doing with regard to deletions and other matters which will be the subject of the review. I ask the Committee to vote against clause 32, despite the good intent and this seemingly sensible way of going about things. It is inconsistent with what else we are doing with the Bill.

Hon PETER FOSS: I must correct one thing stated by the Minister. If a person is appointed to the end of 1991, at the end of 1991, when the review is completed, that person will be subject to some other form of appointment. To say that overcomes the problem of a person with a judicial appointment being beholden to the Government is wrong. It does not matter that the person may have an appointment for the period of time to which the review will take to be carried out. The fact remains that he is beholden to the Government for that period of time, therefore he does not have the appropriate judicial independence. Whatever other reasons may be put forward, we cannot say that that person has judicial independence, because he knows that at the end of 1991, even if a new position is created which is a life appointment, he will not necessarily get it; therefore he does not have the appropriate judicial independence.

I emphasise that the amendment is not intended to change the structure of the board in any manner. All that is intended is to enable this person to be appointed for a significant period.
of time so that his judicial independence cannot be questioned. The only reason we have
some hesitation is that we want to be certain that that is what it will do; it is not intended to
change the structure at all.

Hon KAY HALLAHAN: I take the point made by Hon Peter Foss, but these appointments
have been precisely the same since 1981 or 1982, when the former Government of the party
the member now represents put in the provision relating to the second board. It has been in
operation for all that time.

Hon Peter Foss: It has been bad for all that time.

Hon KAY HALLAHAN: I do not think it has been good, but many things have not been
good; that is why we want to do something major with the Bill. The whole structure of the
board is a significant issue, the subject of a review, and I ask members to vote against
clause 32.

Clause put and negatived.
Clauses 33 and 34 put and negatived.
Clause 35 put and passed.
Clauses 36 to 39 put and negatived.
Clauses 40 to 46 put and passed.
Clause 47: Section 160 amended –
Hon KAY HALLAHAN: I move –

Page 39, line 6, to page 40, line 24 – To delete the lines.

We support the deletion of these lines, and as a consequence the remaining paragraphs of
clause 47 will need to be renumbered.

The CHAIRMAN: The renumbering is a matter of administration.

Amendment put and passed.
Clause, as amended, put and passed.
Clauses 48 to 56 put and passed.
Clause 57: Section 176 amended –
Hon KAY HALLAHAN: I move –

Page 47, lines 14 to 19 – To delete the lines.

This clause relates to the ability of the board to fix scales and costs in any proceedings before
the commissioners. That is no longer required due to the Government’s decision to remove
provision for commissioners from the Bill. This matter has been the subject of discussion
and agreement.

Hon GEORGE CASH: I agree with the Minister’s explanation.

Amendment put and passed.
Hon GEORGE CASH: I have an amendment on the Notice Paper in respect of page 47,
line 25 and page 48, line 13. I propose to delete the lines and to insert certain words. Of all
the matters negotiated with the Government, the manner in which fees are set by the
commission in respect of the Australian Medical Association, the Australian Dental
Association, the Physiotherapists Association and the Chiropractors Registration Board, as
well as other medical service providers is one where agreement has not been reached.

The Liberal Party is of the view that fees should be decided on by agreement between the
parties. That is, before regulations are made setting fees, agreement should be reached
between the parties, as is the current situation. By way of amendment, the Government
proposes that consultation should take place with the various medical providers. As to the
word "consultation", the advice I have received from the AMA and the Australian Dental
Association – indeed, from other provider groups – is that they are not prepared to accept the
word "consultation".

I have said before that I witnessed an act of consultation. Some years ago in the other place
the then Premier walked across to the then Leader of the Opposition and said that it was intended that a certain person would be appointed to a particular position. The then Leader of the Opposition asked why he was being told that, and the reply was, "Because I am required under the Act to consult; and I have"; the then Premier walked away. That may be the Government's idea of consultation, but I am not prepared to accept that. It is certainly something that the AMA and other medical providers are not prepared to accept either. I have had lengthy correspondence from various provider groups regarding whether the word "consultation" is acceptable and they say it is not acceptable. Those persons support my intended amendment.

Hon E.J. CHARLTON: Over a long time we have witnessed the various positions of people concerned with this legislation and we have reached some compromise and agreement to ensure the swift passage of this legislation. The National Party has a problem with the word "consult" contained in the Government's amendment to subsection 1(b). The word "consult" means different things to different people. My idea of consultation is to go through a lengthy process to ensure that all parties have a full understanding of any situation. Agreement must be reached. If that does not occur, the situation becomes bogged down — sometimes to the detriment of legislation. I foreshadow that the National Party will move an amendment to the Government's proposed amendment; that is, we will move to delete the word "consulted" and replace it with "negotiated with".

It is the National Party's eleventh hour proposal to delete the word "consulted" and replace it with the words "negotiations with". That makes it clear that the people involved have to negotiate decisions, and that it is not a matter of walking up to people and saying how it will be and leaving it at that. When honourable people are involved in negotiations they usually come to a successful conclusion. The National Party hopes the Government agrees with that conclusion and that the Liberal Party will accept it as an equitable solution.

Hon KAY HALLAHAN: This eleventh hour change is a very sensible one because it goes some way to overcoming concerns. Hon George Cash gave an example about consultation and I say to him that he should not let one alleged experience undermine the strength, power and value of consultation.

Hon George Cash: It is indelibly impressed on my mind.

Hon KAY HALLAHAN: I appreciate Hon Eric Charlton attempt to find a pathway that could perhaps be satisfactory to all parties and I will include the change in my amendment.

Hon GEORGE CASH: I have heard the Leader of the National Party and the Minister handling the Bill come to an agreement in respect of the words "negotiate with" rather than the word "consulted". The Liberal Party, given its earlier discussions and agreements struck with various medical provider groups, cannot support the National Party's proposition. I move the amendment standing in my name on the Notice Paper.

Page 47, line 25 to page 48, line 13 — To delete the lines and insert the following —

"(b) by inserting after subsection (1) the following subsection —

"(1a) The Governor, on the recommendation of the Commission, may make regulations —

(a) fixing levels of reimbursement to workers of —

(i) fees paid to medical specialists and other medical practitioners, as agreed with the Australian Medical Association Western Australian Branch;

(ii) fees paid to dentists, as agreed by the Australian Dental Association (WA Branch);

(iii) fees paid to physiotherapists, as agreed with the Western Australian Branch of the Physiotherapists Association;

(iv) fees paid to chiropractors, as agreed with the Chiropractors Registration Board;

(v) fees paid to occupational therapists;

(vi) fees paid to clinical psychologists; and

(vii) fees paid to speech therapists;"
for attendance on, and treatment of, workers suffering disabilities that are compensible under this Act; and

(b) fixing scale of fees to be paid to approved vocational rehabilitation co-ordinators and approved vocational rehabilitation providers."

Amendment put and negatived.

Hon KAY HALLAHAN: I move –

Page 47, lines 14 to 19 – To delete the lines.

Page 48, after line 13 – To insert the following proposed subsection –

(1b) The Commission shall not recommend the making of any regulation under subsection (1a) unless it has first negotiated with the relevant body, if any, and, for that purpose, where the regulation is in respect of fees to be paid to –

(a) medical specialists or other medical practitioners, the relevant body is the Australian Medical Association Western Australian Branch;

(b) dentists, the relevant body is the Australian Dental Association (WA Branch);

(c) physiotherapists, the relevant body is the Western Australian Branch of the Physiotherapists Association;

(d) chiropractors, the relevant body is the Chiropractors Registration Board;

(e) occupational therapists, the relevant body is the Western Australian Association of Occupational Therapists (Inc);

(f) clinical psychologists, the relevant body is the Australian Psychological Society;

(g) speech therapists, the relevant body is the Australian Association of Speech and Hearing;

(h) persons providing treatment of a kind approved for the purposes of the definition of "approved treatment" in section 5(1), the relevant body is such body, if any, as is prescribed by regulations;

(i) approved rehabilitation providers, the relevant body is such body, if any, as is prescribed by regulations.

Page 48, lines 14 to 20 – To delete the lines.

Amendments put and passed.

Clause, as amended, put and passed.

Clauses 58 and 59 put and passed.

Clause 60: Schedule 6 amended –

Hon KAY HALLAHAN: This clause is planned to be deleted in line with the other negotiations that have taken place on the Bill. The clause relates to the taking of the oath and affirmation of a panel of commissioners. As it is no longer proposed to create a panel of commissioners this clause needs to be omitted. I ask members to vote against the clause.

Clause put and negatived.

Clause 61: Transitional –

Hon KAY HALLAHAN: I move –

Page 53, lines 3 to 5 – To delete the passage commencing after the word "rehabilitation" and ending with the word "Act".

Page 53, lines 8 to 10 – To delete the passage commencing after the word "enacted" and ending with the word "inserted".
This proposal will remove references to commissioner from the transitional arrangements and relates to the rehabilitation of workers.

Amendments put and passed.
Clause, as amended, put and passed.
Clause 62 put and passed.
Title put and passed.

Report
Bill reported, with amendments, and the report adopted.

Third Reading
HON KAY HALLAHAN (East Metropolitan – Minister for Planning) [12.01 am]: I move –

That the Bill be now read a third time.

HON GEORGE CASH (North Metropolitan – Leader of the Opposition) [12.02 am]: I want to make it clear to the House that I was not impressed with the Press release that was published on 22 November, about 10 days ago, by the Minister for Productivity and Labour Relations in which he claimed that crucial legislation to ensure that injured workers received faster financial help and earlier rehabilitation had been threatened by the Opposition. The Press release states –

Productivity and Labour Relations Minister Gavan Troy said Liberal Party members in the Upper House had caved in to sectional interest groups such as the Law Society – completely ignoring the needs of injured workers.

The legislation was going nowhere fast.

I will not read the balance of the Press release because members would have gathered from the comments during the debate on this Bill that the Liberal and National Parties have gone out of their way to ensure that this legislation does not fail. The Press statement put out by the Minister is a fabrication which seeks to hide the lack of negotiations that he was requested to take part in, not only with Opposition parties, but also with groups in the community.

If the legislation was going nowhere, it certainly was not the fault of the Liberal or National Parties; it was the intransigence of the Government. It is important to place on record that the media release by the Minister for Productivity and Labour Relations is absolute garbage.

Hon P.G. Pendal: Drivel.

Hon Graham Edwards: Who wrote it?

Hon GEORGE CASH: I do not know. I expect the person who wrote it is cowering in a corner at this stage. It is absolute drivel that should not have been published.

HON KAY HALLAHAN (East Metropolitan – Minister for Planning) [12.04 am]: Members will be aware that this legislation has been a remarkable effort to improve the conditions of workers and they will appreciate that a lot of work has taken place to achieve the consensus which has virtually been achieved throughout the debate tonight. That consensus has not been easily arrived at and the Press release put out on 28 November by the office of the Western Australian Liberal Party Leader which was very critical of the Minister for Productivity and Labour Relations, Gavan Troy, did not assist the debate and, in my view, was wrongly critical of the Minister.

Hon George Cash: Don’t start standing up for him now.

Hon P.G. Pendal: He is about to go out.

Hon KAY HALLAHAN: Workers’ compensation is a critical issue to the work force, to insurer groups, to medical practitioners, to law practitioners and to rehabilitation practitioners. A number of very powerful groups have a vested interest in this legislation. It is not easy to put legislation of this kind to the Parliament and to achieve instant agreement to it. If we are to look after the workers it means that some of the professional groups have to examine their role in the process. That role has not always been constructive or
productive in regard to injured workers returning to the work force at an early stage and to
the benefit of their economic wellbeing. This is the end to a remarkable debate which has
highlighted the importance of this kind of legislation. The Minister handling the Bill in
another place has had a very difficult task and has carried it out in a very responsible,
reasonable and satisfactory manner.

Question put and passed.

Bill read a third time and returned to the Assembly with amendments.

WESTERN AUSTRALIAN COLLEGE OF ADVANCED EDUCATION
AMENDMENT BILL

Second Reading

Debate resumed from 29 November.

HON N.F. MOORE (Mining and Pastoral) [12.06 am]: This Bill changes the status of the
Western Australian College of Advanced Education to a university which will be known as
the Edith Cowan University. I will deal first with the upgrading of WACAE as it has come
to be known from a college of advanced education to a university.

The path of WACAE's becoming a university commenced when a former Minister for
Education, Mr Pearce, decided to attack what was called the binary system of tertiary
education in Australia. He was successful in mounting a campaign for the elimination of the
binary system. Effectively that divided higher education between universities and colleges
of advanced education. They both had a slightly different status and the universities were
considered to be superior institutions to the CAEs, which in most cases were formerly
teachers colleges. In the middle was the Western Australian Institute of Technology, which
was not a university but which was considered to have a higher status than the CAEs.

A couple of years ago when the then Minister for Education organised a national conference
to debate the pros and cons of the binary system, he was successful in having the division
between CAEs and universities eliminated. It was a sensible decision because many of
the courses offered by CAEs were of university status, but the degrees earned by graduates were
not being given that status. At the same time, the CAEs were not being given the same
amount of money as the universities for the courses they were conducting. It was an
arbitrary division which did not reflect the reality of the situation.

As a result of the disbanding of the binary system and the new funding arrangements of
tertiary institutions, which was based on what they did and not what they were called, we had
the situation where the Western Australian Institute of Technology became a university – the
Curtin University of Technology. Now we have the Western Australian College of
Advanced Education also being made a university.

Even though the Liberal Party included in its policy for the 1989 election the upgrading of
WACAE to a university, there was considerable concern about this temptation to upgrade to
university status every education institution that we had. I guess it is fair to say there is
concern in some parts of the community that we may be creating too many universities, and
people wonder whether the courses they are providing are university standard courses. I
discussed that at some length during the debate on the decision to upgrade the Western
Australian Institute of Technology to Curtin University of Technology, and the same concern
is still in the back of my mind.

When the Government decided to consider upgrading WACAE to a university, it set up a
committee chaired by Professor David Caro, formerly of the University of Melbourne, to
investigate WACAE's credentials for upgrading. The members of the committee were
eminent educators from a number of universities around the country, including Professor
Lourens from the University of Western Australia. That committee found that WACAE
satisfied the criteria required for university status, and it recommended accordingly. As a
result, the legislation before the House seeks to carry out that recommendation. WACAE is,
in comparison with other institutions in Western Australia, quite a large tertiary institution.
It is thirteenth in size in Australia and it is larger in student numbers than the University of
Western Australia and Murdoch University. The Opposition is prepared to support the
legislation to make WACAE into the Edith Cowan University.
The issue which seems to have received the most coverage is the name of the new institution. Some people may be concerned that the name WACAE is to disappear, but I do not regard that as a very appropriate description for a tertiary institution of the magnitude or significance of WACAE. There was a considerable amount of agitation about the name of this institution, and the students and staff of the college were very keen to have a name for the new university which would reflect its location. There was considerable talk about calling it the University of Perth, or a name similar to that.

The Opposition decided at the last election that we would call it the University of Perth because we were convinced by the argument that the location of the university in the title was important from a marketing perspective. We need to bear in mind that tertiary institutions in Australia are very active in marketing their services in other parts of the world, particularly in Asia, and it is very helpful in that marketing exercise, so I am told by the institutions, to have included in the name of the institution the location of the university.

I guess that is also important from the point of view of the prestige of the degrees that are awarded to students who graduate. When they show a prospective employer or other people their degrees and qualifications, it is probably helpful to have included in them the name of the country from which the degree has been issued so that people know the status that is attached to the degree. Australian universities have a good reputation in Asia and it is considered important in some areas for the location to be included in the name.

That is the reason we decided the University of Perth was the most appropriate name, but probably only because the other appropriate name, the University of Western Australia, was already being used. The Western Australian College of Advanced Education is a multi-campus institution, which has campuses in the metropolitan area and also in Bunbury. It was my view when I was shadow Minister that the new university that would be created should be a multi-campus university, with the possibility of perhaps the Karratha and Port Hedland colleges, the Kalgoorlie college, the School of Mines and Muresk becoming part of a large multi-campus institution with campuses right throughout Western Australia. The appropriate title for that institution should be the University of Western Australia because it would be a university covering campuses across the State. However, I am sure the University of Western Australia has no intention of relinquishing its name to allow a new institution to take over the well respected name which it has. So our looking around for a new name which reflected the location of the university led us to the conclusion that the University of Perth was all that was available; and that in a sense is not altogether appropriate, bearing in mind that there is the Bunbury campus, and to have the University of Perth (Bunbury Campus) seems a bit incongruous in some ways.

The Government decided, against the advice of the institution, to choose a name of a person of some significance in the Western Australian community. Lots of names were put forward. I think the favourite one was the C.Y. O'Connor University, and ultimately the Edith Cowan University. I have no argument against naming the university after Edith Cowan. She was a very important person in our history. She was the first female member of any Australian Parliament. She was very actively involved with women's issues, the law, politics, and education, so it is fitting that a university be named after a person of her stature, and I certainly welcome that name. We did give some thought to changing the name slightly to the Edith Cowan University of Perth to try to get the best of both worlds, and we did move an amendment in the other place to add the words "of Perth" as part of the title, but that was not accepted and I understand the majority of members in this House do not accept that, so I will not proceed with that during the Committee stage.

However, sufficient evidence has been provided to me and to the Liberal Party to make me accept that having in the title the location of the university is important in the marketing of education overseas. When we look at the names of the new institutions and universities that have been set up in Australia over recent years, we find that many of them have gone down the path of having the location as part of the name. The suggestion that the Edith Cowan University of Perth was too long a title is a reasonable argument, but there are other universities, such as the James Cook University of Northern Queensland, which have a name which is longer and more of a mouthful than the Edith Cowan University of Perth. However, I accept that the argument we are putting forward in that respect will not be acceptable, so I will not pursue that matter.
The Opposition is prepared to support the two main thrusts of the Bill. We accept the recommendation of the committee chaired by Professor Caro that WACAE is providing a level and a standard of education which is of university standing, and that the resources and facilities it is able to provide are acceptable to the university community in Australia. Secondly, while we have some slight reservations about the total name we believe Edith Cowan is an appropriate person after whom to name the institution. Without arguing about whether the words "of Perth" should be added, we support the name of the new university being the Edith Cowan University.

HON E.J. CHARLTON (Agricultural) [12.20 am]: I suppose it is fair enough for me to begin my comments on this Bill by saying that there is certainly no room for the National Party to have second thoughts about having the name "Cowan" as part of the name of this university. If anything, that name stands for independence, "do it our way" –

Hon N.F. Moore: Or else!

Hon E.J. CHARLTON: – and it has a long list of other connotations. Talking of independence, I wonder what would have happened if we had not had an Opposition in this State when it came to talking about amalgamation. We would not have been here today, wondering whether to call this new university the Edith Cowan University or the Edith Cowan University of Perth, because it would have been amalgamated with a group of other institutions that, regardless of a name, had no identity.

Hon P.G. Pendal: The Eric Charlton university of Tammin!

Hon E.J. CHARLTON: Perhaps one day even Western Australia might progress to the point where the Government of the day will decide not only to grant land to establish another university in Western Australia, but also that the university be in a non-metropolitan area of Western Australia, such as Bunbury, Albany or Kalgoorlie.

Hon Tom Stephens: Or Broome.

Hon P.G. Pendal: Or Tammin.

Hon E.J. CHARLTON: Or wherever. As is often said by my colleague in another place, Mr Max Trenorden, the things we do best in this State are mining and agriculture, regardless of the fact that those industries sometimes run into economic crises. Sadly, despite all the things we do well in this State as a result of education – in the areas of law, medicine, commerce, economics and the whole host of activities which are very essential – the things we do best from an industry point of view are mining and agriculture, yet we seem to be reluctant to take ourselves seriously and say that we should have people associated with those industries, not only as miners or farmers but as people who are the backup to the professional side of marketing those products, of research in those industries, and of a range of associated professions that should be directly related to those industries. The best place to have that facility is in a non-metropolitan area where a hands-on approach can be adopted in the environment that is directly related to it.

This is worth noting at every opportunity we have when we are talking about higher education. We should never miss an opportunity to raise this before the Government of the day, and when members on this side of the House are the Government the opportunity should not be allowed to pass without making stringent efforts to establish a non-metropolitan university, whether it be a total university or a particular faculty of a university. Universities are sited throughout the United States and Canada, including in the rural and mining areas of those great nations. They are an accepted thing there, but for some unaccountable reason in this native we want to locate everything in the metropolitan areas.

Turning to the Bill, the National Party does not have a problem in recognising the Western Australian College of Advanced Education as a university. The move is probably concerned with status, but it has come about as a result of a combination of factors, one of which undoubtedly is that the rules of the game which apply seem to change while the game is still in progress. At least, that is the way it seems to have been in this nation in recent times, with Federal Minister Dawkins having ideas that "We will now allocate funds to universities. We will not do this; we will do that." People are continually scrambling to fit the qualifications that are required in order that they can receive their rights, particularly in the field of education. We should not make decisions for those sorts of reasons, but in this case certainly no-one has a problem recognising Edith Cowan's significant contribution to Western Australia's history and approving the giving of her name to the new university.
Talking of names, WACAE never seemed to cause a problem for anybody; everyone accepted it. The Western Australian College of Advanced Education was a very long name — indeed, quite a mouthful — yet it is like the colour and make of one's car; it is the performance that counts. The college has had a very acceptable status in terms of what it has been able to produce over the years, and in some areas it has the highest standard of any of the universities. We support the Bill and hope that what will now be known as the Edith Cowan University will continue in its areas of expertise and will complement the wide range of higher education available in this State.

As members of Parliament we should all think seriously about establishing a non-metropolitan university. I hope other members will take on board the idea that some day we should have part of Edith Cowan University — or part of Murdoch University or whichever institution the Government of the day sees fit — in country Western Australia. That is necessary to encourage value adding and the professional association that is so desperately needed to take advantage of the growing Asian market and the opportunity for Australia to play a more significant part in the higher echelons of the mining and agriculture industries.

HON BARRY HOUSE (South West) [12.27 am]: I too support the intention of the legislation, which is to change the status of the Western Australian College of Advanced Education to university status. However, I have some comments to make, particularly about the name of the university. If any logic had prevailed the University of Western Australia would be the name attached to a multi-campus university in the State, such as WACAE is, and the University of Perth would be ideally suited to a Perth-based university such as UWA as it stands today. However, logic does not seem to prevail as much as it should.

With the introduction of this legislation we have five universities in Western Australia, including the University of Notre Dame Australia. I believe in future there will need to be some rationalisation of campuses, particularly in relation to their names and their specialities.

Hon Tom Stephens: Be bold — move an amendment!

Hon BARRY HOUSE: No; because, as I will explain in a minute, there are also problems. I will talk particularly about the Bunbury campus of WACAE, or the Edith Cowan University, as it will be.

There has been a rapid expansion of the number of universities in Western Australia since the 1970s. Up until about 1975 there was only one university in Western Australia, namely the University of Western Australia. Now we have five, and it is a little ironic that at the same time our technical education facilities, through TAFE in particular, appear to be being gutted and starved of resources. It appears that Academe is well catered for. However, a vacuum seems to have developed in technical fields — the education of tradespeople and others in need of skills. I have heard that the clever country is taking over the lucky country. If Australia is to become the clever country it will need not only academically clever people but also technically clever people who can put those skills into practice. Being an academic is fine, and being highly qualified in academic pursuits is fine also. However, some of the biggest fools I have ever met are academics. Academics are no different from other people in all walks of life.

Returning to the title of the university, it appears we must live with the Edith Cowan University. Like previous speakers, I have the greatest respect for the role Edith Cowan played in Western Australian history. She played a significant part in the early development of this State and deserves recognition. However, Edith Cowan will hardly be a household name to future generations of students in Western Australia. Problems have been experienced elsewhere in Australia with dual names for universities. The Charles Sturt University has always suffered from an identity crisis. The James Cook University is not quite as bad because James Cook is a readily recognisable name in Australian history. As mentioned by Hon Norman Moore, the inclusion of a place name in the title of a university assists the marketing and credibility of the university. Universities compete these days to attract students and to gain recognition for their degrees.

Hon Fred McKenzie: Where is Notre Dame University?

Hon BARRY HOUSE: At Alkimos. We thought it would be situated at Fremantle but it has moved.

I have concerns about the proposed Bunbury campus. Members will be aware that one of the
The campuses of WACAE is at Bunbury. While the people of Bunbury welcome the change of that institution to university status, they find themselves between a rock and a hard place as far as the name goes. Many people have reservations about the name of the university. They do not particularly wish to be saddled with "Edith Cowan University", and they do not particularly agree with "Perth" being added to the title because that title will not be readily identifiable with Bunbury.

The Bunbury Institute of Advanced Education has been operating for about six years and has an excellent reputation. It has benefited from the excellent guidance of John Collins, a principal for about five years, and the current principal, Mr Philip Quick. The institution has also received excellent community guidance from the current chairman, Malcolm McPherson, together with a host of dedicated and talented people who have supported the Bunbury institute. However, many people find it difficult to cope with the title Edith Cowan University. Given a preference, they would probably choose the addition of the word "Perth" because they could see the advantages to the marketing and credibility of the university.

The best solution for the Bunbury campus ultimately would be autonomy. That was a goal expressed by the Liberal Party prior to the last State election. Once again, we led the field when we advocated that the Bunbury campus should eventually become independent. We even suggested a possible name, the James Mitchell University, because Sir James Mitchell is a well known Western Australian. He was born in Bunbury, so Bunbury identifies with that name. Sir James Mitchell is identified strongly with the early development of the south west as he was the driving force behind the group settlement scheme. That would be an acceptable name for a university as it would recognise the contribution to the State of James Mitchell, both as a former Premier and a Governor.

The Bunbury campus offers great potential to decentralise some of the tertiary education facilities in Western Australia. That point was made by Hon Eric Charlton. No logical reason can be substantiated for a capital city to monopolise tertiary education services. The Bunbury region contains the necessary infrastructure; it has the campus and the professional personnel. While any attempt to do so will be some years down the track, I am hopeful that one day the campus will become a stand-alone university. Such an institution could provide specialised schools which reflect the particular characteristics of the south west. Those particularly relevant to the south west would be horticulture, viticulture, and tourism. The Opposition has mentioned this idea previously. Another area which comes to mind is the environmental sciences. The south west is an area on the threshold of the development versus environment argument – if one cares to call it that. I would rather put the argument in a more balanced form.

This legislation represents something of a mixed cocktail for the Bunbury campus and for the people in that part of the world. I share their approval of the upgrading of WACAE to university status. I also share their reservations about the proposed name of the university. I would not wish to jeopardise the university's progress by moving an amendment and insisting on it; I realise the divided opinions in this House – depending on where the members come from. I wish only to express my feelings about the name of the university, particularly from the point of view of the Bunbury campus.

Being a graduate of the Nedlands Secondary Teachers College – in pre–WACAE days – I have an interest in the institution and how it has developed and changed over the years. I have a special interest now, as a representative of the Bunbury area, having close ties with the Bunbury campus. I hope that the university can overcome its difficulties with its name and its credibility. I wish its courses, personnel and facilities success.

HON P.G. PENDAL (South Metropolitan) [12.39 am]: One of my colleagues made the observation over the dinner table not long ago that it was ironic we should spend so much time on legislation of this kind, talking about what a university should be named, as distinct from whether it should be a university in the first place. That is a topic for observation with which I have to agree. Having agreed with it, I will now proceed to be guilty of the same offence because I place on record my pleasure at seeing the university named after the late Edith Cowan. However, at the same time, I express regret that the Government did not adhere to its original decision to perpetuate the name of the late C.Y. O'Connor. In particular, I regret the reason for the change in the name of the new university. Like other members I received representations from student leaders very early in the piece who
professed to be appalled that their university should be named after a person who was a well known suicide. Frankly, I found it hard to believe in this day and age that a responsible group of students would seriously propose such an argument, especially given the eminence of the man involved. I would have thought that C.Y. O'Connor was well overdue for some recognition in Western Australia beyond having a Federal electorate named after him along with one or two other minor landmarks. It seems that we commemorate the greatest Western Australians in the most inappropriate fashion.

As my colleague, Hon Barry House, suggested, the James Mitchell University might be a name we could apply to the south west; that would be a fitting memorial to a great Western Australian. However, Sir James Mitchell has been reserved the dubious honour of having a piece of bitumen road in the northern suburbs named after him; that is, the Mitchell Freeway. We now have the opportunity to name the university after arguably one of the greatest engineers of his time anywhere in the world - C.Y. O'Connor’s achievements were of international significance. We had that opportunity and this was discredited by a group of people who should have known better and whose only argument was that they "did not want to be on the campus named after a known failure" - these were their words. This says something about the teaching of Australian history. When university students can be so abysmally ignorant as to regard someone like C.Y. O'Connor a failure, maybe we should have a specialist university teaching Australian history. I regret the words expressed by these people, and I am sure they were heard by other members. This did not show anything for the maturity of either those people, or of the people who took notice of them. This led to the proposed name of the university being changed.

I do not have any difficulty at all with naming the university after people who, with the passage of the years, are seen to be obscure. It does not take long for someone from anywhere in the world to go from a position of eminence to one of obscurity. There would be few Australians who would know the first name of the person after whom Deacon University was named, yet that is not a reason for us not to name the university after that person. One could frame similar arguments for Flinders University and one or two others around the nation. However, my principal regret was that the Government was dissuaded from honouring the memory of C.Y. O'Connor because of a spurious argument which suggested that because he was a suicide he was a failure. He was certainly a suicide; a failure he was not. He was a great Australian and deserves that honour. He was put into his grave by the virulence of the Press which hounded him to an early death, and a few politicians and civil servants helped in that process. We have lost an opportunity to correct an historical wrong, and maybe the time will come when we will again have an opportunity to correct that position. In the meantime, I support the Bill.

HON DERRICK TOMLINSON (East Metropolitan) [12.45 am]: I was not going to speak on this matter, but after listening to the debate I felt I had to make a contribution.

Simply by legislating to change the name of a campus does not necessarily change the status of the institution; this would not necessarily change a college of advanced education to a university. I am rather disappointed that much of the debate has been about whether this new institution should be called the C.Y. O'Connor University, the Edith Cowan University or the Edith Cowan University of Perth, without a great deal of thought being given to the consequences of it being called a university in the first place.

Clause 8(a) of the Bill proposes to amend section 7 of the principal Act by deleting "post secondary education" and by inserting "courses of study appropriate to a university". Clause 8(b) deletes "post secondary" and substitutes "tertiary", and paragraph (c) makes reference to research and scholarship. Section 7(f) of the principal Act refers to colleges, but the legislation before us contains no amendment to that reference. Therefore, in most places in the legislation the institution will be called a university but in section 7(f) of the principal Act it will remain a college.

When the Commonwealth Government accepted the recommendations of the Martin committee in 1965, it established institutions which came to be known as colleges of advanced education. At that time it was accepted that Australia required a form of institution in tertiary education which was equal to, but different from, a university. It was recommended that the institutions known as universities should cater for particular forms of scholarship, and for those who were directing themselves towards professions such as law,
medicine and engineering. However, the Martin report made the observation that an inadequate provision of institutions existed in Australia for that group of people who were then known as technologists; namely, those people who took the esoteric research and knowledge from the universities and applied it to the practical worlds of business, commerce and industry. These people were not necessarily interested in the pursuit of knowledge for knowledge's sake and/or the ever increasing pursuit of research to expand the bounds of human knowledge. They were the traditional functions of the university. The Martin committee argued for the application of knowledge, or the pursuit of applied knowledge, and education programs which would give to Australia a group of technologists who applied academic knowledge to the practical world.

Sometimes the history of tertiary education has seen a push for credentialism which has downgraded that applied knowledge and caused people to pursue university status and university degrees because it seems to be a credential which in itself has status. At the same time as they pursued that they downgraded the application of knowledge, or applied knowledge. One of the things that Australia needs, and will need as it develops, as it pulls itself out of the economic mire that it is in, and as it progresses from a banana republic back to one of the more advanced countries of the world, is people who apply knowledge to business, to commerce and to industry.

Hon Graham Edwards: Sit down and let us start applying it.

Hon Derrick Tomlinson: I put it to Hon Graham Edwards that there will be shown to be a need for this form of education, which in 1965 was created "equal but different", and that inverted snobbery which turned the minds of young people against technological education in favour of what is deemed to be university education will be shown to be a mistake. Instead of arguing whether this should be the C.Y. O'Connor University or the Edith Cowan University we would be better served applying our intelligence to how we could develop a system of education which meets the diverse needs of Australia.

Hon John Halden: I thank Hon Tom Stephens for giving the second reading speech for this Bill in the House, but as Parliamentary Secretary representing the Minister for Education it is my responsibility to respond to the comments that have been made tonight and to thank both parties in the Opposition for their support. It is fair to say that the binary system, to use the words of Hon Derrick Tomlinson, was created "equal but different" and the abolition of that system is a welcome and worthwhile accomplishment in the tertiary education sector in Australia. Many people supported the abolition of that binary system and soon after its abolition the Government of this State set about reviewing whether the campuses of WACAE should be made into a university and whether it had the academic standards appropriate to a university. As Hon Norman Moore said, Professor Caro looked at that and came up with the recommendation that this institution be upgraded. As a consequence we have a repeal of the Western Australian College of Advanced Education Act before us, which in essence is what this legislation is about.

With regard to the mischievous statement that this Government was trying to discredit C.Y. O'Connor – and I am not sure if that was the intent of the speaker – that is not the Government's intent. C.Y. O'Connor's reputation is well known in the history of this State and it would take more than the naming of a university to discredit it.

Hon P.G. Pendal: Can you say why it was changed, as I think I am right?

Hon Graham Edwards: You are not. There was some argument put for C.Y. O'Connor but other people had stronger views about Edith Cowan.

Hon John Halden: I am sorry that I cannot answer the member's question, but the Minister has interjected and given some clarification.

Hon Graham Edwards interjected.

The President: Order! I have a strong view about getting this finished.

Hon John Halden: I am surprised that people should find exception to the name of Edith Cowan. She, like C.Y. O'Connor, contributed to this State, and it was not a choice between the credentials of those two people but that a number of people voted on the matter and it happened that the university was named after one of them. That does not discredit
either individual or his or her contribution to the State. The issue concerns the upgrading of
an institution and making sure that its academic responsibilities and requirements are adhered
to; it is not about its name. That is very much a secondary responsibility of this Act. The
primary consideration is about the fulfilment and attainment of academic excellence.

The Government hopes that with the new funding arrangements and with the greater status of
that institution it will develop as other tertiary institutions have in this State. I wish the
institution all the best, as do members opposite, which can be seen from their support for this
Bill.

Question put and passed.

Bill read a second time.

Committee and Report

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

Third Reading

Bill read a third time, on motion by Hon John Halden (Parliamentary Secretary), and passed.

EDUCATION AMENDMENT BILL (No 2)

Second Reading

Debate resumed from 29 November.

HON N.F. MOORE (Mining and Pastoral) [12.58 am]: It is obvious that the silly season
has now arrived when we start debating Bills at this time of the night. Be that as it may, this
Bill concerns parental involvement in schools. It is an issue of significant importance and
may be deserving of more consideration than perhaps it will get at this time of the night.

In 1988, the Government legislated to change the Education Act to allow a greater
involvement by parent groups and community organisations in the running and decision
making in our schools. That legislation resulted in the Government’s Better Schools
program which was seen by the then Minister for Education, Mr Pearce, as being the new
direction for education in Western Australia. In relation to parental involvement and the
setting up of school councils in Western Australia, the Better Schools report included the
following policy directive –

To ensure accountability to the local community, a more collaborative
approach to school management needs to be developed. A formal decision-
making group should be established in each school to represent the
community and staff, and allow appropriate participation by students.

It would be responsible for various matters including:

Setting the broad school policies and priorities, taking into account
both Ministry policy and the particular needs of the school;

establishing a resource management plan for the school (including
budgeting, and guidelines for supervising construction, maintenance
and alterations to buildings and grounds);

overseeing the expenditure of school funds and the use of school
resources and facilities; and

participation in defining the role of the principal and advising
in selection and appointment of the principal.

It is understandable, therefore, that those parents who have for a long time argued for greater
involvement in our schools, were quite fired up with the direction they thought the
Government was heading. When the Government introduced legislation in 1988 to change
the Education Act, bearing in mind that, up to that time, there was a direct requirement that
parents and citizens’ associations could not be involved in school decision making, it was
seen by these groups as a step in the right direction. We are now told, however, that that
legislation was never enacted because it was considered by the Government to be too broad
in practice and that it gave parents too much power.
This Bill repeals the 1988 legislation and introduces new legislation to provide a legislative framework for school based decision making groups. I hope that, at some time, a new name for these organisations can be found. "School based decision making groups" is a mouthful and should be replaced by "school councils" or something of that nature.

The Bill is simple. It provides the legislative framework for the setting up of school decision making groups, it gives the Minister power to make regulations in respect to those decision making groups, and, finally, it looks at the sort of control that these groups will have over the management of schools.

Proposed section 21D gives the legislative backing for the formation of school based decision making groups. Proposed section 21E describes the way in which the regulations will be set up. The problem with this Bill is that it simply says that these are the areas in which regulations can be made. However, it would have been just as easy to have included what the regulations are going to be in the Act rather than leave them as regulations because there are about 12 different areas in which regulations can be made which are included in the Act. I do not think there could be too many more regulations; maybe they could have been included in the Act in the first place.

Probably the most contentious part of the legislation from the point of view of parent groups is proposed section 21F which states –

Notwithstanding sections 21D and 21E, a school decision–making group shall not exercise any authority over the staff, or interfere in any way with the control or management of any school.

Therefore, it is quite understandable that the parent group such as Western Australian Council of State School Organisations and other P & C groups would be very unhappy and dissatisfied bearing in mind the expectations created by the Better Schools document. The Government is as aware as the Opposition of the views of WACSSO on this issue. It believe that that new clause is a deliberate attempt by the Government to freeze it out of any decision making or involvement in schools.

Having been in the business of teaching, as have you, Mr Deputy President (Hon Garry Kelly), I appreciate the very difficult task of finding a fine line between how much involvement parents should have in the schools and how much should be left to the principals and staff. Coming from the era that I do, I am more inclined to give the principals considerably more power than they seem to have these days. However, it is obvious that parent groups are demanding and are entitled to expect a greater say in the way schools are run. They are entitled to be concerned about what is happening in many of our schools and they are entitled to become more actively involved in what is going on. It is not enough these days for parents to be –

The DEPUTY PRESIDENT (Hon Garry Kelly): Order! There is too much audible conversation, particularly behind the chair.

Hon N.F. MOORE: Thank you, Mr Deputy President, I could not hear myself speak. It is understandable that P & C associations are not prepared to accept any longer the role of being mere fund raising organisations for schools. For too long the only involvement that parents had was to run raffles, cake stalls and so on to raise funds for the P & C for the principals and staff to spend. That, to all intents and purposes, was the only involvement parents had in schools.

Quite rightly, parents now want a greater say than that. However, as I said, finding the level of involvement which is appropriate is difficult. One must remember that school principals and teaching staff are the professionals; they are the people who have been trained to run schools and educate children. Parents are not, in most cases, trained for that purpose. It is important to ensure that parents do not involve themselves directly and make decisions in those areas which are rightly the province of the professional staff in the schools. On the other hand, the importance of the education of children is such that it should not be left entirely to the judgment of teaching staff either. Many teachers and principals are not competent and, as a result, many children do not get an adequate education. Parents are entitled to get involved in those schools to see whether they can improve the quality of education for their children. By getting involved they find out what is going on and make a contribution which is helpful.
I would prefer to see this Bill and the fairly restrictive clauses it contains as a first step in a far greater involvement of parents in schools. It is important that we do not jump in head first and go the whole hog and give parents the sort of involvement that was suggested in the Better Schools report. I do not think it is appropriate in Western Australia at this time for parents to be involved in defining the role of principals and advising on the selection and appointment of principals. That may come and it may not. I do not think that the type of system we have in Western Australia, with the enormous area of land to cover and the huge variety of resources available in the communities, would lend itself to schools defining the role of the principal and selecting him. Places like Wiluna and Warburton and the less attractive communities would have considerable difficulty obtaining principals of any competence.

Another area of the Bill deals with parents overseeing the expenditure of school funds. Parents should have an involvement in that, but I do not think they should oversee those funds totally. It is an area which comes within the realm of the principal who should have the ultimate responsibility and accountability for those funds. That is not to say that parents should not be involved in the decision making in the way those funds are spent, but the ultimate authority should reside with the principal and the same applies to resource management plans for school.

The broad school policies and priorities are areas in which the parents and community groups can be actively involved. The ethos of the community can be reflected in the way in which the school provides its programs.

The Bill is a small one, but it has aroused passions in the community. There are those who see it as a sellout to the State School Teachers Union and that the Government has gone back on its undertakings. That is obvious when one compares the Better Schools concept with the contents of this Bill.

I hope the Government is putting this Bill forward as a first step towards greater parental involvement in our schools. I hope it is not suggesting that this is all that will happen. The Government built up an expectation in the community and it dashed those expectations by introducing legislation which did not meet the requirements of the parents. This Bill is repealing that legislation and is putting in place legislation which is fairly restrictive by comparison with the previous legislation.

I have put forward on behalf of the Opposition the view that it will not progress this Bill until such time as it can look at the regulations. As I mentioned in my earlier comments proposed section 21E deals with those areas in which the Minister can make regulations. They will, in effect, describe the powers of the school based decision making groups. They will set out what those groups can and cannot do. Until we study those regulations we do not know what the final import of this legislation will be. We do not know what level of involvement parents will have. I mentioned that to the Parliamentary Secretary who is handling the Bill and he was kind enough to provide me with what I gather is a draft of the regulations. Between now and tomorrow I want to compare the draft regulations with the circulated amendments of the National Party to ascertain whether we need to amend the Bill or whether the regulations will be adequate for the purpose of this legislation. I ask if the Committee stage of this Bill can be held over until tomorrow in order that we can make that comparison.

HON E.J. CHARLTON (Agricultural) [1.14 am]: The National Party is of the opinion that this Bill is the result of a long period of indecision. The former Minister for Education, Hon Bob Pearce, decided that everything was of little value and that we would have this "new beaut" Better Schools program which would revolutionise schools in Western Australia. All the schools in the country areas were briefed on how the new scheme would be implemented. However, guidelines were not laid down to the role of decision making within the schools. The P & C associations felt that they had been left out on a limb because they would no longer have a role in the operation of the schools. They had graduated in previous years to having a far greater part to play in the operation of schools. In many of the country areas the P & C associations not only raised funds for the so-called free education system, but also they provided the hard core education facilities such as libraries and resource centres which were not provided by the Government of the day.

The former Minister for Education encouraged schools to implement the Better Schools program. At that time members of Parliament would have received representations from the
local P & C associations in their electorate expressing concern about the new program and they did not know what the next move would be. Some of the schools implemented that program and incorporated the P & C association in the decision making group. Others went to the other extreme and did nothing at all about implementing the program. We have now passed through that period. I recall discussing the problems experienced in the real world by the people associated with schools with Hon Kay Hallahan when the previous legislation was before the House and now we have the next exciting episode. We are told that program was not acceptable to the principals and schools and we will now have this watered down approach.

Those people who did not agree with the rapid change that was taking place were criticised for not wanting to proceed down that path. It has now been proved that they were correct. Those people who adopted the Better Schools program have now been told that they have gone too far and new legislation will be introduced and they will have to operate according to it. Having decided to do that, the Government has not told them how the new system will operate and they will have to depend on the regulations. We have had a complete turn around and the decision making will be by the Minister or the superintendent. The organisations that will be set up within the schools will be nothing more than an extension of the P & C associations. What value is that? The whole thing should be left as it was four or five years ago. Where does that leave us? The National Party wants the legislation to be more specific and that is why my colleague in the other place, the member for Roe, Ross Ainsworth, moved the amendments. We have circulated a copy of those amendments which were not accepted in the other place.

The people who will be directly involved should know what the legislation will contain. They should be able to look at the Bill and know, for example, the answers to the following questions: Who the decision making group will consist of, the proportion of representation by members of the staff of the school and members of the association, how the group’s role will be defined, what the operations of the group will be, whether it will determine curriculum development in the school and whether there will be continuity. We know only too well what happens when school principals leave schools, particularly in this day and age and bearing in mind the system of appointing principals. It seems the appointments have nothing to do with choosing people with some understanding of the particular environment in which certain schools may operate; for instance, those located in very independent, isolated areas. In some cases the school principals appointed are totally out of step with the environment of the schools and there is often a great disparity in the way different school principals will operate the same school. Without being critical of individuals - some of whom may be very good in the right place - certainly in some places around the State the principals do not fit in very well with the schools to which they are appointed. If that system is to continue and we are unable to change the method adopted by the Ministry of Education to appoint school staff, we must incorporate in the Bill a procedure whereby those people who are associated with the school on a continuing basis, either as staff members, or people from the P & C association or the community, can provide the continuity and encouragement for the school to develop in a certain way.

Problems may be experienced by children because of the curriculum or their backgrounds, and those people will be able to ensure when staff changes are made that emphasis is placed on the areas best suited to the education of the children at the school. That is what schools are for. They are not about providing a workplace for the teaching profession; they are in place to educate children. Enough stress is placed on educating children in this day and age and on the problems encountered in country areas.

The basic ingredients of a satisfactory education and preparing children to become good citizens of this nation are the main core subjects. Children have the additional problem of trying to fit in all the extra curricular activities as well. Too often, while our young people can very readily present themselves and they have a wide knowledge of world affairs, it is said that those who apply for tertiary education or for jobs are more illiterate today than were the students in the postwar period. That is despite the fact that more children are staying at school for longer periods. The rate of absenteeism is also higher on a percentage basis. Action needs to be taken in a number of areas, but I will not pursue that line further at this stage.

The details contained in the amendments proposed by the National Party should be
incorporated in the Bill. These amendments will be moved at the Committee stage. They will add direction to the Bill, encourage a satisfactory appointments procedure and also add a further dimension to the setting up of these decision making groups within our schools. They are plain and straightforward and those people involved in the decision making groups will know exactly where they stand.

The introductory points in appendix 2 of the draft provided by the Parliamentary Secretary are very much in line with the National Party's proposed amendments, except to the point where the staff would have a majority in the establishment of a group. The key area is dealt with in paragraphs (9) and (10) of the draft, but it is very broad. Ultimately the district superintendent, or the chief executive officer, will have the final say. The terminology used makes one wonder what the decision making groups are about. Is the Government genuine in wanting these people to give their time, expertise and commitment when, in the final analysis, they will be only a sounding board or advisory group and the school staff will be able to go off and do their own thing? If the school principal, the district supervisor or the chief executive officer do not like the advice, that will be too bad for the group. That system will not achieve anything for anyone, and in two or three years' time the Bill will be back before the House and we shall be dealing with the same hotchpotch again.

Although the National Party supports the amendments contained in the Bill, it thinks the Bill should incorporate the specific points it has circulated in its proposed amendments. We hope members will take that on board. I could raise many other points in connection with this legislation and I see some signs of expectation on the faces of members who, I am sure, would be pleased to hear them at this stage! However, as some members have duties to undertake early in the morning, I will speak to them on a personal basis about this matter on another occasion.

HON JOHN HALDEN (South Metropolitan – Parliamentary Secretary) [1.30 am]: I find that on two occasions tonight I am on common ground with Hon Norman Moore.

Hon N.F. Moore: You must be changing your views a bit!

Hon JOHN HALDEN: I am beginning to wonder.

Hon Mark Nevill: Or you are mellowing!

Hon JOHN HALDEN: This Bill is an attempt to arrive at a balance. I can remember being in this place when the Better Schools report was debated, and members opposite and members of the community had grave concerns. Some people wanted to go the full distance that was then advocated, and some did not. That situation still prevails in the community. This Bill is an attempt to take the first step; to find a balance between the professional community within schools and the lay community. If school involvement is to work, we must have a common base or denominator from which all schools can start so that the experience can be appreciated and the achievements can be gained by all people. The original proposition which was put forward – although I had great support for it – intimidated certain groups within the community, and I must concede that members opposite and some members on this side of the House actually said that at the time. This Bill has been an effort to balance the process that will see parental involvement in schools.

In regard to the amendments that were put forward by the Leader of the National Party, I want to advocate some caution. It must be remembered that the primary objective in terms of the Bill is that the principal will have responsibility. There is a suggestion in the amendments that that will not happen in terms of decision making, and unfortunately it will not happen in terms of the Financial Administration and Audit Act requirements. That needs to be considered by members opposite before they pursue the matters tomorrow, and if they like I will seek further advice and, hopefully, clarify the situation in respect of the FAAA matter. It is appropriate that the issue of principals being able to retain responsibility is clear at this time. Perhaps with the experience of a wide range of community groups in education, and with confidence gained between the major players in school education – that is, the community and the professionals – we may well see that balance change again over time. There is nothing wrong with changing over time, but we have to do that at a pace which the community allows, and not any faster. This Bill is a reasonable effort to achieve those ends.

I thank the Liberal Party for its somewhat guarded expressions of support and, hopefully tomorrow, after members opposite have viewed the guidelines that I have given them, and
the National Party amendments, they will support this Bill in toto. I offer to the National Party members some concern about their proposed amendments which could cause other problems further down the line, but with that I commend the Bill to the House.

Question put and passed.

Bill read a second time.

*House adjourned at 1.33 am (Wednesday)*
APPENDIX A

WORKERS COMPENSATION
COST TRENDS

% OF
TOTAL
CLAIMS
COST

45
40
35
30
25
20
15
10
5
0

82/83 86/87 87/88 88/89 89/90

Weekly Payments
All Medical
Redemptions
Common Law
Specific Injuries
Other
911. Hon GEORGE CASH to the Leader of the House representing the Minister for Finance and Economic Development:

(1) Is the Minister aware that the State Government Insurance Office has begun approaching registered members of Neighbourhood Watch precincts and invited them to pay a premium to be registered by a personal accident and sickness policy?

(2) Will the membership lists of Neighbourhood Watch precincts be provided to other insurance companies who may be interested in also approaching these persons in respect of insurance cover?

(3) If not, does this constitute a preferred treatment in favour of the State Government Insurance Office?

Hon J.M. BERINSON replied:

The Minister for Finance and Economic Development has provided the following reply –

(1) The Neighbourhood Watch scheme provides to participants in the scheme the opportunity to take out a personal accident and illness policy. This policy is provided to Neighbourhood Watch by the SGO and was arranged at the request of the participants.

(2)-(3)

No.

FUEL – KALGOORLIE
Regulated Price

1184. Hon N.F. MOORE to the Minister for Police representing the Minister for Consumer Affairs:

(1) Why does Kalgoorlie have the most expensive regulated fuel price in Western Australia?

(2) Is the cartage of fuel to Kalgoorlie regulated to rail transport?

(3) If so, why?

(4) What price does Westrail charge to transport fuel to Kalgoorlie?

Hon GRAHAM EDWARDS replied:

The Minister for Consumer Affairs has provided the following reply –

(1) Essentially because of the cost to transport fuel to Kalgoorlie. The Federal Prices Surveillance Authority sets freight differentials for the transport of fuel and the price set for Kalgoorlie is 3.2 CPL.

(2) Yes.

(3) Following a review of fuel transport policy, the Government decided in early 1988 to continue the policy of regulating bulk fuel to the rail system, but to require Westrail to charge freight rates consistent with sustainable road competitive alternatives. This system broadly delivers the user benefits of competition, without the adverse impacts of increased road usage by heavy haulage vehicles and without exposing the rail system to unfair competition due to the distorting influence of the Commonwealth Prices Surveillance Authority procedures, which could result in rail service reduction.

(4) Current Westrail rail rates for fuel to Kalgoorlie are $44.13 per tonne from Kewdale and $31.56 per tonne from Esperance.
1201. Hon P.H. LOCKYER to the Minister for Planning representing the Minister for Health:

(1) Is the Government providing funds for health services provided by the Aboriginal Medical Service in Carnarvon?
(2) If not, has an approach been made for assistance with funds?
(3) If so, by whom?

Hon KAY HALLAHAN replied:

The Minister for Health has provided the following reply –

(1) No. The Aboriginal Medical Service in Carnarvon is a Commonwealth initiative and the responsibility for its funding rests with the Federal Government.
(2) Yes. A request has been made to the Health Department for a resident nursing position at the Burringurrah Aboriginal community.
(3) The Manager of the Carnarvon Medical Service Aboriginal Corporation.

1224. Hon P.G. PENDAL to the Minister for Planning representing the Minister for Health:

I refer to the recently redeveloped Hurlingham Hotel, in South Perth, and ask –

(1) Is it correct that when the City of South Perth applied to the Health Department, in March 1990, for the non-issuance of a permit for the hotel, as a public building, the department determined that, under part VI, section 173, of the Health Act, the hotel could not be deemed a public building?
(2) If so, how is it that a public building permit was issued to the hotel, in October 1990?
(3) Does the change in decision relate to the hotel’s current provision of entertainment for the public?

Hon KAY HALLAHAN replied:

The Minister for Health has provided the following reply –

(1) No. However, I am advised that the City of South Perth notified the Health Department on 1 March 1990 of council’s resolution – 20 December – to not approve some unauthorised works at the Hurlingham Hotel. Council specifically inquired as to whether the Health Department has received or approved amended plans showing these works. The Health Department of Western Australia had received plans in May 1989 seeking approval for the Hurlingham Hotel to be used as a public building. Those areas which were under consideration in the request were the ground floor bar and bistro dining areas and the upstairs bar area. Conditional approval was given to proceed with the work. However, until such time as the works had been completed and a permit to use issued, the hotel was not a public building.

(2) Works were satisfactorily completed by October 1990 and public building approval granted.

(3) The decision was not changed. The areas identified in the plans submitted in 1989 incorporated entertainment areas. Such use requires the classification of the areas as a public building.
1230. Hon P.G. PENDAL to the Leader of the House representing the Minister assisting the Minister for Education with TAFE:

When will information be available as to what first year full time courses will be conducted in each of the TAFE campuses in 1991?

Hon J.M. BERINSON replied:

This answer was supplied by the Minister assisting the Minister for Education with TAFE –

It is anticipated that outstanding issues pertaining to the enrolment process will be concluded by Tuesday, 18 December 1990.

1232. Hon P.G. PENDAL to the Leader of the House representing the Minister assisting the Minister for Education with TAFE:

(1) As the fee for service Customised Training Agency run by TAFE has now been operating for 12 months, when will statements of income and expenditure be available?

(2) When will audited profit and loss statements for the first year of operation of the Customised Training Agency in TAFE be available?

Hon J.M. BERINSON replied:

This answer was supplied by the Minister assisting the Minister for Education with TAFE –

(1)–(2) The information sought by the honourable member is contained in the TAFE annual report which will be tabled in the near future.

RESEARCH STATION, MANJIMUP – CONSERVATION AND LAND MANAGEMENT DEPARTMENT

Sale

1237. Hon N.F. MOORE to the Minister for Planning representing the Minister for the Environment:

(1) Is it correct that the Department of Conservation and Land Management acquired the research station at Manjimup?

(2) Is so, why?

(3) Is it correct that part of the land involved has been sold?

(4) If so, to whom and when was the land sold and what was the purchase price?

Hon KAY HALLAHAN replied:

The Minister for the Environment has provided the following reply –

(1) Not completely correct; only part of the property was transferring from the Department of Agriculture to Department of Conservation and Land Management.

(2) The Department of Agriculture was transferred its research operations to an alternative location.

(3) The horticulture block, which was not transferred to CALM, has since been sold by public tender.

(4) Must Nominees Pty Ltd; settlement took place on 28 February 1990; $215 000.
COCKBURN SOUND – WATER QUALITY TESTS

Water and Sea Bed Condition

1240. Hon P.G. PENDAL to the Minister for Planning representing the Minister for the Environment:

(1) When water quality tests are conducted in Cockburn Sound are such tests conducted only in relation to the water itself or to the sea bed as well?

(2) If taken in both instances can the Minister provide a brief overview of condition of both the water and the sea bed in Cockburn Sound?

Hon KAY HALLAHAN replied:

The Minister for the Environment has provided the following reply –

(1) No. Water quality tests are undertaken every two to three years over a 14 week summer period at 11 sites in Cockburn Sound and Owen Anchorage. Seagrass surveys are undertaken every six to seven years.

(2) The water quality survey of the summer of 1989–90 indicated that phytoplankton blooms had increased by 65 per cent and water clarity had decreased by 13 per cent since the 1986–87 summer survey. This decrease in water quality was attributed to the higher loads of nutrients being discharged into Cockburn Sound over the summer. These loads have since been more than halved and are expected to be about a third of the 1989–90 loads during the coming summer. The water quality in Cockburn Sound for the preceding five years was significantly better.

Eighty per cent of the seagrasses in Cockburn Sound was lost between 1952 and 1978. The remaining seagrasses in Cockburn Sound are currently in poor condition although the rate of loss has slowed considerably since the late 1970s.

SCHOOLS – KIMBERLEY
New Schools Establishment

1251. Hon P.H. LOCKYER to the Minister for Planning representing the Minister for Education:

(1) Are any new schools being established in the Kimberley in 1991?

(2) If so, where will these schools be established?

(3) What is the estimated amount of pupils at those schools?

Hon KAY HALLAHAN replied:

The Minister for Education has provided the following reply –

(1) Yes.

(2) Muludja Aboriginal community.

(3) Twenty-six.

QUESTIONS WITHOUT NOTICE

FINANCIERS – UNLAWFUL ESTABLISHMENT FEES
Consumer Affairs Act Contravention

898. Hon GEORGE CASH to the Minister for Police representing the Minister for Consumer Affairs:

I have given some notice of this question.

(1) Has the Government instituted inquiries into allegations that unlawful establishment fees have been charged by financiers in Western Australia in contravention of the Consumer Affairs Act?

(2) If so, has any report of such activities been received by the Minister and, if so, will the Minister advise the recommendations contained in the report?
(3) If not, why not?

(4) Can the Minister advise the approximate amount of money involved which is believed to have been unlawfully charged by financiers in respect of hire purchase and other lending contracts?

(5) Has the Government or Minister directed any members of the finance industry to refund fees paid in contravention of the Consumer Affairs Act and, if so, will the Minister provide details?

Hon GRAHAM EDWARDS replied:

I thank the member for notice of this question. I have been advised as follows—

(1) No, the Consumer Affairs Act does not deal with establishment fees charged by financiers.

(2)—(4) Not applicable.

(5) No.

SCHOOLS – JOHN CURTIN SENIOR HIGH SCHOOL

Asbestos Cement Roof

899. Hon P.G. PENDAL to the Minister for Planning representing the Minister for Education:

Some notice has been given of this question.

I refer to the Minister for Education’s recent announcement that the roof of John Curtin Senior High School will be coated as a protective measure against asbestos dust leakage and ask—

(1) Is he aware that parents of students at the school are unhappy at his failure to replace the roof, as promised in mid-1990?

(2) Why did he change his mind on the promised roof replacement?

(3) Is this failure to meet his promise related to a shortage of funds?

(4) Is he aware that parents are also concerned at his failure to replace the roof because it is considered structurally unsafe and therefore likely to be hazardous for workmen carrying out maintenance?

Hon KAY HALLAHAN replied:

The Minister for Education has provided the following reply—

Before addressing each of the four questions it is stressed that the purpose of coating the asbestos roofs is to extend their service life and is not "a protective measure against asbestos dust leakage".

(1) I am aware that the John Curtin parents might not be perfectly happy with that decision, but it has been made after thorough consideration of all the aspects associated with the asbestos issue.

(2) Since the issue of replacing the asbestos roof at John Curtin was raised earlier this year, the expert group set up under the WA advisory committee on hazardous substances has reported, and has advised that an asbestos cement roof which has not deteriorated to an extent where physical safety or structural integrity is of concern, should not be replaced. Encapsulation will extend the service life of asbestos roofs.

(3) No. The decision has been made in the light of expert advice external to the Ministry of Education. As many schools can be treated for the same money as one major roof replacement, the decision has been made to treat now those roofs which have been identified by the BMA as having weathered the most.

(4) The roof of John Curtin has been tested by the BMA and assessed by its officers as being structurally safe.
SMITH, MR ROBERT – TELEPHONE TAPPING TRIAL – ASLAN TELEPHONE TAPPING ALLEGATION
Police Inquiry

900. Hon P.G. PENDAL to the Minister for Police:

I refer to my question in this House two weeks ago in respect of whether the Aslan telephone tappings were carried out at Government expense. Could the Minister confirm whether the police are investigating that allegation?

Hon GRAHAM EDWARDS replied:

I suggest that the member put that question on notice.

SWAN BREWERY SITE – BLACK BANS
Union Meeting

901. Hon P.G. PENDAL to the Minister for Heritage:

(1) Has she or her ministerial colleague, Mr Troy, met with unions in respect of black bans on the Swan Brewery redevelopment site?

(2) If so, what was the result?

Hon KAY HALLAHAN replied:

(1) No.
(2) Not applicable

YOUTH ACCOMMODATION KARRATHA – INTERNAL AUDIT REPORT
Financial Problems

902. Hon N.F. MOORE to the Minister for Planning representing the Minister for Community Services:

Some notice has been given of this question.

(1) Is the Minister aware of the internal audit report which shows serious financial problems within the Youth Accommodation Karratha organisation?

(2) If so, will the Minister set up an independent inquiry to investigate the matter and if not, why not?

(3) What action has the Minister taken already in respect of the Youth Accommodation Karratha audit report?

Hon KAY HALLAHAN replied:

The Minister for Community Services has provided the following reply –

(1) Yes.
(2)–(3) No. The Department for Community Services has carried out an internal audit of Youth Accommodation Karratha and is ensuring that adequate bookkeeping procedures are put in place.

Following the audit report, the Department for Community Services is continuing to closely examine expenditure of Government funds. Government funds will be used for service delivery only and not to pay off any outstanding debts. The incorporated sponsoring body, the West Pilbara Community Care Council has taken its own action on the audit report. Between what the Government and the sponsoring body are doing I believe there has been an adequate response to the problem.

COMPANIES – ANNUAL REPORTS
Australian Securities Commission – New Annual Return Forms

903. Hon DERRICK TOMLINSON to the Attorney General:

I refer to the annual report required to be made under section 263 of the
Companies Code. I observe that as from October 1990 the Australian Securities Commission commenced mailing to the relevant companies a newly designed annual return form 66 for completion and lodgement. Would the Attorney please advise what form relevant companies should now lodge?

Hon J.M. BERINSON replied:

I believe that it will continue to be in order for companies to lodge documents which have been distributed to them but I must say that the distribution anticipated the passage of the Bill which we were discussing just before question time. I would prefer to have that question put on notice for additional consideration, although I believe that the answer will stand irrespective of the outcome of the vote on this Bill.

LAND TENURE BILL – DRAFT COPY
Pastoralists and Graziers Association and WA Farmers Federation

904. Hon P.H. LOCKYER to the Minister for Lands:

(1) Has the Minister given an undertaking to the Pastoralists and Graziers Association or the WA Farmers Federation that she will show them a draft copy of the land tenure Bill?
(2) If so, when will she show that to them?
(3) Will the Minister now admit that the Bill will not be coming to this Parliament this session?

Hon KAY HALLAHAN replied:

(1)–(3) I met with the Pastoral Board this morning. Members will be aware that both the Pastoralists and Graziers Association and the WA Farmers Federation are represented on that board. I advised those representatives that as a request had been made for the associations to see the Bill prior to its being tabled in this place that the land tenure Bill would certainly not be introduced this session.

POLICE – VOLUNTEER AUXILIARY POLICE FORCE
Establishment Policy

905. Hon GEORGE CASH to the Minister for Police:

What is the Government’s policy on the establishment of a volunteer auxiliary police force in Western Australia?

Hon GRAHAM EDWARDS replied:

The Government has not established a policy on auxiliary police although it does have a strong policy on community policing and has been very active in promoting this type of community involvement in policing strategies. Community policy is regarded as a far superior approach to supporting the Police Force than the establishment of volunteer auxiliary police.

TURKEY CREEK – WARMUN NAME CHANGE

906. Hon N.F. MOORE to the Minister for Lands:

(1) Has the name of the town of Turkey Creek been changed to Warmun?
(2) If so, who made this decision and why?

Hon KAY HALLAHAN replied:

I thank the honourable member for some notice of his question.

(1) The name Turkey Creek has been changed to Warmun (Turkey Creek).
(2) The Minister for Lands approved the change in 1987 – I will not make a comment about up to date questions – following repeated representation from the Warmun community. This approval was in accordance with Government nomenclature policy.
907. Hon GEORGE CASH to the Minister for Police:

(1) Is the Government considering amendments to the Firearms Act?
(2) Have submissions been sought from interested parties and, if so, from which parties?
(3) Is there a working party considering proposed amendments and, if so, what is its composition?

Hon GRAHAM EDWARDS replied:

(1)-(3)

I am in the process of establishing a review of the Firearms Act. The preliminary work is presently being undertaken and consultation will take place with interested parties and organisations. It is a review that I am looking forward to, and unlike some Ministers in other States I will not be running scared of the gun lobby in this State. I am of the view that we have a fairly responsible gun lobby, one with which I feel quite confident about working with and which will address the issues that need to be addressed maturely and responsibly.