Legislative Assembly

Wednesday, 25 October 1989

THE SPEAKER (Mr Barnett) took the Chair at 2.15 pm, and read prayers.

PETITION - GRAYLANDS HOSPITAL

Prison/Forensic Unit - Establishment Opposition

MR HASSELL (Cottesloe) [2.17 pm]: I present the following petition -

To: The Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.

We, the undersigned respectfully showeth:

That the community is extremely concerned about Government plans to establish at Graylands Hospital a prison/forensic unit for mentally disordered offenders and persons who have committed serious offences but been found "not guilty" by reason of insanity, particularly because such unit will now be in the heart of a residential area and close to a public primary school and private college and therefore your petitioners humbly request that: -

1. Plans to establish the prison/forensic unit be abandoned forthwith; and
2. Any future plan to open a prison/forensic unit within a populous suburb and next to schools and playgrounds be fully discussed with and justified to the community and all relevant authorities and interests before such future decision is made.

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

The petition bears 31 signatures and I certify that it conforms to the Standing Orders of the Legislative Assembly.

The SPEAKER: I direct that the petition be brought to the Table of the House.

[See petition No 76.]

PETITION - EDUCATION

Crisis - Quality Education System

MRS EDWARDES (Kingsley) [2.19 pm]: I have a petition in the following terms -

To: The Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.

We, the undersigned urge the State Government to address the current crisis facing education.

We believe that a quality education system is vital to the future of this state.

Further, we insist that the Government does all within its power to:

i Retain quality experienced teachers within Government Schools

ii Attract the highest quality graduates possible to the teaching profession.

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

The petition bears 71 signatures and I certify that it conforms to the Standing Orders of the Legislative Assembly.

The SPEAKER: I direct that the petition be brought to the Table of the House.

[See petition No 77.]

BILLS (3) - INTRODUCTION AND FIRST READING

1. Criminal Code Amendment (Incitement to Racial Hatred) Bill

   Bill introduced, on motion by Mr Gordon Hill (Minister for Multicultural and Ethnic Affairs), and read a first time.

2. Acts Amendment (Credit) Bill

   Bill introduced, on motion by Mrs Henderson (Minister for Consumer Affairs), and read a first time.

3. Right to Farm Bill

   Bill introduced, on motion by Mr House, and read a first time.

COMMERCIAL TENANCY (RETAIL SHOPS) AGREEMENTS AMENDMENT BILL

Second Reading

Debate resumed from 21 September.

MR FRED TUBBY (Roleystone) [2.28 pm]: The Commercial Tenancy (Retail Shops) Agreement Act was introduced in 1985 for many reasons, but mainly because of the problems faced by retail traders in large shopping centres. The Act was designed to regulate commercial transactions between landlords and tenants in shopping centres. Over the last 20 years shopping centres have become a way of life, particularly in the metropolitan area. This has been due mainly to changes in planning laws during this time so that today we have very few strip shops and no new strip shops coming into existence. If retailers wish to operate businesses they have no choice but to go into large shopping centres. Within these complexes there are two completely separate entities in the private enterprise market; on the one hand there is the landlord who owns the premises and on the other hand the retailer who operates a small business within the shopping centre.

Although these people are tenants within the shopping centre, they are also owners in their own right in that they own the shop front, the fixtures and fittings within the premises, and, of course, all the goods for sale. Two separate private enterprise groups operate within shopping centres, and both try to look after their own interests and to get the best return on their dollar. The shopping centre owners and managers are trying to extract the highest rental the market can stand, and the retailers are trying to make the most profit from the time and money they put into the operation of their retail outlets. There is conflict between these two groups. In 1983 the Government during its election campaign promised it would implement a set of rules through legislation that would litigate between these two opposing forces. It is some indication of the problems involved in interfering in commercial transactions that it took two years until 1985 before the legislation passed through the Parliament. During those two years discussion and negotiation took place. However, there is still some dissatisfaction with the Act today. It has not worked as it was intended to work. The landlords indicate there are many problems from their point of view, and the retailers say there are similar problems from their point of view.

This legislation was designed to level the playing field. The landlords have enormous resources at their beck and call, since fairly large corporations own the shopping centres and they have corporate lawyers, accountants, and all sorts of personnel available to them. On the other hand, smaller retailers do not have these types of resources behind them and if they wish to pursue a breach of their lease, they are liable for a large amount of money to pursue the matter through the courts. This legislation was designed to allow the registrar to mediate in disputes and, if that mediation failed, the matter could then be passed to the tribunal for settlement. The legislation was intended to level the playing field so that retailers with few resources could compete against the large resources which could be marshalled by the landlords. It is a very complex Act and it has not been particularly successful. It has created further problems as a result of its explicit regulations. In certain instances these have been to the detriment of both parties, but particularly to the tenants. For that reason this amending Bill is before the House.

One area of concern in the principal Act relates to the fact that to a large extent it has been

unable to control rents. I am a private enterprise person and I do not believe that rents should be controlled. It is a commercial transaction that should take place between a person with premises he wishes to lease and another person who wishes to operate a business within those premises. Because of the uneven negotiating power between the two parties it is necessary to appoint a mediator, but no effort should be made to control rents. The mediation process has not been to the advantage of retailers who, to a large degree, are still at the mercy of landlords with regard to rent reviews and especially with regard to renewal of leases. In some areas rents in shopping centres have been increased between 60 per cent and 100 per cent in 12 months. There is no way any retailer can cover those sorts of rental increases when the rate of inflation is running at around seven per cent.

Another area which has created problems following the regulations included in this Act, is the stipulation that leases should run for five years. Previously some leases were for shorter periods and some were for longer periods with options of three, four or five years ongoing from that period. As soon as the five year lease was introduced practically all the leases negotiated were for that period, and very few were negotiated for different periods. The amendments before the House contain a statutory option whereby any person who takes a lease for less than five years can appeal to the registrar and automatically have that lease extended to the statutory period, if the registrar so desires. The term has been pegged at five years, with possible options for a further five years. This has reduced the flexibility that was previously available to take longer leases, and that has been to the detriment of retailers who in the past often took 10 year leases with three, four or five year extensions. They are now restricted to five year leases, and must make their money in that time in case the lease is not renewed at the end of that period.

A regulation will be introduced with regard to the renewal of the lease, whereby the tenant can apply to the landlord for the renewal terms up to 12 months prior to the renewal becoming due. That is all well and good for the retailer who may be carrying up to 12 months' stock and who wants to know whether he should wind down his stock or continue to purchase and build up a stockpile. Such retailers want to know the terms of the renewable lease well in advance, but in many instances the landlord is not ready to negotiate the lease up to 12 months in advance. Once the tenant makes application to the landlord, the landlord has 30 days in which to reply. He is then stuck with whatever terms he specifies. If circumstances change, the landlord is not able to vary the terms to any great extent. That regulation works for a few retailers, but in the long term it may not work in the interests of both parties.

A regulation in the principal Act stipulates that when tenants wish to assign their leases to an incoming tenant, which they are entitled to do, the centre manager or landlord must make a decision and reply to such application to assign within 42 days. That six week period is a long time to put somebody who is interested in buying a business on ice before a decision is made. In the past no period was set, and most of these transactions went through in a short time. Even today most assignments go through in a short space of time. However, if a landlord wishes to play hard to get he can ignore the request for an assignment for six weeks, the deal can go cold and, once again, the retailer is left in the lurch. The regulation works to his detriment rather than in his favour.

The principal Act provides that the registrar is to be a mediator and only that. He was not granted any decision making powers and, where agreement could not be reached between the two opposing parties, the dispute was to be referred to the tribunal. This Act has been in operation since 1985 and, to the best of my knowledge, the tribunal has convened on only three occasions. The Minister handling this legislation in 1985, Mr Bryce, emphasised in his second reading speech and also during the debate that the registrar would have no decision making powers; he was simply a mediator - nothing more and nothing less. However, quite outside the provisions of the Act, in the last couple of years the registrar has been making decisions on issues. Many of these decisions have, in the opinion of the retailers and landlords, been poor decisions, and there has been no consistency in the decision making process. A recent example is in respect of the redevelopment clauses in the disclosure statements of lessees at Karrinyup shopping centre. The registrar has changed his mind about what he will accept in redevelopment clauses, so there are a number of lessees of retail outlets at the shopping centre who have redevelopment clauses within their disclosure statements which are different from those which were previously accepted. There will be a

problem in the future if it is decided to redevelop the Karrinyup shopping centre, because the leases contain two different types of redevelopment clauses. Under this Bill, a retailer will be at liberty to appeal to the tribunal, stating that he wants the redevelopment clause which was included in his lease to be abided by; or to sue the landlord for damages.

The principal Act does not provide for a right of appeal from the decisions of the registrar, because the registrar was not supposed to make decisions; it contains only a provision for appeal from the decisions of the tribunal. This Bill proposes to increase the powers of the registrar so that he will properly be able to decide on those matters about which he had been deciding - outside the Act - for the last couple of years. I have a proposed amendment on the Notice Paper - which I hope the Government will accept - to ensure that procedures are available for appeal from the decisions of the registrar, because, if that is not to be the case, the registrar in fact will have greater decision making power than the tribunal, because there will be no right of appeal from his decisions.

The principal Act provides that the rent will be reviewed every 18 months or two years, or whenever it comes up for review under the terms of the lease; and that, if agreement cannot be reached, each party - the landlord and the lessee - is entitled to appoint his own valuer to represent his case. If the two valuers cannot reach agreement, the Valuer General is able to appoint a mediator; and that provides a safety measure within lease agreements. In addition, this Bill amends those procedures to provide that each disaffected party can appoint a valuer, and, if they cannot reach agreement, the mediator will be the registrar. I believe that is a form of double dipping. There is no value in going through that process twice, and the Minister should make it clear whether, if the procedure outlined in the principal Act is already included in the lease agreements, and if that procedure is followed, there is still a right of appeal to the provisions of this Bill, or whether this Bill overrides the provisions of the principal Act.

This Bill changes the definition of "landlord". I presume that is necessary to cover the upgraded disclosure statements, because the landlord can now be sued for any false or misleading information contained in the disclosure statements, and can be pursued through the tribunal or the courts. However, the Bill provides also that when the premises have been sold during the term of the lease the new landlord will have to pick up the tab for any damages claims as a consequence of false or misleading information contained in the disclosure statements. I have mixed feelings about this provision. There must be some protection for the lessee, but it is most unfair to pass on that burden to an innocent purchaser of the title. If we are to have legislation such as this, and regulations which define exactly what shall take place in commercial negotiations, I can only come in on the side of the Minister and say that we must be able to have recourse for damages to the incoming landlord. I presume that the landlord will be fully aware of this legislation, and that his commercial lawyers would offer him advice. He should know exactly what he is getting into. He should read the disclosure statements as being part of the title for the particular commercial property into which he is buying. That will place an additional burden upon landlords, but at the end of the day, if we are to have legislation such as this, the landlord should properly wear that responsibility.

This Bill introduces a new anti-avoidance clause, which I believe was designed to solve a problem for retailers in a small number of cases, but it will be to the detriment of a large number of retailers who need to walk away from their lease part way through. In other words, those retailers who cannot make a go of their business, have mortgaged their homes, are in debt to their banks, and have to get out of their leases, will be in a bind. Because they cannot sell their business they must walk away from it; but before doing so they will have to obtain the permission of the registrar. In the past they could have gone to the landlord or the shopping centre manager and said, "I am going broke very rapidly. I have to walk away from this lease. I am sorry, but I am going to close up my shop. I cannot afford to operate any longer." They would have been able to come to an agreement, because it is not in the interests of the landlord to pursue the payment of rent for a couple of weeks or months, and at the end of the day for the retailer to declare himself broke, so that the landlord ends up with nothing. It is in the interests of the landlord and the tenant to get out of that situation as quickly as possible. The requirement to now refer the matter to the registrar will hold up that process. If it were held up for a period of six or eight weeks the retailer would be liable for the payment of rental during that period, and for additional interest on his loan. That could

cripple him, forcing him to stay in that situation until the registrar tells him he can walk away from the lease. I believe that will work against the interests of many retailers who want to quit their business. These are some of the problems that have been experienced under this Act and the Bill contains a few amendments to try to accommodate them, but at the end of the day I think what it will do is create another set of problems, because it is very difficult and dangerous to try to legislate in areas which should operate simply within commercial parameters.

However, there are three or four areas with which I wholeheartedly concur, both in the principal Act and in these amending clauses, and I will mention some of them briefly. The first relates to key money. I do not think it is fair for any landlord to extract key money from an incoming tenant. The tenant has quite enough on his books in setting up his business and paying the leases that are expected, and there is no way he should have to make any up-front payment for the privilege of operating those premises apart from what is included in his lease. However, there is one exception to this and I have an amendment on the Notice Paper to cover it; that is, where a liquor licence is being transferred from the landlord to the tenant for certain premises. In that case there probably does need to be an up-front payment. The landlord, after all, has probably acquired that liquor licence at some considerable expense - say $50 000 - and an incoming tenant will take advantage of that $50 000 outlaid by the landlord. I do not think it is right that that should be simply recouped every month under the lease agreement. If the landlord has put that $50 000 up front and the tenant will take advantage of it he should be expected to make a premium payment to the landlord for the transfer of that licence. In that instance a premium payment is warranted, and I will discuss that in more detail during the Committee stage.

Another point in the Bill with which I wholeheartedly agree concerns goodwill. When any premise or retail outlet is assigned from one retailer to another the retailer who has been operating there for a number of years has built up a thriving business and there is a large goodwill component in that business apart from the stock and fittings. It is fair that the goodwill should all go to the retailer. I do not think any case can be made for the landlord to say, "I will have a certain percentage of that goodwill." That is completely beyond the realms of fairness and I fully agree that the landlord should be excluded from sharing in the goodwill assigned between lessees when they pass on the lease document.

I agree also with the banning and prohibition of sinking funds. All tenants in retail shopping centres pay variable outgoings towards cleaning, general maintenance and so on within the common areas of the shopping complex. It is not right that, on top of that, the tenant should be charged another five per cent - which seems to be the usual figure - which is put into what is called a sinking fund. This fund seems to be for the provision of extensions and the redevelopment of the shopping centre. To my mind, the landlord owns the centre and if he wants to redevelop or extend it that is his province. The people who are tenants at that time should not have to contribute towards this redevelopment, apart from out of the payment of their lease. It is not right to expect them to pay into sinking funds, and I fully agree that these funds should be banned.

However, I want to ask the Minister a few questions in regard to the banning of the sinking funds. Is it to apply only to new leases or will it apply also to leases in existence now, where a sinking fund is included in the lease document? Will they also be banned, excluded and withdrawn as from the date of proclamation of this Bill, or will they continue until the lease is renegotiated and then be banned? Another question relates to what happens to the moneys which are in the sinking funds attached to the shopping centres, remembering that some centres have been in existence now for 20 years. I think Floreat Forum was the first one to be established, about 20 years ago. These sinking fund moneys have been contributed by retailers within the Floreat Forum for up to 20 years - there is a large accumulation of funds. What will happen to the moneys? Will they be refunded to the retailers still in the shopping centres? Will the previous tenants be tracked down to have their moneys refunded? If not, what will the landlord do with these funds? Will he keep them for himself as a bonus on the leases for the last 20 years? I ask the Minister to explain exactly what will happen in that regard.

In conclusion, this is a very large problem which has developed because of planning laws which we have imposed over the last 20 years whereby it is now almost impossible for a small retailer to own his own premises. He is more or less compelled to go into a large

shopping centre and therefore he is bound to lease from a landlord. There are private ownership rights on both sides, as I explained earlier, and both parties should be looked after. Whether we do this with legislation such as the Bill under discussion or whether we do it in another way is a debatable point but at the moment we have these laws. I have no vested interest in looking after either the landlords or the retailers; my only problem is to try to ensure that the rules under which we operate these shopping centres are as fair to both parties as we can possibly make them. Neither should gain advantage from the imposition of legislation, and neither should be disadvantaged by that legislation.

Currently the retailers have no choice as to where they go; they are more or less committed to these large shopping centres. I must say that if in the majority of cases - I would not like to estimate, but let us say 90 per cent - these shopping centre leases operate successfully with good will on both sides, we probably do not need this type of legislation. In the five or 10 per cent of cases where there are unscrupulous landlords or tenants who simply cannot make a business work in a shopping centre and therefore the centre, the landlord and everyone else suffers, I do not know that in those cases we need legislation such as this. If anyone is going into business they should go in with their eyes wide open. They cannot simply say, "Business is where you make all your money. I will work for myself and make millions of dollars." They will not be able to do it unless they go in with their eyes wide open. They need to take sound advice. Many people going into business in shopping centres these days mortgage everything they have and if their business goes bust they lose everything. That is a very sad state of affairs and people must take good advice. They need to consult accountants and commercial lawyers to take advice to make sure they can actually do what they hope to do. Someone must be honest with them and tell them whether or not they will be able to make a go of the business, otherwise they could lose everything. It is a cruel world out there in the commercial field and legislation such as this is trying to protect people from themselves. I do not know that governments should be involved in that field. People must take responsibility for themselves and their own actions without a whole stack of legislation that in 90 per cent of cases is not necessary but clogs up the whole works.

Our aim should be to allow retailers some right to title over premises. Perhaps we could have shopping centres dotted around the metropolitan area where retailers could be offered strata titles. At least that opportunity would be one alternative which would have a moderating influence on the matters over which the Bill and the principal Act attempt to mediate. Such an alternative would put the brake on unscrupulous landlords' trying to screw the last dollar out of retailers. Even if we need to address this matter within the planning laws, we should encourage the development of shopping centres specifically designed for strata title.

Perhaps we should do away with this legislation and revert to a code of conduct enshrined under the fair trading legislation. People who are badly dealt with under that code would have recourse to a commercial tribunal. That would be a more equitable situation rather than attempting to pass legislation which deals with every conceivable situation which might arise in any commercial transaction between a landlord and a tenant. The further we go down the present track the more amendments we will need because each attempt to cover the fine detail and to solve every problem will open up another can of worms. I have placed a number of amendments on the Notice Paper to cover some of the problems I envisage. At the Committee stage I will urge the Minister to accept my amendments.

MR STRICKLAND (Scarborough) [3.02 pm]: I support the remarks of the member for Roleystone. This Bill provides an opportunity to overcome many problems. An hour and a half ago I witnessed a grown man cry. I will not name this person, and I will not name the shopping centre involved in this case because the man has a genuine fear of reprisals. This man, who is nearing retirement age, purchased an existing business in a shopping centre. Surveys had been undertaken and the business was assessed as being a potentially desirable one which supplied desirable commodities to the people who shop at the centre. The man signed a four year lease, and paid $90 000 for goodwill. He agreed to contribute $20 000 to upgrade the shop front - involving fixtures and fittings and a neon sign.

In 1986 the rent on the premises was $2 283 a month and the outgoings were $1 387 a month, totalling $3 670 a month or about $44 000 a year. A clause in the lease provided for a rental review, so across the next three and a bit years - up to August this year - the man has faced a 60 per cent increase in rent. At first glance that may not appear

horrific until we make a comparison with the CPI running at 30 per cent in that timeframe. In August 1989 the rental was around $5 943 a month, or $71 000 a year. At the end of the four year lease the man was told that his type of shop was no longer wanted in the shopping centre, and that by October he would have to leave. The present Act must have come into effect because the man has received a one year extension. The rent hike for next year will be a 30 per cent increase; that is, $7 851 a month total outgoings, or $94 000 a year. This is bad enough but I have been told in discussions with the Retail Traders' Association of WA (Inc) that some members have experienced 98 per cent increases in rental charges. The business to which I have been referring carries approximately $200 000-worth of stock; goodwill - and I say that sarcastically - was assessed at $200 000 because offers have been made at that figure to purchase the business - so this man has built a $400 000 equity in his business. He has worked with his wife for 40 years; he has put his heart and soul and his savings into the business.

Members should understand that small business people build up a business which provides a living while they are doing so, but goodwill represents a retirement fund to these people. When the landlord says, "Your lease is up. We do not want your business in this centre any more", the retailer ends up with nothing. In this case, the man loses $200 000 goodwill. That is not the end of the problem. What about the stock? Most of us would know that in any business a person cannot expect to sell all the stock straight away, but how will this man move $200 000-worth of stock which ranges from items which turn over quickly to items which turn over yearly? What is this man to do? Should he move to the car park, or should he have a garage sale? These are the problems facing this man and that is why he had tears in his eyes today when he said to me, "I am on my way home to continue renovating my house. That is what I am faced with. I will have to do it up and sell it." That is a terrible situation for anyone to be in.

Members should reflect on pensions and retirement superannuation matters. For instance, someone could say to members of Parliament, "Sorry, we are changing the rules on superannuation; you will not get any." Or they might say, "You will have to serve 20 years in this House before qualifying for any superannuation. They are the new rules." We would be terribly upset if we had to face that situation. The situation that has just come to my attention is a sad one. Apparently, the centre manager has the power to make decisions on changing the mix of shops in centres and, in a godlike way, declaring that someone's life's work is not worth anything. It worries me that, while there are many good and reasonable directions in the Bill, the example referred to by the previous speaker is not addressed.

We are now witnessing changing circumstances for all small businesses. One is required to have a zoning to establish a business and, through that system, the type of business that is encouraged and zoned is in the large commercial shopping centres. It has been said before that if one wants to get into a business, one has to go into a shopping centre. To get in there, though, one has to sign a lease. The shop owner does not have any say in what is in the lease because, over time, the situation has reached the stage where the landlords, through the shopping centre managers, have dominated negotiations. If the person applying for the lease were not prepared to sign a lease it would be bad luck because there would be plenty of other suckers who would sign.

While many members on this side of the House believe in private enterprises and "buyer beware", it is still unhealthy for the vast majority of small retail business people to suffer under this system. The foundations of their business are built on shifting sands; there is nothing permanent about them. I support the previous speaker who said that we need to stabilise the situation. A couple of proposals that were put forward, including the example of introducing some sort of strata title as an alternative to leases, are certainly worth looking at.

Shopkeepers of today lack security of tenure. They do not have any protection for their goodwill. Their greatest problem, if they are going to have to survive on shifting sands, is to try to define their situation at the beginning so that, if they sign a five year lease but face the prospect that, at the end of those five years it all could go and no goodwill could be left and that they need to get back the money they have expended to get the business of the ground, they have some sort of control placed on rent hikes. That should certainly be looked at together with some sort of mechanism for arbitration to sort out differences of opinion. Today's shopkeepers are in a terrible position. They cannot own their shops and they cannot secure their tenure. They are the meat in the sandwich. I understand that if a shopkeeper's

annual rent were multiplied by 10, that figure would equal the capital value of the centre. The landlords, therefore, are happy to put up the rents not only for additional profits, but also because their asset will be worth more money. While that is reasonable, if the amounts of goods increase with inflation, enormous pressure is placed on business people who are, as I said, the meat in the sandwich because they must jack up their prices. At the end of the day, it is the customer who pays more which then places pressure on our consumer price index. We are supposed to be trying to hold down inflation because increases in inflation are causing enormous problems for the community. By passing this legislation, we are, in some way, trying to contain inflation by giving a fair go to shopkeepers who will not then have to pass on high prices to the consumers.

I support many of the provisions in the Bill. It makes a lot of sense. It is no good having legislation on the books which does not work. The amendments in this legislation will provide mechanisms for the Act to work. However, I have some reservations about the legislation's not addressing many of the real problems, one of which I placed on the record of this House.

Debate adjourned, on motion by Mr Pearce (Leader of the House).

MEMBERS OF PARLIAMENT - DEBATES

Private Members' Time - Member for Darling Range

MR PEARCE (Armadale - Leader of the House) [3.19 pm]: I move -

> That Order of the Day No 31 be taken.

At the time when the member's speech was curtailed, I indicated that the Government was prepared to give time to the finalisation of this debate if an arrangement could be made with the Leader of the Opposition to fit it in with private members' time. The Leader of the Opposition has indicated that it is not his intention to do that. Therefore, I will honour the commitment that I made to provide Government time for this debate to be concluded. This should not be taken as a precedent. The point I made in response to a question by the member for Darling Range last week or the week before relating to the use of private members' time is something that I hope all parties will debate because the Government does not intend providing Government time for private members' business, whether that business be independent private members' Bills or Government back bench members' Bills. There needs to be discussion between relevant parties to sort that out.

Question put and passed.

MOTION - SELECT COMMITTEE

Tidal Power Energy, Kimberley - Feasibility Study

Debate resumed from 27 September.

MR THOMPSON (Darling Range) [3.20 pm]: At the outset I remind members of the precise terms of the motion we are debating, which read as follows -

> That a Select Committee be established to -
>
> (1) examine the feasibility of commercially producing electrical energy by harnessing the ocean tides of the Kimberley region of Western Australia;
>
> (2) examine the prospect of building a transmission system capable of delivering power from the Kimberley region to populated centres in Western Australia and other parts of Australia; and,
>
> (3) explore the possibility of downstream processing of the vast mineral resources of the Kimberley and Pilbara regions, using tidal power energy and north west natural gas.
>
> That the Select Committee be required to take particular note of the environmental positives and negatives with respect to (1), (2) and (3) above.

In the recent recess I had the opportunity to travel to Taiwan and Hong Kong via Singapore. The purpose of the trip was to be part of a group of people travelling to Taipei to lift the profile of a venture which had been undertaken by some Western Australians in conjunction

with some Taiwanese. The venture to which I refer is known as O'Connor Consultancy Far East Pty Ltd, and it is a company of which a former Premier, Mr Ray O'Connor, is chairman. It has on its board Alan Blackburne, the principal of the firm Blackburne and Dixon Pty Ltd which is involved in mortgage broking, real estate and development, and Peter Hudson who is also associated with that firm. Mr O'Connor, Mr Hudson and Mr Blackburne comprise the Western Australian component of that company and they combine with three individuals from Taiwan, one of whom is Mr Eugene Sy who is the manager of the company. A very competent lady by the name of Pichu is involved but I do not know her full title. The Christian name of the third individual involved is Emanuel, but I have not attempted to get my tongue around his surname. The company established an office in Taipei 12 months ago, and on this recent occasion it was taking the opportunity to raise the profile of that office in order that the company may continue the work it has started in attracting people and capital to Australia under the business migration program. It was a very worthwhile exercise. One must pay credit to Ray O'Connor; he certainly has energy and dedication to a cause and largely as a result of the work he did, we were met at a very high level. We were entertained at the Yuan by the President of the Control Yuan which I am told is the equivalent of the Australian Senate. We were officially received by a number of Ministers of the Taiwanese Government. We were also received by the Mayor of Taipei and, incidentally, the contingent from Western Australia included the Lord Mayor of the City of Perth. I forgot to bring it with me, but I have the key to Taipei which was formally presented to Ray O'Connor, the Lord Mayor, and to me with a fair amount of publicity.

The Taiwanese show a tremendous amount of interest in this part of the world. The relationship between that trip and the motion we are debating is that I was absolutely amazed at the degree on which that economy relies on mineral resources from Australia. It imports energy from Queensland in the form of coal, and iron ore and other materials from Western Australia to form the base of its economy. It brought home to me the absolute scandal that we tolerate in this country whereby we are exporting natural resources and other countries, such as Taiwan, are using them to form the base of their industries and in the process are very substantially changing the economies of their countries. Taiwan has changed from having massive debts until five years ago to the point where we were told by several of the Ministers that they are embarrassed at the size of their budget surpluses. That economy has turned around very quickly, and it demonstrates that there is ample opportunity yet for Australia to become the economic power that I believe it has the potential of becoming.

We are exporting prodigious amounts of energy and minerals from the North West Shelf to Japan, Germany, Taiwan and many other countries. Those minerals are transformed in many cases by our energy into steel and other metals and materials that become the feedstock for manufacturing industries. The central part of the motion which I ask the House to support today is to home in on that opportunity - to endeavour to find a way of marrying those resources in order that we may realise an improved standard of living in this country and an improved lifestyle for those who live here and those who will be attracted to this State. Undoubtedly new people will be needed in Australia to assist in the development of those resources if we are to maximise the benefits. Western Australia has a very urbanised society; 80 per cent of the population of this State lives in Perth. When one considers the mineral wealth of this nation and recognises its potential, one can see there should be a change in that situation.

Referring specifically to the tidal power resources of the Kimberley, one of the problems highlighted in the material I have read is that to justify the massive injection of capital necessary to develop the resources a base load would be needed. In the 1960s when John Lewis produced his first report, minerals that could conceivably be used to form the base load of a power station were not being exploited or mined. However, those materials are now well and truly being exploited. They are exported at a prodigious rate and I believe there is an opportunity for the marrying of the energy resources in the north of this State - even if it means bringing coal from Queensland, but I suggest there are sufficient energy resources in the north of this State - with the minerals that are available in profusion. In that way a base load would be provided, and there would be downstream processing of our natural resources.

The energy requirements of this State have grown dramatically over the past few years. They will continue to grow at a significant rate, and the Government will be faced with a

major problem in meeting those demands. I understand that the State Energy Commission is being confronted with problems in the provision of adequate power supplies. I am not suggesting that the harnessing of the tidal power resources of the Kimberley will be the next phase in the development of our power generating capacity, but there is clearly a need for us to generate additional power fairly soon. I have no doubt that power generation will require the establishment of additional coal fired stations.

In the short term, power generation has no immediate environmental impact, but in the longer term we owe it to the community to look at environmentally clean sources of energy. The tidal power resources of the Kimberley are a very clean source of energy. A number of studies have been done of this resource, the most recent being in 1975 by Don Saunders. The environmental considerations that we now understand were not as paramount when Saunders did his study, and they were certainly not of importance when Lewis conducted a study in the early 1960s. We need to take a fresh look at whether the Kimberley power resources can be economically harnessed. I understand the difficulties - I am not a fool - but I repeat that we owe it to this generation and future generations of Western Australians to find cleaner sources of energy.

The Court Government secured land to the north of the city on which it intended to establish a nuclear power station. I believe that site has since been sold. I am not vigorously opposed to the concept of producing electrical energy by nuclear means, but at the same time I am a realist, and I do not believe that as Australia goes into the 21st century, it will be politically possible to establish a nuclear power station. If the nuclear option is not available to Australia, we must look vigorously at alternative sources of energy.

There are people who say that solar energy is the most likely source of an environmentally safe form of energy. However, those members of the Liberal Party with whom I visited Murdoch University recently will have gained the impression from what we saw that the research which has been undertaken in this State on solar energy is in its infancy; and while I have been enthused by some of the work which has been done, the scientists are still just chipping away at the edges. I am sure there will be breakthroughs, but the lead time to establish a significant power generating capacity from solar energy is very long. The technology for harnessing tidal power is, by comparison, already established. There are tidal power stations on the Brittany coast in France, and in Russia, which are operating successfully. Many improvements have been made in the turbines that are used. We stand to gain the benefits of the technological advances made in other developments in the world. I hope that if the committee is formed, its members will look at those projects and ascertain for themselves the benefits that would be available to Australia.

In respect of coal fired power stations, I was encouraged by an address which we heard recently about a company which I understand has been talking to the Government about a technology - which is in use in other parts of the world - that results in fewer harmful emissions from the burning of coal in coal fired power stations. I understand also that significant developments have been made in Sweden and other European countries in respect of the cleaner use of coal. Notwithstanding that, I still believe that there will be a requirement for Governments to look at cleaner forms of energy because of the adverse environmental impact of the use of coal.

Many countries rely heavily on the use of nuclear energy. I believe that given the likelihood of failures in nuclear power stations - and there have been a couple of rather horrific failures - people around the world will be putting pressure on Governments to look for better forms of producing energy. This reinforces my call to this Parliament to establish a Select Committee to examine the harnessing of the tidal powers of the Kimberley. One of the problems that Lewis and Saunders saw in the development of tidal power stations in the north west was its remoteness from the centres of population. I partially addressed that problem when I said there could be substantial load available by the downstream processing of the resources; but even if that were not a viable proposition, there have been significant breakthroughs in the transmission of electrical energy. The technology that is presently being used in Western Australia, and which has been used around the world, is for electricity to be transmitted by alternating currents, and its voltage increased significantly, to minimise conductor size and transmit it over substantial distances; but nowhere near the sorts of distances that we are talking about when thinking of the Kimberley and where that power is required. The technology has changed in that in some countries high tension direct current

transmission systems are used. The advantage of direct current transmission systems is that the line losses are substantially less than they are with high tension alternating current as a result of magnetic forces developing in the line. With direct current those losses are not as great.

When I spoke last, the Minister for Resources Development interjected and drew my attention to the development of superconductors. A substantial opportunity exists to consider the use of superconductors for the transmission of energy over long distances. I do not see any great technological problems in the transmission of energy from the north of the State. There certainly will be problems in respect of the funding of such a project. Indeed the construction of a tidal power station is a significant investment in infrastructure.

Coupled with the transmission system, those funding considerations are quite significant. However, the great engineering feats of this nation have been achieved as a result of the cooperation of the Commonwealth Government. It is absolutely imperative, if such a scheme is to get off the ground, that the Commonwealth Government be involved. It was significantly involved in the development of the Snowy Mountains scheme. I was pleased to see on Channel 10 the other night the unveiling of a memorial to Sir William Hudson, the engineer in charge of a major part of the construction of the Snowy Mountains Scheme. That man had vision and foresight, and the feats achieved by him and his team of engineers and workmen stand as a lasting memorial to the ability of Australians to overcome significant difficulties. The Snowy Mountains scheme is a great engineering project. We could not justify the outlay on that project if we sat down and did an accounting assessment of the work of that project.

The Brand Government undertook a very significant development in the north of this State with the provision of the Ord River Dam. I do not think any Government we have had since would have been bold enough to go ahead with the construction of that dam. It could not be justified economically at that time, and at no stage of its development has it been possible to justify that expenditure. However, I am sure that one day Australians will come to appreciate that engineering feat which will benefit all of Australia.

Mr Cowan interjected.

Mr THOMPSON: Some significant improvements have occurred in the viability of enterprises based on the dam, but not sufficient to justify the prodigious expenditure required to set it up. I do not want to pour cold water on the scheme; in fact I am an enthusiastic supporter of it. I am only pointing out that the expenditure could never be justified on the basis of pure economics, but the Government had the foresight to proceed with it, and one day it will prove to be a boon. The goldfields water pipeline to Kalgoorlie could never have been justified on the basis of economics, but would anyone today suggest that that scheme should never have gone ahead?

In the case of the Ord River Dam there was a requirement for Commonwealth involvement. If the major input structure necessary to go into downstream processing of our resources is to come into being, it is essential that the Commonwealth Government recognise its importance to the nation and assist with the funding of that infrastructure. It stands as an indictment on a succession of Governments in this State that nearly 30 years down the track we continue to export iron and other minerals from this State but we do not significantly move towards improving those resources.

The initial plan of the Brand Government was to mine and export those minerals so that sufficient cash flow could be generated and profit produced to justify private enterprise accepting the responsibility for and funding the movement towards downstream processing. There has been no improvement in that situation. If we continue, generation after generation, allowing nothing to happen, we will see a substantial reduction in the standard of living of Australians. Over the past 20 years we have witnessed a substantial reduction in our standard of living by comparison with people in other developing countries. The countries of Asia, from some of which I have just returned, were once cheap destinations for Australians. The cheap destination for Australians in the Asian-Australasian region now is Australia. One cannot buy clothes cheaply in Hong Kong any more, or in Taiwan, or in Singapore. Prices in Australia are at least comparable and I believe better than in those countries. The standard of living in those countries is rising dramatically. The sad reflection is that the industries which are causing their economies to expand so dramatically have arisen as a

result of resources which have been pulled out of Australia. It is a scandal, and Australians should wake up to what is happening.

This motion is intended to draw to the attention of Western Australians, and hopefully Australians, the scandal to which I refer. We must look very seriously at the downstream processing of our minerals. We need to get out of the mentality of exporting our resources. I intended to ascertain how much electrical energy could be produced from each of those super tankers - great, big thermos flasks - which are leaving the Burrup Peninsula with liquefied natural gas. I wonder how much electrical energy that gas would produce. I bet it would be a prodigious quantity. We continue to export that natural gas, and from the same region prodigious quantities of iron ore, two things necessary to produce steel. All this energy and mineral ore is going to Japan, and I have no doubt to other countries of the world eventually. To my way of thinking this is cockeyed and it is time we did something about it. The committee needs to look closely at the structure of industry and at what is happening in places like Japan and Germany. We must look at how these people are achieving downstream processing of resources coming from this country in order to find a way of doing the same thing here. We need to look very closely at the development overseas of the alternative energy sources that tidal power represents and seek the opportunity to do a similar thing here.

If this committee is established I do not think it will complete its work very quickly and I anticipate it will still be doing its work when this Parliament is prorogued. I know that sometimes a motion is moved to allow a Select Committee to continue its work after the Parliament has been prorogued, but there is also the facility - and I had the experience once of being involved with this - for a Select Committee to have its status changed to that of an honorary Royal Commission. I would say to the House that perhaps it will be necessary for the status of this committee to change, or alternatively for suitable provision to be made later on; because if this committee is to do its work effectively there is no way that can be achieved before the Parliament is prorogued.

I thank members for their attention and urge them to support the motion.

MR COWAN (Merredin - Leader of the National Party) [3.51 pm]: I formally second the motion moved by the member for Darling Range and want to spend some time addressing some of the issues he has raised. However, before I do that I want to comment on the remarks made by the Leader of the House when he said that the Government was prepared to accommodate the Independent member for Darling Range. I commend him for that. Members might recall that I was in a similar position to that of the member for Darling Range for quite some time and no similar accommodation was ever made, either by the Government or by the Opposition, to the position that I held; so it does show a degree of bipartisanship that was lacking in this place before.

Just to round off the picture, may I say also that it gives me some pleasure to support this motion because the member for Darling Range has given notice of some other motions which the National Party will never support, and when the time comes to debate them we will undoubtedly show our very strong opposition. Now I will return to the matter at hand - and I thank you, Mr Acting Speaker (Dr Gallop), for your indulgence in allowing me to digress.

The member for Darling Range has moved this motion for a Select Committee and has proposed three specific terms of reference and then a general one relating to the environmental aspects of renewable energy resources. The major thrust of the first proposed term of reference relates to the examination of the feasibility of tidal power. As the member for Darling Range has said, it is a proven technology, unlike some of those other technologies which relate to energy resources that come from the ocean itself such as ocean thermal energy conversion or wave power. Those are very much experimental and I do not think there is anywhere in the world a plant or a facility which harnesses those aspects of the energy that can be provided from the ocean.

However, tidal power is quite different. In at least three places to my knowledge plants have been established for the purpose of harnessing and using energy obtained from tidal power. One is in Canada, another is in the USSR, and the third and by far the largest is situated in France where a 240-megawatt plant is established and operating, and has been since 1966. So the technology is not new, as the member for Darling Range has said. It has been applied and it certainly is a success. I have not had enough documentation available to me to show

the efficiency at which those plants operate, but I would assume that because the energy resource is coming at no cost clearly the plants would indeed be quite efficient regardless of the capital cost of harnessing that form of energy.

There is no question that the Kimberley region is eminently suited to the harnessing of tidal power. I note that the plant in France is sited at a place where the tidal range is 8.4 metres. While I am not very familiar with the Kimberley region I would venture to suggest that the tidal range in the Kimberley is greater than that, and also that there would be a number of sites which could be used for the purpose of constructing a power station and generating electricity.

One of the fundamental lessons we learn in this place after a time is that extensive planning must be associated with any development of the State. In fact, we find that where planning has been inadequate there are usually quite substantial difficulties associated with the consequences of that lack of planning. The best example would be the decision to establish the Kwinana industrial strip. Western Australia now has an industrial area that has cost a substantial amount of money in repairing environmental damage that has occurred due to the discharge of pollutants into Cockburn Sound. I am not quite sure how much money the Government had to pay to clean up some of the residual problems associated with the dumping of waste products in the Sound, but I understand that only now can Western Australians enjoy some of the shellfish which come from the Sound, because for the first time they no longer fall outside the very strict health requirements that are applied, quite rightly, by the authorities in this State.

Similarly, of course, an industrial area must have satisfactory supplies of energy - and that is what this motion is all about. The predecessor of my colleague, the member for Collie, were he still here, would by now already be reminding me, and the rest of the House - and probably anyone within 200 yards' range - of the additional cost that was incurred by the then Government when the decision was made to build the Kwinana Power Station using oil as the primary energy resource rather than coal, which I think was the original intention. Subsequently, of course, when oil prices increased to such an enormous extent, there was a requirement for the Government of the day to convert those power stations to dual firing primary energy resource units and as a consequence that cost had to be borne by the State.

Those are just two examples of where inadequate planning has proved very costly. It is quite timely that we treat this motion very seriously, and give it support, although none of those persons appointed to the committee is likely to have any qualifications in planning of this nature. I do not for one moment suggest that the member for Perth will not submit himself for nomination to this committee - I do not know whether he will or not - but his expertise in planning certainly would not equip him with the knowledge required for this kind of planning. Adequate investigations should be made before any planning commences. The Select Committee will be the investigative body which can produce the information upon which we, as the people responsible for the direction of the State, can act. The future of the State should be properly planned.

Paragraph (2) of the motion relates to the building of a transmission system. Clearly a need exists for such a system to be constructed, because no matter where a site is found - and whether tidal power is used - that power would be transported over great distances. In Western Australia, the State Energy Commission of WA has overcome the distance problem. We have recently witnessed the construction of a transmission line from Muja to Kalgoorlie which is now running to full capacity. In some places an acute shortage of power was experienced due to lack of connection points to the grid. This occurred in the Shire of Yilgarn where mining has increased substantially. When the miners started up a ball mill, used in the crushing process, the lights would go out in town. However, the problem has been overcome with the construction of the Marvel Loch substation. That indicates, firstly, the need to construct a long distance power transmission line and, secondly, that if industry is given access to a reliable power source it makes full use of the power source very quickly. In other words, the demand soon catches up with the capacity of the SECWA supply.

We have the technology required to construct a transmission line. The question is whether we have sufficient scope to use all the power generated in this way. The member for Darling Range has indicated that the power transmission needs to be to the Pilbara. We have good reason to believe that Western Australians will not stand for this State's being used as a

quarry for Japan, Taiwan or Korea. I do not need to mention the Europeans, although a good quantity of iron ore is exported to Europe. Perhaps the most exciting market for iron ore, as far as new developments in the Pilbara go, would be the Eastern Bloc countries. Major iron ore producers have their hands tied - particularly Newman with the slip on the mine face - in meeting existing markets. About 48 per cent of that market goes to Japan. Without question new developments will take place in the Pilbara due to a desire by perhaps China, or the Soviet Union or its satellites, for a guaranteed source of supply of iron ore to feed the mills in those countries. If we do not plan correctly we will miss out on the next wave of iron ore development; whenever a new mine is developed in the Pilbara we should attach conditions which will enable us to become involved in the processing of iron ore. In other words, we should encourage people to enter into joint ventures in the iron ore industry in the Pilbara on the condition that a processing capacity is established. If we attach these conditions to any joint venture we will create a need for a cheap source of electrical power. Most people accept that the new steel making technology is based on the electric arc process which requires an enormous volume of electrical energy.

This motion takes into account the future prospects of the Pilbara. We have fully debated the petrochemical issue in this House. One of the aspects of that debate which few people mentioned was the location of the plant. It was always very clear that the plant would be located in the Kwinana industrial area because that is where it could most cheaply receive electrical energy. When we consider that electrical energy represents 80 per cent of the operating costs of a petrochemical plant, obviously Kwinana would be the logical site. However, the necessary resources, such as salt and gas, are based in the Pilbara, and it would have been a golden opportunity to say that the electrical energy could be supplied at the origin of the essential resources. In that case, there would have been no question about where the petrochemical plant would be established in Western Australia.

This motion touches on some of the most exciting prospects Western Australia has to offer. This State has untapped potential for huge renewable energy resources through tidal power in the Kimberley; it has the mineral resources in the Pilbara. Other than the quarrying that takes place now, and the exports involved, those resources have not been processed. It is time that they were processed. We should harness our renewable energy resources to establish an efficient transmission system, and ensure any future development in the Pilbara is associated with the processing of iron ore. This would be a lasting industry which could give enormous income to this State. We should begin planning in this area immediately.

I am very pleased that the member for Darling Range has taken action to ensure that we give significance to the environmental aspects of any such planning development. In this day and age that is very important. The National Party supports the motion.

MR CARR (Geraldton - Minister for Fuel and Energy) [4.10 pm]: I appreciate the opportunity to join this debate and comment on the proposal put forward for a Select Committee on the energy supply needs in Western Australia. Because there is an arrangement that this matter will be concluded by 4.30 pm, so that private members' business can be dealt with, I will speak briefly.

The motion acknowledges the great importance power plays in our modern economy. It is of tremendous significance for industry and the community as a whole. Government has a clear responsibility to explore all the available options as to the most effective and efficient way of providing power requirements. We live in a rapidly changing time and when new options become available, it is imperative that the Government and the community continue to examine them. We are examining the options for the next base load power station for the State which is primarily based on coal or gas and is projected to start in about 1995. The Government will need to make a decision on this by the middle of 1990. While those efforts have been concentrated on coal and gas for the power station, it is important to consider all alternative sources that might play a part in the overall energy situation. Therefore, it is appropriate to look at renewable sources of energy. Firstly, it is necessary to conserve the existing fuel stocks to gain the greatest value from them, and secondly, to respond to the environmental concerns regarding the greenhouse effect which places great importance on renewable energy sources.

The member for Darling Range mentioned that there may be alternative sources such as nuclear energy, but we can pass that by quickly because there are serious question marks

attached to it. Solar power and wind power have the potential to play an important part in the Western Australian energy equation, but their role needs to be kept in context within the scope of the size of that role. Significant development is taking place in solar and wind power but it needs to be kept in context.

The study proposed by the member for Darling Range is appropriate, notwithstanding the previous studies on tidal power to which he referred; one was held in the late 1960s and one in 1974 or 1975. Looking at the results of those studies, the conclusions can be summarised in these terms: Firstly, the proposal is technically feasible; but secondly, problems with variable production exist on a daily and monthly basis. There is a difficulty in equating the supply and demand of energy at any time. The previous studies showed a limited viability in economic terms and low interest rates would be required to make it economically viable if the economic consideration was the only consideration. Also, the studies showed that when the energy sites were very remote from the markets the question of transmission lines became very important. Speakers have referred to improved technology regarding transmission. It is important to look at new available technology for the transmission of power, but that is not to say that there are not considerable problems relating to the existing technology. I do not believe there is any new technology that is devoid of problems. The Leader of the National Party referred to the goldfields transmission line which has some considerable difficulties with a significant loss of power over distance. That is why the Government is putting in a turbine at Kalgoorlie to increase the stability and minimise the drop in power in that line.

It is also important to note that while we talk about tidal power as an important environmental initiative, we must realise that tidal power stations have the potential to affect the environment significantly- they are not all pluses - therefore, the study will need to look at all the environmental consequences at the immediate site of the stations and so on. I have a number of reservations about the whole concept of tidal power, but times do change and this development should have a chance to occur.

The motion moved by the member for Darling Range is worth examining and is supported by the Government. The Government sees a considerable future in Western Australia for renewable energy generally, partly because we believe it is the right thing to do, and partly in response to community interests. We have taken a number of initiatives designed to increase the use of renewable energy by advancing research and development in various sources of renewable energy. The Government announced the development of a Renewable Energy Advisory Council with its own funding; the composition of the council will soon be announced. Also, we are continuing, through SECWA, research into the possibility of establishing a significant wind farm for power.

Point (3) of the motion refers to the downstream processing of raw materials in Western Australia, and more specifically in the Pilbara, and there is no doubt that we need more downstream processing. Members generally are aware of the problems associated with balance of payments difficulties. We export our products at a limited value, they are processed overseas, and we buy them back at a far higher cost. Also, we face a risk with the Western Australian economy in that we rely so much on world commodity prices for the products we produce. Clearly, we would be less reliant on world commodity prices if we had more downstream processing. More needs to be done, and that is a widely expressed view across the community. Significant advances have been made with some minerals - I refer specifically to mineral sands - but much more could be done with iron ore. There is an enormous potential to do much more.

I am aware of the time - as the member for Darling Range is pointing to the clock - and I conclude by making the point that this is something worth looking at more closely.

MR COURT (Nedlands - Deputy Leader of the Opposition) [4.18 pm]: When the member for Darling Range commenced his remarks on 27 September, he expressed concern that he would get only three minutes in which to speak. During the debate on the motion the member for Darling Range took the opportunity to make a very strong personal attack on myself, so, perhaps, it is proper that I make a brief comment during the same debate. These things do occur in politics, and at the end of the day one has to cop it; I guess that is what happened in this case. I say to the House that since I came into this House my relationship with member for Darling Range has always been pleasant, polite and cooperative and as far

as I am concerned. I have made it very clear to the member that that will remain the case. As I said at the beginning of my speech, we have to cop these things when they happen.

I will address the substance of the motion very briefly. As far as the Liberal Party is concerned, the Government's performance in the area of renewable energy resources has been abysmal. We have witnessed a number of cases of what I would call tokenism. To keep certain elements in the community quiet, the Government has done a little bit here and there in the area of renewable energy. As the member for Darling Range knows, one of the strongest criticisms the Liberal Party has is that not enough has been done in this field and it deplores the fact that solar energy research has gone backwards.

Mr Carr: It has not gone backwards.

Mr COURT: I will give the Minister an example: A Liberal Party committee was formed this year to travel around this State to learn more about the energy situation. With the courtesy of the Minister, members of the Liberal Party's committee had a very good briefing with officers of the State Energy Commission of Western Australia. We have also had briefings from companies looking at coal-fired power, and with people involved in research work into renewable energy at Murdoch University. My colleagues came away from that briefing feeling that the team at the university was doing an excellent job considering the resources available to it. The original Solar Energy Research Institute of WA operated out of the Curtin campus but it is now operating out of Murdoch and it has received additional assistance in recent years. In fact, those people were working out of containers.

Mr Carr: The particular type of containers they use are ideal.

Mr COURT: They were not working on the portable package which was prepared for remote Aboriginal communities; they were doing research work in containers because there were no other facilities available to them. We drew the conclusion that there was a need for more effort to be put into this field.

Mr Watt: They made the point that if they could get better premises they would be more than grateful.

Mr COURT: That is the reason I am putting in a plug for them now.

In the 1960s extensive studies were carried out on tidal power and it was further considered in 1970. I was interested to read in *Hansard* the questions that were asked about tidal power at that time. The first study was undertaken in 1965 and from what I can ascertain in the answers to the questions the total cost involved was £43 210. In 1964 £43 000 for a study into tidal power would have been considered an expensive exercise. Putting it into today's figures it would be around $1 million. That study came up with a detailed report and no doubt the proposed Select Committee on tidal power will examine its recommendations. In 1972 the following question was asked by Mr Bertram to the Minister for Fuel, Mr Bickerton -

(1) Have studies as to the feasibility of the use of tidal power for the generation of electricity been carried out by or for this State?

(2) If "Yes" when, and by whom were such studies undertaken and with what result?

Mr Bickerton replied as follows -

(1) Yes.

(2) In 1965 a joint study was undertaken by State officers and the French firm Sogreah.

The estimated capital cost of the necessary installation to produce electric power from tidal sources was very high and the estimated cost of power produced was substantially higher than by conventional means.

It comes down to the fact that if we can produce a large quantity of cheap energy - as I believe we can with tidal power - there must be an industry nearby which is capable of using the power, and that is the catch 22 situation. The problem could be resolved by encouraging more of our major industrial developments to process minerals in the Pilbara. I know that members opposite do not seem keen to promote industrial development in the Pilbara, but the

Liberal Party believes that by attracting industry there it will become feasible to look at options such as tidal power.

The Liberal Party finds itself in a dilemma regarding this motion, which it supports. The dilemma is that it is proposed to appoint a committee of five members. We have been informed that the Labor Party quite rightly will nominate three members, and the National Party will nominate one member; and the member for Darling Range, who moved the motion, will automatically be appointed to the committee. The problem is that although we support the motion we do not get a place on the committee. Members would agree that the purpose of a committee is to make sure that all parties in this House have an opportunity to be represented. The Liberal Party asked the mover of the motion whether he supported increasing the size of the committee to six or seven members to enable the Liberal Party to have a representative on it. However, the mover of the motion does not want to increase the size of the committee. It is proper that the Labor Party and the National Party be represented on the committee, but it is also proper that the Liberal Party, which is supporting the motion, be represented on it. I advise the House that when we go through the procedure of appointing the committee the Liberal Party will call for a ballot because it wants the opportunity to be represented on the committee.

MR THOMPSON (Darling Range) [4.28 pm]: I thank the Leader of the National Party and the Minister for their support. I also thank the Deputy Leader of the Opposition for his indication of the Opposition's support.

With regard to the size of the committee, I advise members that I have served on several Select Committees of this Parliament. The first committee I was appointed to was a joint committee of the Legislative Assembly and the Legislative Council which investigated homosexuality. There were six members on the committee and under the Standing Orders a quorum comprised two or three members depending on whether the committee was taking evidence or deliberating. My experience was that there were very few meetings at which all the members were in attendance. I later served on another Select Committee which was a committee of five, and it investigated the impact of bush fires in Western Australia. Five members served on that committee and again it was difficult to get all members to take an active part in it.

The best committee I served on was one last year which had three members; the member for Perth, the member for Morley and me. There was total attendance at every meeting of that Select Committee. My experience is that the larger the committee the less the participation in it. Perhaps David Brand's words are true. He said, "Everybody's business becomes nobody's business, so if you have a small group there is a chance they will take an intelligent and active interest in it." That is the logic behind my declining the suggestion that the proposed Select Committee should be extended beyond the five members.

With respect to the matter raised by the Deputy Leader of the Opposition, it was in the hands of the Liberal Party to second the motion, but when I sought to have the matter progressed through the party room on two occasions I could not gain support for it. I indicated then that I would bring the matter to the House with or without support. The day arrived and I moved the motion. I did not want to make a gig of myself by moving a motion without a seconder, so I went to the National Party. My former colleagues had noted I intended bringing the motion here, but there was no expression of support from anyone that they would second it. By that time I had made an arrangement with the Leader of the National Party and I am sticking with it as far as I am able to do so.

Although I regret the circumstances which led to all of this happening, the fact is that I think the Select Committee should be as outlined. In conclusion, I say thank you very much to those members who have supported the motion.

Question put and passed.

Appointment of Select Committee

MR THOMPSON (Darling Range) [4.32 pm]: I move -

> That the following members be appointed to serve on the Select Committee together with the mover: The member for Merredin (Mr Cowan), the member for Pilbara (Mr Graham), the member for Northern Rivers (Mr Leahy), and the member for Belmont (Mr Ripper).

MR COURT (Nedlands - Deputy Leader of the Opposition) [4.33 pm]: May I move, Mr Speaker, that we have a ballot for those positions?

Mr Pearce: The member should seek leave rather than move a motion.

The SPEAKER: I suspect that Standing Order No 355 is the one to which the member for Nedlands is referring. I advise the member that it is not necessary, and probably not appropriate, to move for a ballot. It is a matter of the member for Nedlands demanding a ballot, and I presume that is what he is doing. In respect of that matter I have the following statement to make.

Standing Order No 355 provides that a ballot shall be held to elect the members of a Select Committee if any member so demands. As there is such a demand, and as there is almost no guidance in the Standing Orders as to the method of taking a ballot, I offer the following guidelines. I add here that I think this is probably the first time in the history of this place that this has happened. I cannot find any record of its happening previously.

Ballot papers will be issued to all members present following the ringing of the bells as for a division. The ballot papers provide for four names to be written on them. The mover of a Select Committee is an ex officio member of that Select Committee. Members should write four surnames on their ballot papers. Papers with more or less than four names on them will be regarded as informal and will be disregarded from the count. I propose that the ballot papers will then be collected, mixed together and counted by the clerks with the members for Vasse and Ashburton acting as scrutineers.

Mr Clarko: Do members put a number alongside each name?

The SPEAKER: No. I will go through this again later. I am merely proposing it at the moment.

The four members who have the highest number of votes will be elected. In the event of a tie which prevents a clear decision, a fresh ballot concerning the positions in doubt will be held.

Mr Pearce: Does that mean that if we write four names on the ballot paper each of those four names will require a majority of votes to be elected?

The SPEAKER: With the guidance of the House, unless members wish to make things more complicated than necessary, I do not want to get involved in preferential voting and all the ramifications involved with that. I think it is far more appropriate to write down the four names. I am sure we will reach a conclusion far more quickly that way. Ring the bells.

Mr Parker: How do I know which names are before us?

The SPEAKER: I will announce the nominees. Lock the doors.

In respect of the motion moved by the member for Darling Range, a ballot has been demanded. The member for Darling Range has moved that the following members be appointed to serve on the Select Committee together with the mover: The member for Merredin, Mr Cowan; the member for Pilbara, Mr Graham; the member for Northern Rivers, Mr Leahy; and the member for Belmont, Mr Ripper.

Under the Standing Order which provides for this, once a ballot is demanded the following procedure should be adopted: Ballot papers will now be issued to each member present. On those ballot papers members should write four surnames. If fewer than four surnames are on the ballot paper it will be disregarded as a vote. If more than four surnames are on it, it will also be disregarded as a vote. Members should not necessarily consider only the four names on the motion but should be aware that each and every member in this place is eligible to be voted for. Members should vote by putting four surnames on the ballot paper, and at an appropriate time they will be collected. Before presenting the ballot sheets to the Clerks for the count and appointing the members for Vasse and Ashburton as scrutineers, I ask whether all the ballot sheets are here.

Members: Yes.

[Ballot taken.]

The SPEAKER: Order! I advise that the following members have been elected to serve on the committee along with the member for Darling Range -

> The member for Merredin (Mr Cowan), the member for Pilbara (Mr Graham), the member for Northern Rivers (Mr Leahy), and the member for Belmont (Mr Ripper).

On motion by Mr Thompson, resolved -

That the committee have power to call for persons and papers, to sit on days over which the House stands adjourned, to move from place to place, and to report on 30 September 1990.

MOTION - SELECT COMMITTEE

Right to Farm Bill - Necessity Inquiry

MR HOUSE (Stirling) [4.56 pm]: I move -

That a Select Committee be appointed for the following purposes -

(1) To evaluate the *Right to Farm Bill 1989* with specific reference to:

(i) whether "Right to Farm" legislation is necessary in Western Australia;

(ii) whether the generally accepted farm practices that are protected under this legislation should be documented in the form of a code of practice and, if so, what procedure should be adopted to ensure that the legislation does not prevent or inhibit the use of new or experimental technology;

(iii) the extent to which "Right to Farm" legislation should indemnify farmers from prosecution or civil action under other laws, including by-laws and orders, in protecting the right to farm;

(iv) the effect that the legislation would have on local government planning procedures;

(v) whether the interpretation of "agricultural operation" in the legislation adequately reflects the extent of agricultural operations in Western Australia, both now and in the foreseeable future; and

(vi) the need for and means by which compensation would be payable to farmers whose right to farm is not upheld under the provisions of the legislation.

(2) To recommend to the Legislative Assembly changes it may consider necessary in respect of the above findings of the Committee.

The need for a Select Committee to inquire into whether Western Australia needs right to farm legislation comes at an important time in the development of this State. With the urbanisation of so many of the traditional rural areas - particularly areas along the coastal belt from Bunbury, down through Margaret River, to Denmark and Albany, and on the fringes of the metropolitan area - there is considerable conflict between people who carry out normal agricultural practices and people who have left the city and are seeking to live what have become rather idyllic lifestyles in rural areas. In some areas this has created a conflict of interest between the traditional land holders and their practices, and what some of the people seeking to live in those places believe is the right thing to do for agriculture in their particular area. The need for a Select Committee was evident after I had experienced some of those problems in my electorate. Having investigated the problems with the Government departments and the people concerned, it became apparent to me that in many cases the land holders were not adequately protected by current legislation.

I took the time and trouble to check and get information on the legislation in place in other parts of Australia and in other parts of the world. I discovered that the same sort of conflict was starting to arise in other places, and some countries had made progress in resolving these problems. It seems timely that this Parliament has decided to tackle the problem rather than leave it to the current legislation which is not resolving the problems. I drafted a Bill which I believe adequately covered this matter, and it received a considerable amount of publicity, but it became apparent that it did not cover all the examples brought to me. One example related to compensation of land holders should they be restricted in their agricultural practice. This may occur in a number of ways and the terms of reference of the proposed Select Committee will examine compensation payable to land holders.

It became apparent that there were increased pressures on agriculture around the State. An example of this is in the King and Kalgan river basins in the south west. Both of those rivers

drain into Oyster Harbour which drains into the Southern Ocean. It became apparent in those areas that increased use of superphosphate had created an oversupply of phosphate leaching into the river and into the harbour. This created an enormous environmental problem in the Princess Royal and Oyster Harbours, which needs to be addressed by the community in the area. One suggestion was to restrict the use of phosphate by land holders who had water on their property draining into the river basin. If that was enforced by the Environmental Protection Authority or the Department of Conservation and Land Management, it would seriously reduce farmers' incomes because it would restrict the productivity of their land. That is a clear example of the sort of thing that could happen. This Committee will examine those problems and will be able to report to the Parliament on the need to correct these problems.

There are any number of examples but another I want to mention relates to the horticultural industry. People have been restricted from spraying their grapes with certain products. Also, farmers are restricted from spraying their pastures or crops in grape growing areas. This can affect the growers because it may be inopportune for them not to use certain sprays, as this may reduce the grape yield and the resulting income. On the other side of the ledger we need to deal with the environmental problems that arise. They can come about from the urbanisation of some traditional rural areas where a whole group of people move into the area, build houses and create waste products. These people might have domestic animals such as dogs which can create problems. Under the common law legislation, if one of those people takes a court injunction against a land holder to stop him spraying a crop or shearing his sheep, the whole thrust of the common law argument is that it is up to the land holder to prove that the action he is about to take will not affect the other person.

I hope the Committee will examine the balance in the law and make certain that persons who lay a complaint have a responsibility to prove the complaint is valid because a lot of these actions take a long time to get through the courts. The fact of the matter is that the time when spraying needs to take place could be long since past and the land holder will lose the production he could have achieved if he had sprayed. Of course, court injunctions impose a severe cost and it is unfair to impose that upon a land holder when somebody takes an action against him.

I am pleased to say that the proposed Select Committee has the support of the Government. I thank the Minister for Agriculture, Mr Bridge, the Premier, Mr Dowding, the Leader of the Opposition, Mr MacKinnon, and the Liberal Party spokesman on agriculture, Mr Omodei, for their support. It is evident from the support the proposal has received from Government bodies such as the Western Australian Farmers Federation and a whole host of other groups that the legislation is needed; also, it is evident that the legislation needs to be carefully drafted. I am the first to admit that - with the limited resources available to my party - when the original legislation was drafted, it was not possible to make sure we had everything right. Since the legislation was first placed on the Notice Paper it has been drawn to my attention that other things need to be included in the Bill. I am sure the members of the Select Committee will be able to examine the proposal very carefully and come up with legislation which will be acceptable to all members of this Parliament.

As today is private members' day, time is limited. I register my thanks once again to all members in this House for their support.

MR OMODEI (Warren) [5.08 pm]: I refer to a clause in the legislation introduced by the member for Stirling which deals with the description of normal farming practice as an agricultural operation. Clause 3 of the Bill refers to the non-liability of any person in an action for nuisance resulting from the agricultural operation. The same clause protects the farmer from any court order applied as a result of alleged nuisance caused by the agricultural operation. Clause 4 deals with the making of regulations giving effect to the Act.

The motion we are debating today calls for a Select Committee to evaluate the Right to Farm Bill. My discussions with farming organisations reveal that they are of the opinion there should be some form of right to farm legislation. However, they believe that the Bill introduced into this Parliament does not go far enough. In my opinion, it does not take into account the impact the legislation will have on other Acts of Parliament, Government instrumentalities and, indeed, the broader community. The farming organisations see a need for this legislation because it will ensure that significant changes to land use are examined on

a rational basis and that cost benefits will be taken into consideration. They also believe the legislation will consider the question of fair compensation to those disadvantaged by changes to agriculture. The legislation would ensure that agricultural changes take place on a rational and equitable basis and will encourage further expansion in the agricultural industry. It is important that farmers are confident in the knowledge that their future plans will not be disrupted by the imposition of unfair restrictions, prohibitions and regulations without proper consideration of the consequences. These impediments currently exist on a broad basis in the agricultural industry.

It is important to note that the agriculture industry produces 40 per cent of this nation's export income and, if necessary, we should put in place legislation which will ensure that farmers are free to go about their normal business. This legislation, if passed, should not protect those farmers who break the law in relation to the pollution of our water supplies or operate in an improper manner which will affect the general health and safety standards of the general populace. In a speech to the Parliament the member for Stirling referred to the North American legislation which has been in place since 1971. In many cases that legislation is relevant to Australian conditions. However, we should note that the question of "nuisance" in this State is covered by many Acts of Parliament. The Local Government Act, the Health Act and the Environmental Protection Act, to mention a few, protect the public against any threat to their livelihood. I have thought long and hard about this issue, but I cannot think of many Acts which protect the right of farmers to farm. The only one that came to mind was the right to veto mining on agricultural land. That was brought into operation by a Liberal Government.

Mr House: It would not have been a coalition Government, by any chance?

Mr OMODEI: I apologise to the member for Stirling for not referring to the coalition Government.

Mr House: What year was it?

Mr Blaikie: It was 1968.

Mr OMODEI: I do not think that is important. The important thing is that we have in place one Act which protects the right of farmers to farm.

Mr House: Do you agree with it?

Mr OMODEI: Absolutely. The main reason for the right to farm legislation in North America was the loss of land for other operations and I will quote as follows from the relevant North Carolina Statute -

> It is the declared policy of the State to conserve and protect and encourage the development and improvement of its agricultural land for the production of food and other agricultural products. When non-agricultural land uses extend into agricultural areas, agricultural operations often become the subject of nuisance suits. As a result, agricultural operations are sometimes forced to cease operations. Many others are discouraged from making investments in farm improvements. It is the purpose of this Statute to reduce the loss to the State of its agricultural resources by limiting the circumstances under which agricultural operations may be deemed to be a nuisance.

Another right to farm Statute states -

> No local government shall exercise any of its powers to enact local laws or ordinances within an agricultural district in a manner which would unreasonably restrict or regulate farm structure or farming practices in contravention of the purpose of the Act unless such restrictions or regulations bear a direct relationship to the public health or safety.

The North Carolina legislation states that the reason for passing those laws was to preserve agricultural land use as a dominant land use. It appears that the legislation is specifically designed to remove threats to agricultural land, and that is a good idea. A similar thing is happening in Western Australia as a result of the urban sprawl and the results of it can be seen in Wanneroo, Spearwood and Cockburn.

The horticulture industry in my electorate of Warren is a growing industry and has a great export potential. However, the industry is being threatened because of the scheme to plant

trees - a scheme sponsored by the Government - on viable horticultural land. The dilemma arises - I think the member for Stirling referred to it - as a result of the grape growing industry. The grape growing industry is new to my electorate and a requirement of that industry is that the crops are not damaged. We are now finding that the sprays used in regular spraying programs to protect other crops are affecting the grape growing industry. I wonder what is the position of a farmer who has been farming for many years and who has used chemicals which are not harmful to the environment but is now being told by his grape growing neighbour that he is unable to continue to use certain chemicals. Other countries have a concept of farming zones which designate specific areas for farming purposes.

Another case in point is that of a piggery - I will not name the area in which it is situated. Under local government by-laws a zoning change has occurred to allow for residential subdivision. Obviously the residents are offended by the odours from the piggery. It is important that established farming ventures be allowed to continue. In the case where there is a change of classification of land adjacent to a farm which may affect the viability of that farm and ultimately threaten the very existence of the industry in that locality, action is required through the State Planning Commission, local authority town planning schemes, or the right to farm legislation, if it is deemed fit, in order that the normal pursuits of farmers are protected.

This motion calls for the evaluation of the Right to Farm Bill and I heartily concur with this course of action. I hope that the investigations by the proposed Select Committee will clarify the situation in relation to farming. Should the findings of the committee show a need for right to farm legislation, I am sure members on this side of the House will support such legislation. It is important that members recognise the existence of many other Acts on which right to farm legislation will impinge. A host of Acts may have to be amended because of this legislation. It may be that existing Acts - the Town Planning Act, the Land Act, the Environmental Protection Act, and a great many others - can be amended from their present form to achieve what should be achieved by this Right to Farm Bill without the introduction of new legislation. If it is deemed necessary the legislation will cover the areas of concern raised by the member for Stirling from the point of view of compensation for injurious infection and the loss of a right to farm by any person going about his normal business.

The motion being considered today and the Right to Farm Bill are a complex issue. The Select Committee will have to work diligently to achieve a satisfactory result. I am pleased to have had this opportunity to support this motion and to indicate formally the support of members on this side of the House.

MR PEARCE (Armadale - Leader of the House) [5.22 pm]: On behalf of the Minister for Agriculture, who is not with us today, I indicate that the Government is prepared to support this move for a Select Committee by the member for Stirling. This is the kind of Government that the people of this State have come to expect over the past six or seven years which supports motions on their merit and equally dismisses motions which lack merit. It is the case that the Government has supported the motion moved today by an Independent member of the Parliament to appoint a Select Committee and it now supporting a motion moved by the deputy leader of the National Party to appoint a Select Committee. I cannot recall that ever occurring in the six years that I was in Opposition despite the many moves made by the Opposition for the appointment of Select Committees and of many other things.

I cannot recall a single amendment to a Bill being accepted by the Liberal Government in the whole six years that I was a member of the Opposition. We reached the ridiculous situation where the then Government would not accept amendments to Bills even when it thought they were right. I saw the case time and again where the Liberal-Country Party Government would not accept amendments to a Bill on a matter of principle but would then have one of its members move the same amendment in the Legislative Council in order to have it done where the Government felt more comfortable. It would then be sent back for the concurrence of the Legislative Assembly. That is an extreme example of the approach that this Government does not take.

Mr Trenorden: Not all the time.

Mr PEARCE: That is a typical remark. The member for Avon is prepared to say that things are fine, that we are picking up a motion on its merits, but if we vote against the next motion he will say that we are being partisan. That is not so; it is the Government being

discriminatory. If, like the previous Government, we knocked back everything members opposite could claim a degree of partisanship, but when a Government picks and chooses, sometimes deciding yes and sometimes deciding no, that is a totally different situation. Members cannot say that we happen to be right when we agree with them and are always wrong when we disagree with them. The member for Avon should consider whether perhaps deep within the heart of the National Party there beats a capacity to make errors. The motion he moved about the SGIC contained a gross level of error and the motion was dealt with on its merits by members on this side on that occasion.

Mr Omodei: Either the Leader of the House is in favour of the motion or he is against it.

Mr PEARCE: I am in favour of it.

Mr Omodei: That's good; get on with it then.

Mr PEARCE: I suggest to the member for Warren that he discuss with his colleagues whether they are anxious for me to conclude my remarks expeditiously or whether they would like to hear a few more minutes of my oratory.

Mr Blaikie: I would like to hear a few more minutes.

Mr PEARCE: I appreciate that support. I can say to the member for Stirling that our agreeing to the appointment of a Select Committee should not lead him to assume that the Government will agree automatically to his Bill. We are interested enough to consider the contents of that Bill because the loss of rural land for other purposes is a matter of concern in many areas of the State and where there is pressure on rural land, particularly in areas such as Bunbury, Busselton, and other popular areas in the south west; where development leads to the loss of good farming land because of the capital structure involved in turning farms into small rural holdings for holiday destinations or houses for people.

Mr Omodei: The main reason we need the legislation is that we require an investigation into the right to farm because the Minister's Government has not done enough to protect farmers' interests in the past six years.

Mr PEARCE: That is not correct. I was Minister for Planning for this State for four years and time and again I was subjected to pressure from places like the member's former shire to let land go from farming to support some break-up into smallholdings designed to be sold to people in the area.

Mr Omodei: That is not true.

Mr Peter Dowding: It is true. I was subjected to the same thing, and the member for Warren was one of the people pushing it - he was there.

Mr PEARCE: The member for Warren does not have clean hands in relation to this matter. He is one of the people who was pushing hard to get these matters before council as a councillor in the rural area because they saw rate revenue coming from broken up properties that they could not get from straight out farmland, so even in local areas there has been the pressure for development that the member for Stirling and the member for Warren referred to in their speeches. The member for Warren should have had his fingers crossed behind his back when he talked about that matter. I have not been pressured by the member for Stirling to break up large holdings into smallholdings, but this Government had that pressure from the member for Warren when he was in local government.

The case may be that his elevation to the august halls of the Legislative Assembly is causing him to take a more Statewide view of the circumstances. If that is the case, I am pleased to see his conversion. There must have been a blinding light as the member drove to Perth somewhere between Manjimup and here and Saint Paul appeared saying that it was wrong for him to break up small lots and that when the member got to the great Parliament in Perth he wanted him to take a more statesmanlike view. If he is prepared to do that, that is fine, but let us have a bit of confession before we move to new religious principles.

We are prepared to look at the proposition put forward by the member for Stirling, but that does not mean that the Government will support it in the form proposed. We have an open mind and accept that he is raising a real issue deserving examination. We hope that the Select Committee can make a reasonable examination and report back to the Parliament so that all three parties and all members can agree. That will provide the best basis for important rural industries in our State to be maintained into the future.

MR HOUSE (Stirling) [5.29 pm]: I thank the member for Warren, who touched on a number of important points which need to be examined. He has a fairly good understanding of the problems faced by people, particularly in this area. I thank the Leader of the House, as the Minister handling the Bill on behalf of the Minister for Agriculture, for his support, and I thank the Premier for his support for this Select Committee, and also the Minister for Agriculture. I understand that the Government would not necessarily support a Bill proposed by this Select Committee, but I hope the committee will be able to recommend to this Parliament adequate legislation to cover everything necessary, and that it will have the universal support of all members. I assure the Leader of the House that it is my earnest desire that the Select Committee work very hard to achieve that end, because the result should be a very important piece of legislation. If it passes through this House it will be landmark legislation. I would like to think that all members will be able to cooperate and pass this legislation.

[Questions without notice taken.]

Sitting suspended from 6.02 to 7.30 pm

Mr HOUSE: It is very important that this Parliament recognise the lead of North America with regard to right to farm legislation. Having examined the current situation, I should mention that Canada probably leads the world in this type of legislation, and we have a great deal to learn from the Canadian example. More than half the American States have right to farm legislation, and I am sure we could learn from the examples in those States. The only other State in Australia which has proposed right to farm legislation is Queensland; I understand that legislation has not passed through the Parliament, which I guess is not surprising given the current circumstances.

In conclusion, I thank those people who have taken part in the debate, and the Government for agreeing to the formation of this Select Committee.

Question put and passed.

Appointment of Select Committee

On motion by Mr House, resolved -

> That the following members be appointed to serve on the Select Committee, together with the mover - The member for Marangaroo (Mr Cunningham), the member for Bunbury (Mr P.J. Smith), the member for Balcatta (Mr Catania), and the member for Warren (Mr Omodei).

On further motion by Mr House, resolved -

> That the committee have power to call for persons and papers, to sit on days over which the House stands adjourned, to move from place to place, and to report on 30 September, 1990.

MOTION - ELECTIONS

"Sausage Sizzle" Offence - Prosecution Expedition

MR COURT (Nedlands - Deputy Leader of the Opposition) [7.35 pm]: I move -

> That this House -
>
> (1) calls on the Government not to delay any more but to immediately proceed with the prosecution against the members for Wanneroo and Whitfords for alleged offences against the Electoral Act with their involvement in what has become known as the "sausage sizzle" case; and
>
> (2) further considers that continuing delay of prosecution will reinforce the public perception that the Government wishes to buy time until the above named members are eligible to draw parliamentary superannuation.

The DEPUTY SPEAKER: Order! Before debate on this motion continues, I advise members that the level of background conversation is preventing people from hearing the debate. I ask members to tone down their conversations.

Mr COURT: The Opposition believes there is something strange about this case, which has been given a folk status, probably because of the catchy name that has been attached to it. It should be a relatively simple exercise for the different parties involved to make sure that the proper action is taken for this case to proceed. However, that is not occurring and the matter is dragging on. It appears there is one set of rules for the Labor Party and another set for the Liberal Party. A prosecution was very quickly brought against a member of the Liberal Party, Mr Neil Oliver, in the Swan Hills electorate, under the provisions of the Criminal Code. The case in which Neil Oliver was involved was raised in the Court of Disputed Returns but the Electoral Commissioner took the action. In debate on this motion tonight the Opposition will not debate whether the person or persons are guilty; that is not for us to decide in this place. During the debate it is proper that we discuss the central concern in this case; that is, the way in which the two members were involved in advertising and providing free drinks and whatever at a very large gathering.

Point of Order

Mr PEARCE: I ask for a ruling, Mr Deputy Speaker, in advance of any further comments by the Deputy Leader of the Opposition. I inquire with regard to the sub judice rule because I understand that in a number of cases writs have been issued in the Court of Disputed Returns bearing on the matters to which the Deputy Leader of the Opposition is referring. It is not the Government's wish to restrict the debate this evening; we are keen to have a full and frank debate and I shall respond at length on this matter. Before anyone makes specific statements, I ask for your guidance as to the extent to which the sub judice rule should guide members opposite in their comments with regard to the cases which are currently before the Court of Disputed Returns.

The DEPUTY SPEAKER: Accordingly to the precedent, cases before the court cannot be discussed where the hearing has been listed. As far as I am aware the case has not been listed at this point and, therefore, the normal convention may not apply. However, I warn members that clearly the matters are likely to come before the court and, therefore, they should be careful in their remarks. In the opening statement by the Deputy Leader of the Opposition he suggested he would refer to this matter. However, as long as he addresses himself to the terms of the motion and is careful about the sub judice question, I believe that should satisfy the Standing Orders.

Debate Resumed

Mr COURT: It is not a matter of whether this case is listed to be heard before a court; a prosecution has not been laid. The point I am making is that a prosecution was laid against a former colleague and it has run its course, yet in this case nothing has happened. That is the purpose of this motion tonight. We all know that the result of the last election was very close; a few hundred votes decided the very important marginal seats, which eventually went the way of the Government, which ended up with a five seat majority. As a result of that election campaign, a number of cases were brought before the Court of Disputed Returns. In this particular case, the officials of the Liberal Party made a formal complaint in respect of the "sausage sizzle" event. The Electoral Commissioner, in a statement made on 5 August, said -

> The WA Electoral Commission has deferred taking further action on bribery allegations made against a Labor minister and backbencher after the February election.
>
> It will wait until three petitions dealing with the issues have been heard by a Court of Disputed Returns which is headed by a Supreme Court judge.
>
> The commission will then make a final decision on appropriate action.
>
> The Electoral Commissioner, Mr Les Smith, said yesterday that the Court of Disputed Returns had the statutory framework under which these sorts of difficult and important questions could be settled.
>
> "When the court has made its decision I will have another look at the position with my solicitors," he said.

We want to know why certain action has been taken by the Electoral Commissioner in one electorate, but he has decided not to take action against some members in another electorate.

Mr Pearce: Have you asked the commissioner that question?

Mr COURT: It is not our responsibility to ensure that we have a fair election. The Government has the mechanism to carry out the necessary prosecutions.

Mr Pearce: Are you saying that I should direct the commission?

Mr COURT: No, but the Attorney General is responsible for prosecutions. He has seen a prosecution brought against one of his former colleagues in the other place. Does he think it is proper that that action be taken, yet no action is taken in respect of another electorate?

Mr Pearce: I do not think it is proper for the Government to be directing the commissioner about what action he should take.

Mr Mensaros: It is the duty of the Attorney General.

Mr Pearce: So he should direct him?

Mr COURT: At the end of the day, we could make a formal complaint, but does the Minister think it is proper that we have a system in place where the Government will rely on individuals to take that action, when the Electoral Commissioner and the Attorney General know only too well what is the situation, but are prepared to sit back and do nothing? It is now nine months since the election was held, yet no action has been taken.

Hon George Cash asked the Attorney General the following question on notice on 28 September -

(1) On what date did the Crown Law Department receive the police report on the investigations the police had made into the Whitford/Wanneroo sausage sizzle?

(2) Was the Attorney General made aware of the findings in the police report and if so when?

(3) When did the Crown Law Department first advise him that there was a case to be answered in respect of the Wanneroo/Whitford sausage sizzle?

(4) What was the period of time from the Crown Law Department receiving the police report on the Whitford/Wanneroo sausage sizzle and its subsequent referral to the Chief Electoral Officer?

The Attorney General replied -

(1) 10 May 1989.

(2) No.

(3) The Crown Law Department has not advised me on the matter.

(4) The Crown Law Department has not referred the police report to the Chief Electoral Officer.

We have here the situation where a police report was made about this matter on 10 May 1989, yet on 5 August, when the Electoral Commissioner made his statement that he was not going to go ahead, we found out that the police report had not gone from the Crown Law Department to the Electoral Commission. Members opposite might start carping and saying we will never accept the election result and the fact that we lost, but there is a proper mechanism in place for us to take action if we believe that the election was not properly conducted. In this case we are talking about what constitutes bribery under the Electoral Act.

Points of Order

Mr PARKER: I do not recall the Electoral Act specifically referring to bribery, and the motion refers to charges against two members of this House. The way in which the Deputy Leader of the Opposition has expressed himself is, first, to give a false interpretation of the terms of the Electoral Act. However, putting that to one side, because it probably does not constitute the basis of a point of order - it is simply untrue - the Deputy Leader of the Opposition has moved a motion against two members of this House, and to use the term bribery in that context can apply only to those members and must, therefore, contravene Standing Orders.

Mr COURT: Sections 179, 181, 182 and 183 of the Electoral Act refer to bribery.

The DEPUTY SPEAKER: I just want to elaborate on the matter of sub judice. There are no specific rules which prevent discussion of matters which may be before the court. The generally accepted rule, according to the interpretation of Standing Orders, is that matters listed for hearing are not in order to be discussed. However, clearly the Speaker has accepted this Notice of Motion, which has been on the Notice Paper for some time, so at face value it does not breach that convention.

In respect of the point of order raised by the Deputy Premier, my understanding would be that what the Deputy Leader of the Opposition has said so far does not breach that convention. However, I again caution that the rules of debate, as stated on page 38 of *A Guide to Parliamentary Procedure*, by Bruce Okely are as follows:

> "There is a convention that Parliament does not discuss matters lying before courts. The purpose behind this convention to is ensure that Parliament does not in any way prejudice the opportunities of parties who have an action before a court or who are awaiting trial."

If there is any suggestion that anything that is said in this Parliament may prejudice the court, it is quite competent for a point of order to be raised. However, the last paragraph of the statement I am referring to says that "In recent years the House has shown a more tolerant attitude to permitting debates in these matters." My understanding would be that the debate is permitted, but it should not be a debate which seeks to prejudice in any way matters before the courts. Clearly that is a difficult thing to interpret and therefore it is not surprising that we have already had two points of order. I would ask members on the Government side to observe that convention, but I would also ask the Deputy Leader of the Opposition to make sure that he does not in any way seek to prejudice matters which may be before the court.

Mr MENSAROS: Mr Deputy Speaker, from the point of view of clarification, you were talking about matters before the court, but there is a clear distinction in the Standing Orders between criminal and civil matters.

The matter we are concerned about is a criminal matter because it asks for prosecution, it is not about civil matters before the Court of Disputed Returns. It has nothing to do with it. In relation to criminal matters the Standing Order is absolutely clear; it relates to any matter awaiting or under adjudication in any court exercising criminal jurisdiction. This matter is neither awaiting nor under any adjudication. It has nothing to do with that. It is not a civil matter. The Court of Disputed Returns has a civil jurisdiction but the motion is querying why the Government is not prosecuting. It has nothing to do with a civil court.

Mr HASSELL: Mr Deputy Speaker, I support the remarks of the member for Floreat. The whole purpose of this motion as it has been brought before the House tonight is to draw public attention to the fact that allegations which ought to be prosecuted and determined by a court have not been prosecuted. Nothing in the motion concerns a matter that is before the courts. The very complaint of the motion is that the matter has not been brought before the courts. As the member for Floreat correctly said, there are other issues in potential civil proceedings which have not matured but no hearing date that we know of in the civil jurisdiction. Those civil matters rest on petitions relating to Courts of Disputed Returns.

This issue is not about those things; it very clearly is about the obligation of the first law officer of the Crown - namely, the Attorney General - with the oversight of the law in relation to a prosecution which is either a criminal or a quasi-criminal matter and it does not relate to any proceedings that have been taken. The motion complains that the proceedings have not been taken and to inhibit debate in any way would be to restrict Parliament from dealing with a matter of the utmost importance. I am not contesting your ruling, Mr Deputy Speaker, but I just want to make the point to you in consideration of your remarks about what points of order might be taken.

The DEPUTY SPEAKER: First, I do not think I have sought to inhibit debate in any way, except to draw attention to the conventions of the House. On the matter of civil versus criminal law, the member for Floreat was quite correct in quoting that part of Standing Order No 2 which refers to courts in a criminal jurisdiction. However, paragraph (c) of the same Standing Order says this -

> Any matter awaiting or under adjudication in a civil court prior to the time . . .

may also be considered under this sub judice rule or convention. So basically we are looking at a matter of interpretation. There is no hard and fast rule even though words have been

written down in the Standing Orders and the interpretation thereof, and that was why I cautioned both sides of the House in terms of the points of order raised and the things that were said. While I appreciate the point of order the member for Cottesloe raises, the matter is not listed for trial and the complaint is that perhaps it should be; but I do not think this section is relevant in that the section says "any matter awaiting or under adjudication". My understanding of this whole matter is that while no charges have yet been laid, complaints certainly have been made, as the member for Cottesloe's side of the House would be only too well aware, and the decision as to whether they proceed is currently before the Electoral Commission. So while no matters are actually listed for hearing, the fact is that they may be in the near future and that is the reason I raised the caution, not in any attempt to restrict the debate.

Mr Hassell: The complaints are the proceedings.

The DEPUTY SPEAKER: Point taken.

Debate Resumed

Mr COURT: I think you hit the nail on the head, Mr Deputy Speaker, when you said that we know the complaints have been laid, because we laid them. The point of this motion is that we want to know why no prosecutions have been proceeded with, yet one of our members had action taken against him. The Deputy Premier does not quite understand what is involved in the Electoral Act. I want also to make it clear that we are talking in this motion about alleged offences. The main thrust of what we are saying is: Why has action not been taken so that this matter can be determined in the court? Why has there been such a delay, particularly when it was such a close election? I would have thought this is a matter which would be proceeded with very quickly. What we are dealing with here comes under section 179 of the Electoral Act which labels bribery as an act which is prohibited and penalised and is an illegal practice. In section 181 of the Electoral Act the offence of bribery is defined, and section 182 expands the meaning of bribery in such a way as to cover the types of activities in which we believe the Government has been involved in the case of this sausage sizzle.

Point of Order

Dr GALLOP: Mr Deputy Speaker, I thought you gave a very clear ruling to the Parliament that in discussing this motion we should draw our attention to the actual words of the motion and not allude to the particular matters that will at some point come before a body outside this Parliament. If we all talk about those matters that might come before another body outside this Parliament it would seem to me that we are potentially prejudicing those people who may come before that body. I think you should affirm the point you made earlier in relation to what the Deputy Leader of the Opposition is currently saying, and rule it out of order.

The DEPUTY SPEAKER: I appreciate the point made by the member for Victoria Park but I do not believe the Deputy Leader of the Opposition has breached what I have said. To further clarify this situation, as I said just a moment ago it is really a matter of interpretation; but the essence of the ruling is that if the Chair believes, on the basis of evidence submitted on a point of order or, indeed, through the Chair's own judgment, that there is a substantial danger of prejudice, as the member for Victoria Park is suggesting, the debate should be restricted. So far I do not believe that is the case. However, I think the more general point that the member for Victoria Park raised - that is, that we should restrict debate to the motion - is the case in general, and in particular. So I would ask the Deputy Leader of the Opposition to direct his remarks specifically to points (1) and (2) of the motion.

Debate Resumed

Mr COURT: As I said at the beginning of my comments, there seems to be something very strange about this matter. We have tried to do the right thing. We have put in a formal complaint; nothing has happened. We think it is quite proper for us to be asking why nothing has happened.

Mr Pearce: That is not what happened at all. The Electoral Commissioner said he is not proposing to take action. He will await the outcome of the Court of Disputed Returns.

Mr COURT: If the Minister is defending that situation, why did he not take some action in relation to Hon Neil Oliver?

Mr Pearce: Ask the Electoral Commissioner that. He is the one making these decisions, not the Government.

Mr Hassell: Parliament is responsible in relation to whether the commissioner is doing his job.

Mr Pearce: If the member is referring to the Electoral Commissioner, that is a different matter.

Mr COURT: I am not a lawyer. But I refer to the Electoral Act, because this is one of the first things taught when a person stands for Parliament. Section 182 states -

> Without limiting the effect of the general words in the preceding section, "bribery" particularly includes the supply of food, drink, or entertainment after the nominations have been officially declared, or horse or carriage hire for any voter who is going to or returning from the poll, with a view to influencing the vote of an elector.

I emphasise the words "bribery particularly includes the supply of food, drink or entertainment after the nominations have been officially declared".

Mr Parker: What does the horse and carriage aspect refer to? Do you transport aged voters to the polls?

Mr COURT: The Act says "for hire".

Mr Parker: What is the definition of "hire"; it depends on the definition especially if the definition is as broad as the member suggests.

Mr COURT: The Act refers to horse or carriage hire for any voter. There is nothing complicated about that. If the Prime Minister and his wife are present and we go to a huge expense to promote the supply of free food and drink - that is a public matter. Or is it sub judice? What can and cannot be done is spelt out clearly in the Act and we have put in a formal complaint.

Mr Pearce: And you have had a response. The Electoral Commissioner has responded to that complaint. He has explained what he is proposing to do. Do not pretend that you have not had a response. Complain about the response if you want.

Mr Mensaros: We are talking about the Attorney General not doing his duty.

Mr Pearce: The member for Floreat has more integrity than to be involved in this debate. I am disappointed in him. I expect this of the Deputy Leader of the Opposition.

Mr COURT: It is almost nine months since the election. People have been able to prosecute and go to court -

Mr Hassell: That was on the Liberal side.

Mr COURT: Yes, and a result was determined. On the other side, we do not see any action. What would the Minister do if he were on this side of Parliament?

Mr Pearce: I would respect the decision of the Electoral Commissioner. If the member wants to make an allegation about him, he should put it on the table.

Mr COURT: I am not talking about the commissioner; I am talking about the person who is responsible for prosecutions in this State; that is, the Attorney General.

Mr Parker: We do not have to prosecute someone because a madman issues a complaint.

The SPEAKER: Order! I will take the opportunity to point out to members that this motion does not refer to the Attorney General; it refers to the Government. Under the Standing Orders we do not have the opportunity to make allegations of impropriety against any member of the upper House. I cannot allow the next step which I think will be made. The Attorney General has been mentioned far too many times tonight. The motion does not refer to him, and that is why the motion has been allowed. If it had referred to the Attorney General, it would have been disallowed.

Mr COURT: I return to the earlier point: Why have the police carried out an investigation? The report has gone to Crown Law.

Mr Parker: On whose behalf have the police carried out an investigation?

Mr COURT: The report has not gone to the Electoral Commissioner.

Mr Pearce: You have made a complaint to the Electoral Commissioner. He asked the police to ascertain the facts of the matter. The police carried out the investigation and ascertained the facts to the best of their ability. The facts were forwarded to the Crown Law Department for advice. That advice was given to the Electoral Commissioner who asked for the investigation in the first place. On the basis of that advice the Electoral Commissioner has advised he is proposing to take no action; he is proposing to await the outcome of the Court of Disputed Returns. That whole process has not involved the Government at all.

Mr Hassell: The Minister expects us to believe that!

Mr Pearce: It is true!

Point of Order

Mr PARKER: Mr Speaker, I seek your guidance. In recent years, officers have become officers of the Parliament as opposed to officers of the Government. The Electoral Commissioner is one such officer. I seek guidance as to whether Standing Orders are up to date enough to protect the officers of the Parliament as well as the members of Parliament. The member for Cottesloe has made an extraordinary allegation against an officer of this Parliament; that is, the Electoral Commissioner. That allegation is outrageous. The whole motion is outrageous. The member for Cottesloe should be disciplined. If the Standing Orders have not been updated we should ask the Standing Orders Committee to consider this aspect.

The SPEAKER: As far as I am concerned, the Standing Orders protect the officers of the Parliament. I will do everything in my power to make sure allegations against our officers - that is those people who work in this place - are not made.

Mr Parker: There are other officers such as the Auditor General.

The SPEAKER: I understand what the Minister says. But I do not think that those sorts of officers should be protected from criticism if it is made in a substantive motion.

Mr Parker: This is not a substantive motion.

The SPEAKER: I understand that, and I will come to that. The Minister has raised a number of points for clarification. Regarding the last part of the point of order, I am unable to rule on that. I did not hear the member for Cottesloe interject. Members have received what I call very good rulings from the Deputy Speaker before I took the Chair. A number of points of order have been raised; probably too many. Debate will become untenable if this continues. Nonetheless the motion is on the Notice Paper and it needs to be debated. Let us get on with it.

Debate Resumed

Mr COURT: Is the Minister for Parliamentary and Electoral Reform aware whether the commissioner has been advised that there is a case to answer?

Mr Pearce: I answered a question without notice in that regard. I am not aware of the terms of the advice to the Electoral Commissioner. It would not be proper for me to be involved in that because it is a matter of complaint made to an independent Electoral Commissioner by a political party. I am the Minister and I am also a member of another political party. If I were to get involved in issuing directions to the commissioner about complaints regarding the electoral process, the Opposition would be entitled to issue allegations of corruption. I understand the processes that have been set in place, and that is all.

Mr Mensaros: We are talking about the Government, not the commissioner.

Mr Pearce: I am talking about the commissioner.

Mr COURT: The Minister talks about the processes that have taken place - that is exactly what the motion is about. There seems to be one set of actions for the Liberal Party and another for the Labor Party.

Mr Parker: Have you complained to the commissioner about that?

Mr COURT: If the Government is so keen about having fair elections, I would have thought the Attorney General would have done something about it.

Mr Parker: Done what?

Mr COURT: Something about making sure prosecutions were proceeded with.

Mr Parker: Are you saying we should initiate political prosecutions?

The SPEAKER: Order! This is not proper. There has been a definite implication of impropriety made against the Attorney General. It is not spelt out in the motion. I ask that he not be referred to. The motion says certain things about the Government. If the member wishes to say these things he should refer to the Government, not the Attorney General.

Point of Order

Mr HASSELL: Mr Speaker, your ruling seems to suggest that in a major debate in this House related to the law and its processes, the first law officer of the Crown cannot be mentioned.

The SPEAKER: Order! The member will resume his seat. I will not have my rulings canvassed. However, I will take this last opportunity to inform members that I am not precluding that in the debate; the Opposition is. The members who put the motion on the Notice Paper are precluding it. If they want to allege those sorts of things, they must put them in a substantive motion and I will allow them to be debated. I am allowing the motion on the Notice Paper to be debated. I will not allow members to debate something that is not in the motion. Members cannot allege impropriety by members of the other House and I will not allow them to allege it in the motion.

Debate Resumed

Mr COURT: I could take that action if necessary. I could bring a complaint that is legally correct. However, it would be quite unusual. That certainly was not the case with Hon Neil Oliver. He did not have to wait for an individual to take action against him. The proper authorities took that of action.

Mr Pearce: That was based on advice that we received.

Mr COURT: Why should we take the action when there are police and prosecuting authorities to do it for us?

Mr Hassell: If you have due process of law.

Mr Pearce: We had it.

Mr Hassell: You produce evidence for that claim.

Mr Pearce: It is on the record.

Mr Hassell: What is on the record? Action has not been taken.

Mr Parker: Just because you lodge a claim does not mean that action should be taken.

Mr COURT: There was a general election, a complaint was lodged and action was not taken.

Mr Parker: Just because some madman issues a complaint, does the Electoral Commission have to take action?

Mr COURT: Who is the madman?

Mr Parker: I don't know. Probably the President of the Liberal Party who I heard on the radio talking about it.

Mr COURT: Who is the madman that brought the complaint?

Mr Parker: The President of the Liberal Party brought the complaint.

Mr Hassell: You were sensitive about rude things being said about people a few moments ago. Now you are referring to the President of the Liberal Party as a madman. He is a former member of this House. What a disgraceful comment.

Mr COURT: That is typical. There is one set of rules for us and one set of rules for them. Members opposite do not mind referring to officials of the Liberal Party as madmen, but when we start talking about the Attorney General a few people jump up and down. I have never used derogatory comments about the Attorney General.

Mr Parker: This is probably the most outrageous debate that we have had in this House for a long time. It is unbelievable that you could pervert the processes of this Parliament by bringing this matter to it.

Mr COURT: It is a terrible state of affairs when we begin raising these sorts of questions, is it not?

Mr Parker: You have worded the motion in such a way that it is unbelievable.

The SPEAKER: Order! I seek some cooperation. If whoever is given the call addresses his or her remarks to me and not to members on the other side, we will make progress. Many members want to speak tonight. Fewer interjections and more members speaking to me will allow us to make more progress.

Mr COURT: I only want to make two more points. There is a limit of 12 months from the time a complaint has been made to the time prosecution is started. That limitation will expire in a couple of months.

Mr Pearce: No it will not. If the prosecution has been launched, the process has begun.

Mr COURT: Hang on! I am suggesting that it will be close to the 12 month limit before a prosecution will be launched at the rate we are proceeding.

Mr Parker: If at all. There is no suggestion that one will be launched. You are suggesting that there is some reason why a prosecution might be launched.

Mr COURT: I think there is a very good reason why a prosecution might be launched. If it is not launched by the Attorney General or the Electoral Commissioner, it will certainly be launched by an individual. It is a disgusting state of affairs when we have had a close election and the Government sits back and allows this thing to drag out for the full 12 months. That brings me to the next point I want to make.

Mrs Buchanan: That is outrageous.

Mr COURT: What is outrageous about it?

The SPEAKER: Order!

Mr Parker: You are suggesting that, because you lodge a complaint, some action should be taken to prosecute that complaint. No more outrageous comments can be made than that.

Mr Pearce: We know you are born to rule, but are you born to judge as well?

Mr COURT: I said at the beginning of my speech that a former member of this Parliament had action taken against him very smartly after the election. The matter has already been before a criminal court.

Mr Parker: It was a clear breach of the Electoral Act.

Mr COURT: A clear breach!

Mr Parker: He was found guilty.

Mr COURT: How does the Deputy Premier know these people are not guilty if the Government does not launch a prosecution? What does he think we are debating in this place tonight? These are clear breaches of the Electoral Act also.

Mr Fred Tubby: There are two sets of laws.

Mr COURT: There certainly are. The Deputy Premier was not even aware of the fact that we were talking about bribery. That is what we are debating.

The SPEAKER: Actually, the member is not debating bribery.

Mr COURT: We are talking about alleged offences and I was referring to sections 179, 181 and 182 of the Electoral Act which refer to bribery. The Deputy Premier told me that those sections do not refer to bribery. They are very important sections of the Electoral Act.

The last point I want to raise relates to Hon Neil Oliver. His case went to court, the court gave its decision and action was taken. What would happen if, in this case, it went to court and let us say the parties were found guilty. I am not suggesting they will be. What would happen? They would lose their seats if they were found guilty. The Opposition's point of view is that, if this case were heard by now, they would be found guilty and they would not be members of Parliament.

Point of Order

Mr PARKER: Mr Speaker, I am sorry, I know that you asked for no further points of order.

I think it is absolutely unbelievable that the Deputy Leader of the Opposition can say, "If this case had been heard by now, they would have been found guilty".

Mr Court: I said, "If they had been found guilty".

Mr PARKER: That is not what the member said. I sat here and listened to him.

Mr Mensaros: The Deputy Premier is scared to death.

The SPEAKER: Order!

Mr PARKER: I am not scared; I am absolutely outraged.

Mr Mensaros: I have never seen such a performance from him.

The SPEAKER: Order! That is most unlike the member for Floreat. I have two things to say. First, when a member is taking a point of order I would appreciate it if members would not interject so that I could hear it. Secondly, it is my view that I clearly heard the Deputy Leader of the Opposition say, "If they had been found guilty".

Debate Resumed

Mr COURT: For the sake of the Deputy Premier I will repeat -

Mr Blaikie: The Deputy Premier can read the *Hansard*.

The SPEAKER: Order!

Mr Parker: I will listen to the tape. The Deputy Leader of the Opposition can change the *Hansard*.

Mr COURT: If I said what the Deputy Premier thought I said, I withdraw it. I will say it again in the way that I meant to say it and in the way I believe I said it. If there was a prosecution, if the case was heard and if the members were found guilty, they would lose their seats. What would happen then? These two members would not be entitled to the superannuation payments that they would get after they had served seven years.

I put a second scenario to the House. If this case is held off until the prosecution occurs towards the end of the 12 months and, by the time it is completed, their seven year terms are completed, I believe there is a big difference in the superannuation payments.

Mr Pearce: Have you taken legal advice on your statement about the superannuation entitlements? You are not talking about a mere matter of timing. Are you referring to a criminal offence?

Mr COURT: I am not a lawyer.

Mr Pearce: Have you taken legal advice on this point?"

Mr COURT: It has been explained to me that after the seven year period a member is entitled to a certain superannuation payment. I am talking about the difference between $100 000 and $300 000. The Minister for Parliamentary and Electoral Reform asked whether I had taken legal advice, and I advise that I have not, even though I am raising this matter. If it is being delayed for that purpose, it is appropriate that this motion be moved. The Opposition is concerned that different procedures are followed for members of the Liberal Party from those the Labor Party. We realise that members opposite are very sensitive but we think it is proper to raise this matter because it is nine months since the election and no action has yet been taken in this matter. It was a close election and the Opposition gets the impression that the Government thinks that if it forgets about this matter it will disappear. It is important that proper procedures be followed in elections in this democratic State. A delay has occurred in these cases and the Opposition believes it is right to raise the matter in this House.

MR MENSAROS (Floreat) [8.22 pm]: I second the motion and in doing so I clearly put to the House that, in contrast to the behaviour of the Government towards the Opposition, this is not a motion against any personalities.

The SPEAKER: Order! The level of background conversations is too high.

Mr MENSAROS: It is not a motion against members of this House and it is not a motion against the Electoral Commissioner; clearly a very important principle is involved about the so-often queried integrity and propriety of the Government. That is what we are talking

about. The motion itself is one of the best arguments for vigorously supporting the concept of and legislation for a director of public prosecutions. The Government has failed again in this prosecution, as it has failed in the past. It has failed through its proper officer; it has revoked prosecutions in the past and it has not commenced prosecution proceedings in this case.

I remind the House and the very vocal members of the Government that the Electoral Commissioner or anyone else has no monopoly to initiate prosecutions. The Electoral Commissioner is an independent officer, and the Opposition acknowledges that fact. The Opposition maintains through this motion that the Government's behaviour is hurting the reputation and good name of the Electoral Office. It hurts that good name very much because that is where the proposition arises, about which the Deputy Leader has spoken, that the public or anyone interested in the matter, or who reads newspapers, start to wonder why such matters are handled differently when they involve members of the Opposition parties as opposed to members of the Government party. I remind members that the case of Mr Neil Oliver was a much less simple case. It is not as simple for anyone to understand the situation when a person is the member of one House and applies to become a member of the other House. However, I do not think that such behaviour is regarded by the public as demoralising. It is certainly an offence against the Electoral Act but it probably does not invite a public judgment that the person did something untoward. Nevertheless, the case has been prosecuted, it has been duly dealt with and the verdict delivered. However, the case to which we are referring, is much more clear and very simple. An invitation was circularised which clearly indicated to the people that a free family sausage sizzle would be held. The invitation states -

> Jackie Watkins, Pam Beggs and Mark Nolan
>
> cordially invite you to an Australia Day Free Family "Sausage Sizzle"
>
> on Saturday 28th January 1989 at 11.30 a.m.
>
> Venue: Neil Hawkins Park Joondalup
>
> Special guests: Bob & Hazel Hawke and Peter Dowding.
>
> Food and drinks provided free of charge.
>
> Authorised by Jackie Watkins, Pam Beggs, Mark Nolan

It is a very clear situation, in view of the provisions of the Electoral Act which state that if any person promises, offers, or suggests any valuable consideration he shall be guilty of bribery. That "valuable consideration" is explained in the next section which states that without limiting the effect of the general words under the preceding section -

Point of Order

Mr PEARCE: The member for Floreat is seeking to make an argument that would appropriately be made in a case being held before the court for the guilt of a person. In terms of the sub judice rule he could hardly do worse than -

Mr Hassell: No charge has been made.

Mr PEARCE: I am prepared to accept a ruling from the Speaker but not from the member for Cottesloe. If the sub judice rule is maintained in the House it should preclude people from giving a speech that a prosecution lawyer might give in a court case.

Mr Hassell: Who are you trying to protect?

Mrs Beggs: Hopefully me.

Mr PEARCE: I hate to disabuse the Minister for Planning on that point, but I am not seeking to protect her, I am seeking to protect the propriety of the Parliament. I ask for your ruling, Mr Speaker, on whether it is appropriate under the circumstances for the member for Floreat to give the kind of speech a prosecution lawyer would make in a case before the court.

The SPEAKER: With regard to the sub judice question, it may well be appropriate for the member for Floreat to have made the comments he has. However, with respect to the motion we are debating, which is entirely different, his comments are not so appropriate. I believe the member for Floreat is beginning to make a case about whether or not certain members in this place are guilty of an offence. That is not the matter raised by the motion; it does not set

out to argue whether or not members of the Government are guilty, it criticises the Government for not having taken action. The member for Floreat should desist from that course of action.

Debate Resumed

Mr MENSAROS: This is precisely what I am trying to say - the Government failed in its duty to prosecute. If I had made that statement without giving a reason for it, everybody, including you, Mr Speaker, would have called me a fool and an ignoramus. Therefore, it was necessary to give a reason for alleging that the Government had failed in its duty. That is the reason I quoted from the Statute, a public document, and that certainly could not prejudice anyone, especially a lawyer. We are talking about a criminal case, not a civil case, and I cannot see how the quoting of an Act of Parliament, which is a public document, could prejudice anyone.

The SPEAKER: Order! I do not want to lock swords with the member, but I will if he persists. I believe my ruling to be fair and just, and if he wants to debate the sorts of things that he is debating, he should carefully consider the wording of the motion. The motion does not allow him to allege impropriety on the part of a member in this place. If the member wants to do that, he should put it in the motion; but the motion does not say that. It is quite simple. The member's words should be directed to the motion that is in front of him.

Mr MENSAROS: Mr Speaker, I still maintain that is what I am doing. Your rulings were more than thorough in almost every case, and if you do not allow us to debate what is stated in this motion - which is that the Government has failed to prosecute - then there is no debate in this House. I am asking why the Government failed in its duty to prosecute in this case; and I am going further to say that the Government, by its negative action, is putting itself into the situation of exposing the lack of its accountability and integrity.

To show the different attitude to such matters on our side I want now to refer to a situation which occurred before the election when members of this House received a letter from the Department of the Premier to the effect that they could present some Government money to their respective school P & C associations. That was a very pleasing situation for members, but instead of grabbing the opportunity, I, as the shadow Attorney General, wrote a fairly lengthy letter to the responsible Minister, asking him whether what we were being offered by the Premier would infringe the provisions of the Electoral Act. The Attorney General's response was not very clear. He did not say whether it would infringe the provisions of the Electoral Act. He simply said that shows how obscure the relevant provisions of the Electoral Act are, and that this will justify some further attention in due course to amend the Act. He said that he was of the view that members would not be put at risk by simply distributing announced grants in accordance with the Premier's invitation. I give that example to illustrate how we on this side of the House dealt in a responsible way with this matter. We approached the responsible Minister before we took any action to determine whether such action would infringe the provisions of the Electoral Act. Members opposite were not so responsible; they took a clear action; yet the Government did nothing. Not only did the Government do nothing; it also behaved in a secretive way. I asked the Minister representing the Attorney General -

(a) whether the Crown Law Department did receive a Police report in connection with the alleged offence against the Electoral Act known as the "sausage sizzle";

(b) if it did, was such report requesting legal advice from the Crown Law Department?

The Minister's answer was yes to both questions. I also asked him -

> In connection with the alleged offence against the Electoral Act which became to be known as the "sausage sizzle", is the Minister going to table the police report which the Crown Law Department reportedly received?

The Minister's answer was -

> No. Any contact between the departments would have been for the purpose of legal advice by the Crown Law Department to the Police. As with all such legal opinions, any such advice is confidential.

I cannot see why, if the Government's action is above water, if it is in the clear, and if it has acted with integrity, legal advice should have been confidential. Nothing would have been easier than for the Government to make public the police report. The Government obviously had some reason to not make that report public.

Mr Pearce: What has the Government not made public?

Mr MENSAROS: The report of the Police Department which went to the Crown Law Department.

Mr Pearce: The Government does not have that report. The report went to the Electoral Commissioner.

Mr MENSAROS: The police report was quoted in the newspapers, and the Government never said that it was wrongly quoted.

Mr Pearce: That is where you are mistaken. The police made the investigation, at the request of the Electoral Commission. The police referred the matter to the Crown Law Department, which gave the Electoral Commissioner the advice upon which he has acted. The Government had no knowledge of that advice.

Mr MENSAROS: If everything had been above water, there would have been no reason not to publish that report. If, however, the same situation applies now as applied in the O'Connor case, then we can understand why there has been untoward secrecy about the matter. The Electoral Commissioner's decision not to prosecute before the Court of Disputed Returns makes a decision is plainly wrong. First, it confuses a civil proceeding with a criminal proceeding. There is a marked difference between the two. The rules of evidence are much clearer in a criminal procedure; in a civil proceeding they depend more on the parties. A Court of Disputed Returns is an entirely civil proceeding. A prosecution for a summary offence based on a breach of an Act of Parliament - in this case the Electoral Act - is a criminal proceeding. So the two cannot be mixed up. Secondly, and more importantly perhaps, it is wrong because there could be some doubt, again based on the Electoral Act. Section 105 of the Electoral Act says that in these summary offences, of which this alleged offence is one, the complaint should be made within 12 months of the offence. I am not saying that the complaint has not been made but I would not be surprised if it would be considered that because no prosecution has started that limitation applies and no more action can be taken.

Furthermore, I repeat, as I have done repeatedly by way of interjection, that the Electoral Commissioner has no monopoly on prosecution. I am not in the habit of interjecting, as you know, Mr Speaker, but I had to make it clear, because the Minister for Parliamentary and Electoral Reform made out that the prosecution would be a monopoly of the Electoral Commissioner and therefore the Government can hide behind the Electoral Commissioner who is not a member of the Government and therefore is not responsible to a Minister; nor is a Minister responsible for him. The Electoral Commissioner has no such monopoly. In fact, it is the Government's duty, through its responsible officer or Minister of the Crown, to start a prosecution as soon as it is reasonably clear that there is a case to be prosecuted. If the Government does not do that it deserves to be accused of being an improper Government and of not having the integrity or the decency to act responsibly.

A further aggrieved circumstance is that the evidence was openly and publicly available. There were publicly distributed invitations and newspaper articles, and never did the Government, or anyone on behalf of the Government, deny these quite open and obvious facts. Nobody said they were false advertisements or invitations or that any of these did not exist, which in itself shows that the Government knew very well that something was wrong, yet it did not do its duty.

I wonder what the Government's reason is for doing what it is doing. I know what will be the defence by the Minister for Parliamentary and Electoral Reform. He will hide behind the Electoral Commissioner and think he has done his job, but he will not have cleared the Government from its duty just because there is an independent officer in the person of the Electoral Commissioner. The duty of the Government, if it is clear that there is a complaint about a bribery allegation, is to prosecute; that is what this motion is about. The Deputy Premier, with his interjection, was absolutely wrong. He maintained that it is not the duty of the Government to prosecute whenever a complaint comes in, but it is the duty of the

Government to examine whether it is worthwhile prosecuting. I repeat that that is the best argument for an independent public prosecutor, because he would not be tarnished and I hope would not be in a position of being tarnished with the public perception of political prejudice. That is the position the Government is in. If the Government wanted to defend itself and prove it is not politically prejudiced the easiest and most proper thing for it to do would be to do the prosecuting. If it is convinced the allegations are wrong then it is even easier for the Government because it has nothing to hide and nothing to fear.

The legal opinion asked of the Crown Law Department has not been published and the Government is not doing anything to prove its integrity. In the interests of clean Government, in the interests of the integrity of the Government of Western Australia, there is no other choice than to prosecute as we request in this motion.

MR PEARCE (Armadale - Minister for Parliamentary and Electoral Reform) [8.45 pm]: This is one of the most disgraceful motions ever to be brought before this Parliament. It is not something that is just what members like the member for Floreat were trying to say, it is a request for this matter to be brought before the courts. This motion contains a clear insinuation against the Government. The motion says -

> That this House -
>
> (1) calls on the Government not to delay any more -

That is a clear insinuation that the Government is delaying now. The motion continues -

> - but to immediately proceed with the prosecution against the Members for Wanneroo and Whitfords . . .
>
> (2) further considers that continuing delay of prosecution will reinforce the public perception that the Government wishes to buy time until the above named Members are eligible to draw Parliamentary Superannuation.

That last is a clear slur not only on those two members but also on the whole of the Government. The Government is not delaying the prosecution of this matter, and I will deal with that fully in a minute; but the proposition contained in this motion - the snide innuendo that the whole purpose of the Government in this matter is to delay just long enough to give two members an enlarged superannuation entitlement - is something for which the Opposition has been able to produce no proof. But worse, there is no public perception that this proposition is felt anywhere inside the community. What the Opposition is doing is the old, snide trick of saying, "We have to do this in order to avoid the following rumour"; then they bring out the rumour so that it can be peddled around the community. The Opposition is not game enough to put its assertions up front. It puts in the snide innuendo and makes the imputation but is not prepared to say it bluntly.

Let me put in plain terms what the Opposition is asking the Government to do. It is asking the Government to politically interfere with an independent electoral process.

Mr Lewis: You did that with the Oliver case.

Mr PEARCE: No, we did not. This is the position with regard to Mr Oliver, and this is the position with regard to the sausage sizzle. With regard to Mr Oliver, as I understand it, no complaints were made to the Electoral Commissioner by anybody. When it was printed in the newspaper that a member of the upper House had run for election to the lower House without resigning - a fact which was unknown the Electoral Commission, as I understand it - when Mr Oliver nominated for the lower House, when it became known he had not resigned and thus was in clear breach of the Act, the commissioner himself instituted an action without a complaint.

Mr Court: How did he know? Did he read it in the paper?

Mr PEARCE: I understand that he read it in the paper. Not only was that the commissioner's judgment, but also he was proved right by the fact that Mr Oliver was convicted by the court; it was a clear breach of the Act. It is a matter for which there was a single factual question: Had the member resigned or not? As a result the commissioner took certain action.

With regard to the sausage sizzle the situation is a little different. A complaint was made, as I understand it, by the Liberal Party to the Electoral Commissioner.

Mr Court: The Deputy Premier said it was made by a madman.

Mr PEARCE: It probably was, but it was a Liberal Party madman. The point that concerns the commissioner was that a complaint was made. I do not believe the commissioner inquired into the sanity of the person making the complaint, but I am prepared to ask him.

Mr Parker: Even the person making the complaint said - and I heard him saying it on the radio - that he was not sure whether there was a basis for the complaint.

Mr PEARCE: Okay. A complaint was made. This is what the commissioner did. He did not refer it to me, and neither should he have. He asked the police to ascertain the factual basis of the complaint. I guess he did that with Mr Oliver. Somebody must have ascertained that Mr Oliver had not resigned.

Mr Lewis: He probably rang up Kevin Edwards.

Mr PEARCE: In this case the commissioner asked the police to investigate.

Point of Order

Mr PARKER: The member for Applecross has suggested that the Electoral Commissioner rang Kevin Edwards for advice. That is outrageous.

The SPEAKER: The point of order is well made; it probably is outrageous.

Debate Resumed

Mr PEARCE: When the complaint was made the Electoral Commissioner sought a police investigation to ascertain the facts of the matter. Once the police investigation was completed the facts as ascertained were referred to the Crown Law Department for advice regarding the facts and regarding the Electoral Act. The advice was returned to the Electoral Commissioner for him to take action on the complaint. The Electoral Commissioner announced that he was not proposing to undertake a prosecution on the basis of the advice received; he felt the matter would be more properly dealt with by the Court of Disputed Returns; that is, a superior court. This has been done by an independent commissioner of an independent Electoral Commission, exercising his role as an arbiter of the allegation.

That is the process about which the Opposition is complaining. The Opposition says that one or the other of the Ministers involved - the Attorney General, in charge of the Crown Law Department; or the Minister for Parliamentary and Electoral Reform - should take the matter out of the hands of the Electoral Commissioner and issue a political direction as to the manner in which the commissioner should proceed.

How dinkum is the Opposition about that request? The Opposition is asking us to make a judgment of our own. The Opposition is asking us to overrule an independent Electoral Commissioner and initiate a prosecution. What would the Opposition have said if an independent Electoral Commissioner had decided to initiate a prosecution, and the Attorney General or I had overridden him and directed him not to prosecute? Would the Opposition have said that was the right thing to do because it is up to the Government to make decisions about prosecutions? The member for Floreat would stand and say, "I support the right of the Minister to direct the independent commissioner of the commission not to initiate a prosecution in this matter because prosecutions are matters on which a Government should make a decision"! I just bet he would!

The Opposition has gone through the process of making a complaint; its complaint has been investigated by the police; advice on that investigation has been taken by the Crown Law Department. These matters have gone to an independent Electoral Commissioner and he has made a decision. The Opposition has gone to the umpire; the umpire has made a decision. The Opposition does not like the umpire's decision so it is jumping up and down and abusing the umpire. Worse still, the Opposition is using the forum of Parliament where it is protected by privilege.

The Government's view is, firstly, that the commissioner is the right person to make these decisions. Secondly, our view is that the process which has been followed by the commissioner is the correct one. Thirdly, I do not believe that the Liberal Party is dinkum with regard to the sausage sizzle, or dinkum about the argument which it put. If this matter proceeds further my following points will be made more public: Before the sausage sizzle was held, the members involved sought - three times through the Australian Labor Party -

the advice of the Electoral Commissioner as to whether the sausage sizzle would infringe the terms of the Act. On each occasion prior to the event the members were advised that it would not.

Why did the Liberal Party allow comparable things to happen on its side of politics? I have an advertisement here for a public meeting to be held on Tuesday, 31 January 1989 - that is, a few days before the election, when the writs were out. The advertisement reads -

> PUBLIC MEETING - WOMEN'S ISSUES
> WHY YOU SHOULD VOTE LIBERAL
> Speakers: Peter Blaxell
> Mrs Cheryl Edwardes
> June Van de Klashorst
> 7.30pm Tuesday 31 January, 1989
> Maylands Yacht Club
> East Street, Maylands
> FREE - ALL WELCOME

At the bottom the advertisement appears the words "Light refreshments served".

I table that document.

[See paper No 514.]

Several members interjected.

Point of Order

Mr KIERATH: Does the Minister not have to seek leave to table the document?

The SPEAKER: In my view Ministers have the opportunity during speeches to table documents or they may be asked to table documents. In the past, my practice has been merely to accept that suggestion if Ministers wish to table something - either at the end of speeches or in the middle. I suspect it is a matter of where a member has been brought up. Some people ask; others say they will do it. Either way is appropriate.

Debate Resumed

Mr PEARCE: The Liberal Party is trying to tell a different story from that in the advertisement. All the Opposition has done is quote from one of our fliers. If the circumstances are that that is clear proof, because it is in an advertisement, then the Liberal Party advertisement is clear proof. If the Liberal Party says that other facts might come out to controvert that, I have no doubt that the police investigation of the matter would have discovered those facts.

Several members interjected.

Mr PEARCE: Why was the Liberal Party advertising free light refreshments?

Mr Minson: It was a misprint.

Mr PEARCE: What a compelling witness the member for Greenough would be before the courts. I would love to see the member for Greenough saying, "Sorry, it was a misprint." The biggest letters in the advertisement make up the word "free" - actually it meant "expensive". It has been spelt wrongly.

The Liberal Party's efforts are not very compelling. Other avenues are available to the Liberal Party if it is dissatisfied with the decision made by the independent Electoral Commissioner. I refer to the Court of Disputed Returns. My understanding is that writs have been issued in this regard. Liberal candidates have issued writs in the courts regarding these matters. Maybe that is part of the basis of the Electoral Commissioner's decision that he would prefer to see the matters dealt with in the Court of Disputed Returns. The matters are not proceeding in that court with any great expedition.

I have received advice from a Labor Party lawyer, Dwyer Durack, in the following terms -

> In respect of Petitions to the Court of Disputed Returns by failed Liberal Party candidates in the seats of Murray, Whitford, Wanneroo, Perth, Swan Hills and Dianella requests for particulars of those Petitions pursuant to the relevant rules of court were filed and served on the Petitioners' solicitors over the period 21st August

1989 to 23rd August 1989. Those requests have still not been answered and to our knowledge no other action has been taken by the Petitioners to proceed with the matters. In our view it is necessary that the requests for particulars be answered before the matters can proceed.

The Liberal Party comes to this House and says it is fearful that the Government is delaying this matter in order to guarantee the superannuation of two members. It could equally be said that the Liberal Party is delaying matters in order to save the superannuation of those two members. It is not necessary for the Government to take action to bring these matters to a head. All that is required is for the people who are complaining about the election result to provide the particulars that are necessary for the Court of Disputed Returns to proceed.

Not only do we have an Opposition complaining about the most extraordinary thing - no political interference in an independent legal process - but also we have a Liberal Party which, if it were dinkum, has in its hands the capacity to bring the matter to a head without the assistance of the independent Electoral Commissioner because it can follow the normal course of events. There have been Courts of Disputed Returns in the time I have been in this House. In all of those cases, the Court of Disputed Returns has decided the matter by this period after the election and people have been campaigning for the by-elections which result if those cases are successful.

Mr Peter Dowding: The Deputy Leader of the Opposition has smeared the members and it turns out that the Liberal Party is not progressing with the Court of Disputed Returns. It has smeared members and they cannot even apologise when they are proved wrong.

Mr PEARCE: That is right.

Mr COURT: It is all right for you to take action against one of our members.

The SPEAKER: Order!

Mr PEARCE: The Deputy Leader of the Opposition is a slow learner. We have taken no action against an Opposition member. The prosecution was initiated by the Electoral Commissioner.

Mr Lewis: Is it a criminal offence?

Mr PEARCE: It is an offence against the Electoral Act for which the Electoral Commissioner is responsible. The Electoral Commissioner will initiate any action over the sausage sizzle if he believes there is sufficient evidence to justify a prosecution. The Opposition has failed singly in its motion before the House. It has failed to produce any evidence that the Government is delaying this matter. It has not produced a document, a quotation or anything to suggest that the Government is delaying the matter. In fact, there has been no evidence that the Government has played a role in this matter. There has been no evidence to support that proposition and there has been no evidence to support the proposition that the Electoral Commissioner has been involved in other than a perfectly normal process and reached a decision which he publicly announced and which has been put into effect.

The Liberal Party has alternative avenues open to it which it has not pursued. It is not pursuing those avenues because candidates of the Liberal Party were doing precisely the thing about which it is complaining. It is extraordinary. I cannot recall a time in the history of this Parliament when an Opposition has called for a Minister of the Crown to exercise political interference in the activities of an independent Electoral Commission. That is an amazing call for an Opposition to make. I hope the Commonwealth Parliamentary Association picks up this matter and prints it in its newsletter so that Parliaments around the world can read of the level to which the Opposition in the Parliament of Western Australia has stooped. Let us also put in that journal that the Government of Western Australia will not be involved in the issuing of political directives to the Electoral Commissioner on any matter to do with the conduct of an election or on complaints resulting from that election.

Amendment to Motion

Mr PEARCE: In order to give the House the opportunity to join with the Government in that declaration of principles, I move the following amendment -

That all words after "That" be deleted with a view to substituting the following words -

> This House recognises and supports the independence of the Electoral Commission in its conduct of elections and in its dealing with complaints concerning those elections and expresses its complete confidence in the Commission, its Chief Executive Officer and its staff.
>
> Further, this House condemns the Deputy Leader of the Opposition for seeking to use the Parliament to improperly influence decisions concerning the taking of prosecutions.

I moved the second part of that amendment to give the House a further opportunity to make a judgment about whether the forms of the House have been improperly used to try to bring about a prosecution on something which an independent Electoral Commissioner has made a decision. I give the House the opportunity to make a judgment about both of those issues.

By way of interjection, a number of members have sought to make imputations about the role of the Electoral Commissioner and the commission. I, as Minister for Parliamentary and Electoral Reform, and Government members generally have complete confidence in the independence of the Electoral Commission, the process that it follows and its staff, from the Commissioner down. We have complete confidence in their integrity and the integrity of the processes that they set in place. Many snide remarks, mostly by way of interjection which will not be recorded in the *Hansard*, have been made by members opposite. They now have the opportunity to raise their complaints about the Electoral Commissioner and his independence. They can place their statements on the record. However, I will bet that many of them are not game. The Government and the House will look very severely on them if they are not able to demonstrate some truth to any assertions that they make.

I have always been of the view that this House must take responsibility for the propriety of the actions of some of its members. Things sometimes get said in the heat of the moment and people regret them. We have forms to make people retract things that are said improperly. Sometimes actions are so improper that the House should make a judgment on the impropriety of that action. I have no doubt that, as well as trying to smear two members of the Government side and call into doubt the propriety of the Electoral Commissioner and his independence, the Deputy Leader of the Opposition brought this motion to the House in an effort to use its forms to improperly influence the independent decision of the commissioner and force him to take a prosecution. In the same way, it tried, in the past, to bring parliamentary pressure to bear to force a prosecution against two gentlemen called Martin and Brush. I made the prediction then that those people would be prosecuted. I also said that they would be found not guilty by the courts. In the fullness of time both of those predictions turned out to be 100 per cent right. The Deputy Leader of the Opposition is trying the same strategy tonight. The Electoral Commissioner made a decision on this matter and the Deputy Leader of the Opposition is trying to use the parliamentary forms to bring pressure to bear on him to make a decision that suits the Deputy Leader of the Opposition and the Liberal Party. That is an improper use of the forms of the Parliament and I invite the House to join in my judgment of the Deputy Leader of the Opposition.

DR GALLOP (Victoria Park) [9.09 pm]: A question needs to be asked about not only this debate, but also the debate that we had last week in this Parliament.

Mr MacKinnon: We had lots of debates last week.

Dr GALLOP: I am referring to debates at the same time on private members' day. Who are the guilty ones? Which members of this Parliament are abusing the system that we proudly support to defend the rights of people, to ensure that free elections are held and that people have a right to a proper trial and that the rule of law applies in this State?

The amendment moved by the Minister for Parliamentary and Electoral Reform raises two different points. Firstly, it refers to the crucial importance of the Electoral Commission, and, secondly, it condemns the Deputy Leader of the Opposition for seeking to use the Parliament to improperly influence decisions by the taking of prosecutions.

To establish the validity of the two points made in that amendment it is important to put them into context. There are four props to our system; each of those props on its own is insufficient as a defence for the total system. Those props are: The democratic system of free elections, the system of parliamentary Government in this State and this country, the doctrine of the separation of powers, and the rule of law. Those four doctrines need to be

linked and they make a package of ideas in which we in this State believe. Each of those doctrines has its limits; if taken on their own separately from the other doctrines one would have difficulty establishing a coherent position. In recent times in this State through debate inside and outside Parliament an attempt has been made to abuse the system in an effort to discredit particular individuals in the business world, particular individuals in the political world, and now particular individuals in this Parliament who may at a certain point be judged in relation to particular matters that occurred before the last election. Who were the guilty ones? Are those on this side of the House guilty of attempting to ensure that elections are conducted on a fair and proper basis? Who are the guilty ones? Have those on this side of the House attempted over the years to malapportion the electoral system and in certain ways bring about a gerrymander in our system? Who are the guilty ones? Were members on this side of the House attempting to take away the right to vote from a certain segment of the population in this State? With regard to the issue of parliamentary Government, another major prop in our system, we look to the all important notion of parliamentary privilege; the idea that enables this Parliament to protect and hopefully foster the rights and privileges of the citizens of this State. That doctrine has limits, and the limits to that doctrine must be self imposed limits. Increasingly in this Parliament the Opposition has demonstrated an inability to impose any restraint on its political self interest.

There are two elements to any system - the system itself and the spirit that underlines that system. When the spirit of the system is not observed by the necessary self restraint, certain things happen in the community. I want to speak on that matter further. The third doctrine that underpins our system is the separation of powers. Many of the people who are now asking for a further election following the election held last February, are those who asked the Government two years ago to support the Joh for PM campaign. That individual did not know the meaning of the doctrine of the separation of powers. He did not know the meaning of the doctrine that the judicial and the Executive arms of Government should be separate.

Several members interjected.

The SPEAKER: Order! That is not a correct or appropriate way to interject. Interjections should add flavour to the debate, and not drown it.

Dr GALLOP: The other aspect of that doctrine is that bodies such as the police and the Electoral Commission can carry out their duties without any implication of political pressure or bias. If that happens, as indeed has happened in one State in Australia recently, the system is undermined.

Finally, we must all be equal before the law. In the last decade of Australian politics when the political pendulum moved towards the Labor side of politics, new methods were developed by the conservative side of politics in an attempt to establish power. They saw that the political pendulum had swung with regard to the winning of elections. Neville Wran was the first to demolish the myth that the conservatives had the right to rule, and the view that the electors of Australia were naturally inclined towards a Liberal point of view. Neville Wran kept winning elections, Bob Hawke, Brian Burke, John Bannon and John Cain kept winning elections. Therefore, a new method was developed by the conservatives. The first part of this campaign was the trial by media method in which an attempt was made to discredit people through the processes of the media, and to apply pressure on the police, electoral commissions, and the judiciary, to make sure that the Labor Governments in office were discredited. Over time if enough mud is thrown some of it sticks. That was the only sort of campaign the conservatives could conduct. First they used the media in an attempt to bring about that change of direction in the Australian political system. That particular method applied in another context reached its apex of irresponsibility when an individual in this country was charged and found guilty of murder; I refer to Lindy Chamberlain. We are aware of the consequences of this trial by media. We know what can happen to the rights of the individual in that process, and how important it is to protect individuals.

The method used in this State has been slightly different; the method used by this Opposition is to take hold of that all-important doctrine of parliamentary privilege and attempt to use it to discredit those on the Government's side. It is also hoped by the use of the privileges of the House to force bodies outside the Parliament to do things they would not otherwise do. I refer, of course, to the police, the judiciary and bodies such as the Electoral Commission. Parliament is also increasingly being used as a semi judicial body, as judge and jury. If one

body in our system of Government is totally incapable of being used as judge and jury, given the political interests of those involved in its processes, it is Parliament. Yet, the Opposition is intent upon using the committee system of our Parliament in that manner.

Mr Mensaros interjected.

Dr GALLOP: The member for Floreat should understand that the Westminster system if taken to its logical conclusion would not allow for a proper separation of powers. Our system has both the Westminster system and the separation of powers. It is not one or the other. The Opposition is trying to use the committee system of the Parliament to discredit members opposite in the political contest that the committees formed in the last three years have been used to judge people and, in one case, to drag a person before the Bar of the Parliament. It is an absolutely appalling indication of the extent to which people will go in the use of parliamentary privilege. What happens to people involved in that process? A little bit of mud will stick, and that is the aim of the exercise.

We are seeing tonight an effort to use the forum of the Parliament to put pressure on the Electoral Commissioner and on those bodies outside the Parliament which administer the law to make them do things which they may not believe need to be done, or to make them do things just because the Opposition believes they ought to be done. The Opposition is not worried about what may result from that process. It is not worried about the consequences of that type of behaviour on the rights of individuals.

The Opposition is saying that there are two laws in this State. It is implying that the Electoral Commission has acted improperly. The member for Floreat denies that is what is being said, but if he were to go back and look at the *Hansard* record of the debate, and the interjections that have been made in this Parliament, he would see clearly that when the Opposition referred to the Government, it was referring to the Electoral Commission, and implying that it took action against one member - Hon Neil Oliver - but has not taken action against two other individuals because it is biased. If we read the report of the debate tonight we will see that implication has been clearly drawn. The Opposition believes that by claiming that there has been bias in the implementation of the law to this point of time, it can put pressure on the Electoral Commission to do more than it is now doing without any political pressure from the relevant Minister, in this case the Minister for Parliamentary and Electoral Reform.

The Opposition is trying to put pressure on the Electoral Commission in a way that would be totally inappropriate if we were to uphold and support the doctrine of the separation of powers in our political system. The attempt to force an outside body to act in a way which would mean that it is subject to outside interference or pressure is a very serious transgression of the privileges that we in this House enjoy. The laws of this State provide that individuals who apply that sort of pressure to the system are guilty of breaching those privileges.

The Opposition was also in the process - although it was restrained by the interjections and the various points of order raised in the debate - of not only attempting to influence bodies outside this place to take action which they may not want to take, but trying to influence the course of justice. That is why this matter is on the agenda tonight. The Opposition is trying to imply that because there apparently was some shonky process by which action was not taken against these two members, there was something to hide; and in implying that, it is implying that there is guilt. There is nothing that shames me more than to see the processes of this House being used in that manner to imply that before particular individuals even enter a court room, they are guilty. That is a very serious transgression of normal civilised behaviour, and certainly of the parliamentary privileges of this House.

I return now to my initial point. It is not members on this side who are guilty of attempting to bring about a process that will undermine the democratic election of 4 February; it is members of the Opposition. It is not members of this side who are guilty of attempting to deny certain individuals of this State the right to vote; it is members of the Opposition. It is not members on this side who are guilty of attempting to use the processes of Government to bring pressure to bear on outside institutions to do things that would clearly infringe upon the rights of two members of this Parliament; it is members of the Opposition.

There has been an incredible amount of confusion from the Opposition in respect of our

basic parliamentary institutions; the Opposition does not understand that its self interest is getting the better of it, and that the restraint which is needed to have a civilised, orderly and tolerant community is being broken down by the way that it is using - and, indeed, abusing - our parliamentary system. Those of us on this side of the House who defended the democratic system, and who wanted to use that system to bring about reform in the workplace, in our political system, and in our society, waited patiently year in and year out to win an election. We won an election in 1983, in 1986, and in 1989. Members opposite cannot stand the fact that we are bringing about these reforms in our society on a basis of consensus and of support from the community. I proudly support the amendment moved by the Minister for Parliamentary and Electoral Reform, which supports the independence of the Electoral Commission, and condemns the Deputy Leader of the Opposition for attempting to improperly use the Parliament to infringe upon the rights of two Government members.

Government members: Hear, hear!

MR CLARKO (Marmion) [9.27 pm]: We hear by that applause animal farm happening once again, and this gives us an opportunity to talk about the specific complaints, because the motion moved by the Minister for Parliamentary and Electoral Reform says, among other things, that the House recognises and supports the independence of the Electoral Commission in its conduct of elections and in its dealings with complaints concerning those elections. I do not support the Electoral Commission in its decision to not proceed promptly with this matter of the sausage sizzle. That does not mean to say that I am in any way involving myself in an attack on the Electoral Commission, either as a whole or in terms of the Electoral Commissioner. We on this side of the House are most concerned at the decision by Mr Smith to not proceed in a prompt way with this matter.

It may be that the member for Whitford should leave the Chamber, because I gather she holds that seat by only 500 votes. Since 4 February there has been a swing of five per cent, or more, against the Labor Party, as revealed by polls in *The Bulletin*, in Westpoll, and in the *Sunday Times*, which said that the Labor vote was 27 per cent.

The SPEAKER: Order! It does not take members in this House very long to understand that certain members are rather difficult to hear and have very soft voices when they are speaking. This member may be one of those. In any event, even if he is not, it certainly is getting very hard for me to hear him.

Mr CLARKO: In *The West Australian* of 10 June 1989, in an article headed "Sausage 'bribes' decision due soon" by Diana Callander, the following comment appeared -

> The WA Electoral Commissioner, Mr Les Smith, said yesterday that the allegations had to be considered "very carefully from a legal point of view".
>
> He hoped to have a decision on whether charges would be laid next week.

That was 10 June, it is 25 October today. Many weeks have passed since that time. In *The West Australian* of 5 August 1989 the following statement, attributed to Mr Smith, appeared in another article -

> "When the court has made its decision I will have another look at the position with my solicitors," he said.

That does not seem to have the same sort of urgency about doing something "next week", as he said in June. In August he said he would have another look at the position. There was no urgency there at all. I think the Opposition is quite entitled to be critical of an action - a single action - of the Electoral Commissioner. That does not mean we regard that commissioner as totally incompetent and unable to do his job. I take it that nobody in this place is perfect, even the Minister for Education who, when she goes to schools, cannot be bothered recognising her parliamentary colleagues who represent the area. That is also what the Premier does and it is quite contrary to all previous practice.

The situation is quite clear. In this case the Electoral Commissioner is not acting with sufficient speed. It is now nine months since this very serious incident occurred, and it is a very serious incident. It involves bribery, which obviously must be considered one of the major acts of malfeasance that can be committed in our society. It is bribery - it is quite clear-cut. If one looks at the specific complaint - and members should remember that in the amendment before the House the word "complaint" appears - the complaint that my political

party has made to the Electoral Commissioner relates to the Act's electoral offences as they are described in the Electoral Act 1907. Section 179 of that Act begins -

> To secure the due execution of this Act and the purity of elections, the following acts are hereby prohibited and penalized:-

Amongst those acts are illegal practices, including bribery. It goes further. In section 182 the Act gives the definition of bribery -

> Without limiting the effect of the general words in the preceding section, "bribery" particularly includes the supply of food, drink, or entertainment after the nominations have been officially declared, . . .

If we look at the leaflet that was distributed -

The SPEAKER: I am sure the member has been here long enough to know that it would not be long before I got up to make some sort of statement about this. I think it would be fair for members - and I know the member was here when I made this ruling before - to take note when I make this ruling in respect of other people on their feet, and not endeavour when they receive the call to take the same course.

It is even more improper to take that course now, because what we are debating is the amendment. In my view the action taken by some previous Speakers in respect of talking about amendments restricts the debates too much and I do not like to take that course. I like members to range a little between the original motion and the amendment before the Chair. However, having said that, I cannot accept that we are at any time debating an individual member's guilt in this place. At the very most we can talk about whether the Government is guilty of taking some action, but not individual members in respect of that case.

Mr CLARKO: I was not seeking to direct it at an individual member; I was simply trying to say what was the complaint the Liberal Party has made relating to this document which, if you do not wish me to read out, Sir, I will not. I have tried to tie it in with the specific section of the Electoral Act. I have not named the electorates yet; I certainly have not named the persons and I do not intend to do so, but members on this side believe there is an open and shut case.

I think any man in the street, in the pubs or wherever, if he looked at the Electoral Act and at the dodger advertising the function, would think there had been a contravention. I say no more than that. I do not set myself up as a judge or arbiter of the matter, but I think you will agree, Mr Speaker, if you read the Electoral Act, that it says that prosecution must occur within 12 months. Nine months have elapsed and the Christmas period is approaching. I understand the courts are not noted for sitting for long periods over the Christmas break, and I think the BLF has a similar amount of time off. They have a pre-Christmas drink, and then a New Year's drink, and before we know it we are into February and not much has happened. I believe that if we proceed in this way, in about another month or so we will reach that hiatus period and will pass the date in late January, and according to the Electoral Act the matter cannot be dealt with then. This is most serious and it is reasonable for us to raise the issue and, in a proper way, be critical of the Electoral Commissioner, Mr Smith, on the grounds that he should be proceeding now because the time will expire and the matter will not be able to be dealt with, whether or not the members concerned are guilty.

I believe there will be more criticism of the Government and the commission if that time were to pass and nobody had the opportunity to test whether what the members did was or was not bribery. I believe the situation in Western Australia would be worse than it is now, in that case. That is very central to my argument and therefore I cannot agree with the amendment moved by the Minister for Parliamentary and Electoral Reform. Our complaint is fairly and accurately founded and there is a critical aspect of a temporal nature which dictates that we should proceed with this case, without question, right now. I believe the members concerned would not want the case hanging over their heads; even less would they like a case which many people in the community would believe is proved against them if it never came to the court.

I do not think many people in the northern suburbs have been a member of Parliament for as long as I have. I have stood for election seven times, and I have read the local newspapers. In fact, when I first stood for Parliament there was no such thing as local newspapers - they did not exist in 1971. I ran what most people would say were reasonable campaigns. They

were not huge but they were good enough for me to win six times in a row, which I think is a reasonable record. In 1983, when these new Labor candidates - these lady candidates - ran for Whitfords and Wanneroo, they suddenly upped the ante in terms of placing advertisements in The *Wanneroo Times* by a factor of five or 10. I remember people sitting down and trying to add up the value - I mean the cost; the value is a different thing. They probably were very valuable because both members were very successful. I invite anybody to go back to The *Wanneroo Times* newspapers published at the time of the 1986 election and add up the cost of the advertisements for each of those persons - not only them but also the member for Scarborough. The advertisements were very expensive indeed, but I make no complaint about that. They had every right to do it and if I were in their position I would have done exactly the same, and would have liked to do more. None of that is illegal, but during that election we in the Liberal Party certainly drew the short straw. We had the shortest election period in the history of Western Australia. That was a situation which clearly advantaged the Government.

Mr Peter Dowding: You said that you were on an election footing from April 1988 onwards.

Mr CLARKO: A smart piece of foot work by the artful dodger!

The DEPUTY SPEAKER: Order! I invite the member for Marmion to observe the previous ruling of the Speaker. I do not believe the period of notice for the election has anything whatsoever to do with the motion or the amendment to it.

Mr CLARKO: Mr Deputy Speaker, I always adhere to your advice but the amendment deals with the conduct of elections by the Electoral Commissioner. The amendment says that the Electoral Commissioner on all occasions supports independent conduct in its dealings concerning elections, and expresses complete confidence in them. Therefore, I should think that I can talk about any election aspect under the auspices of the Electoral Commission. That election was held under those auspices. I am talking about the election, the campaign for which was held over a four week period. That is the shortest period of which I am aware in the State's history for an election, and that clearly gave the advantage to the Government. That is not the fault of the Electoral Commission, but it did put the Opposition at a disadvantage. The Government has done other things. We know that the Government produced advertisements, at great expense - for example, about seniors' card - and paid for by the department. A couple of weeks before the election the advertisements were changed slightly to support the Labor Party. Many comments have been made in the community about that, and about how the Labor Party spent $10 million on the election compared to the $2 million spent by other people.

Mr Peter Dowding: What a load of codswallop.

Mr CLARKO: I am not complaining about that. It is a statement I have read. In relation to the election, the Opposition believes the Electoral Act has been infringed.

Mr Peter Dowding: Why don't you get on with the case instead of rubbishing people's reputations?

Mr CLARKO: Why is the Premier so angry? The Premier becomes more annoyed and more angry every time he comes into this House - that is because he is under pressure. Any day now the Premier will take note of the advertisement in the newspaper - he will resign, and he will bring a lot of pleasure to the majority of Western Australians.

Several members interjected.

Mr CLARKO: The Premier will take his satchel and go somewhere else.

The second part of the amendment condemns the Deputy Leader of the Opposition for trying to improperly influence decisions. What a heap of nonsense! The Deputy Leader of the Opposition is bringing before the Parliament a matter of grave importance, a matter which involves an allegation of bribery by two members of Parliament. One of those members holds a Ministerial portfolio.

Nine months have passed since the election. Parliament has met for probably the least time in reasonable memory. Before long the session will be over and we will not be able to proceed with this matter. I am very critical of Mr Smith in this regard. The matter should be prosecuted with great urgency. If it is not, and time passes, the members for Whitford and Wanneroo will not be very pleased if they hang on to their electorates due to the effluxion of

time. A serious allegation has been made against the two members; it has not been proved. The members may say the allegations cannot be proved but the matter should be clarified in the courts. The Electoral Act allows matters of this nature to be heard in the courts. Tomorrow morning Les Smith should tie a string around his finger as a reminder on arriving at the office to take immediate action regarding prosecution in the matter of bribery in the electorates of Whitford and Wanneroo.

Other very serious matters are involved: If these two seats swing only on a matter of say 200 votes in each case, and if there has been a massive swing against the Labor Party since the election, the seats would be well and truly lost. In that case, the Government would have a majority of only one seat. When the Swan Hills case is resolved against the Government, perhaps we could have a change of Government. It is not as though we are considering a couple of blue ribbon seats where even if the members were debarred from sitting in Parliament for two years - if found guilty of bribery - a political party of the same colour could put up new representatives who would be elected, and we would return to the same situation. The matter is much more serious.

In his typical way, the Minister for Parliamentary and Electoral Reform says the Government will not direct officers. The officer referred to should take immediate action to prosecute in this matter. We will then find out who is the guilty party and who is not. The State will then be able to get on with its business - although I do not think the Government has done much governing since 4 February because it has spent its time in a "PICL". We reject the comment made by the Minister for Parliamentary and Electoral Reform about the Maylands Yacht Club. He said that something was free at that meeting. Attending the meeting was free but the advertisement did not say that free food and drink would be available. The member for Kingsley ran one of the most outstanding campaigns in the northern suburbs. It was so brilliant apparently it was won about six months before the day of the election. The member for Kingsley tells me that the people at that gathering paid for their cups of tea.

Mrs Edwardes: Before the meeting started the people were told. Peter Blaxell and I expressly declared the Electoral Act provisions: If people wished to stay they had to put money in the pot.

Mr CLARKO: That raises another serious matter which I am sure the Press will address; that is, the comment of the Minister for Parliamentary and Electoral Reform this afternoon that the ALP approached the Electoral Commissioner on three separate occasions to ask whether the sausage sizzle was legal. If I quote the Minister for Parliamentary and Electoral Reform correctly, we need an explanation from the Electoral Commissioner on that point. The whole community of Western Australia is entitled to know on what basis he did that. Many people in the community would think that he was wrong to do that. Perhaps he gave some advice and they went a step further with that advertisement. That would be another explanation. But that would improve and strengthen the position of the Electoral Commissioner - if there is a gap between what he said the Government could do and what it actually did. If the commissioner told the Government to do what it did, that seems to be in contravention to the Electoral act.

This important issue needs to be addressed urgently. The point made about approaching the Electoral Commissioner three times tends to weaken the amendment. That should be enough to destroy the amendment. If the Electoral Commissioner cannot be wrong, he is the first man, perhaps since the beginning of time, who is not able to make a mistake. This matter should be proceeded with urgently. I reject the amendment moved by the Minister for Parliamentary and Electoral Reform. He has destroyed his own argument by quoting the manner in which the Electoral Commission was approached. The condemnation of the Deputy Leader of the Opposition contained in the amendment is nonsense.

It is vital that this matter be discussed even if only in relation to the argument about the three approaches to the Electoral Commission. I think the community of Western Australia needs to know that, if there are further delays on this matter to the point where it cannot be proceeded with in the courts, it will be a disgrace. If that happens, there will be no more motions commending the Electoral Commission; there will be motions condemning it.

MR COWAN (Merredin - Leader of the National Party) [9.51 pm]: The amendment before the House deals with several issues. Firstly, it removes the question of segregation of the matters that are before the Electoral Commission at the moment and, as everybody in this place knows - if they did not know it before they certainly know it now - five seats in the

State of Western Australia are the subject of complaints before the Electoral Commission. It is somewhat strange that only two of those complaints were identified in the words that are to be deleted from the original motion. For that reason, those words were, in some respects, deficient. I think we have to be objective in this place and deal with all of the matters that have been brought before the Electoral Commission by way of a complaint and not just those which satisfy the people on one side or another of the House. It is very important that we look at the whole situation in relation to the Electoral Act.

It is interesting that the Government should be called upon to take action on only two out of five complaints which have been laid before the commission, when the Opposition knows full well that complaints can be laid by individuals. I have personally experienced that; one can do that. I did not seek to have the Government intervene on my behalf. I did not ask it to take action when I felt I had been wronged. I was perfectly capable of laying that complaint under the Electoral Act as people who feel they have a genuine complaint are capable of doing the same thing. I would not call upon the Government to take action on my behalf.

It is extremely rare that I find myself agreeing with remarks made by the member for Victoria Park. However, he referred to the importance of the separation of powers and I think all of us should take note of that. We must all be conscious in our actions in relation to that very fundamental requirement of democracy. There must be a separation of powers in the parliamentary system as we know it.

Mr MacKinnon: We agree.

Mr COWAN: If the Leader of the Opposition agrees, why was the Government requested in the original motion to take action on those two of the five complaints which have been put before the Electoral Commission. As I said, the Opposition can lay those complaints. It does not have to place them before the Electoral Commission; it can take them straight to the courts, because I have done it. If it feels so strongly that these matters should come before the judicial system, it should not ask the Government to take action, it should do it itself. It has that capacity. If it has not, it should let me know. If there is no provision in the Act for the Opposition to do that, it should let me know that, also. If it feels incapable of taking that action it should let someone else know and they might take it for the Opposition. However, it should not ask the Government to take action on only two of the five complaints which have been laid before the Electoral Commission. That smacks of an inconsistency and we have had some debates about that in recent times.

While I feel very strongly that we have to maintain some objectivity on this matter, we have to observe the need for the constant maintenance of a separation of powers, particularly as members of Parliament. For that reason, the National Party cannot support the original motion. It is pleased to see the amendment to delete the words. We do not feel it is appropriate for the Government to pat itself on the back or to be guilty of trying to do precisely that for which it has been condemned. We also have no objection to the first part of the amendment. However, under no circumstances will the National Party support the last part of the amendment moved by the Minister for Parliamentary and Electoral Reform. Should the House support the amendment for the deletion of words and then, as a consequence, the Government seeks to insert the words at the end of the proposed amendment, I will move an amendment to amend those words before they are inserted. I intend to move for the deletion of all of the words after "Commission" in line 4 of the words proposed to be substituted. That will ensure that the separation of powers is maintained. I do not think we have to pat the Chief Executive Officer of the Electoral Commission or his staff on the back. All that is needed is for this House to recognise and support the independence of the Electoral Commission. There is no need to condemn the Deputy Leader of the Opposition and we will not be part of that.

While the National Party is prepared to accept an amendment for the deletion of words, it will seek to amend the words to be inserted. If the deletion of words is not accepted by the House, we will be forced to vote with the Opposition and I am sure the Opposition will vote against the insertion of the new words.

MR TRENORDEN (Avon) [10.00 pm]: This is one of the most informative debates in which I have participated since I have been a member of this House. I have not taken part in an exercise in the art of the laws to this extent in many a day. That seems to be the only merit of the debate. I have never heard so many points of order taken in such a short period,

and I have found it a most extraordinary debate. That is not the only aspect which confuses me.

The compliance of the Electoral Commissioner with the provisions of the Electoral Act raises some serious points. I recall in the 1977 election that the provision of a keg of port at the Turkey Creek wine festival was regarded as a terrible crime. We keep hearing about this keg of port at Turkey Creek; I heard it mentioned on the radio a few weeks ago in a debate about electoral gerrymandering. However, if the matter before the courts is not resolved one way or another, it would appear that a couple of kegs of beer provided at Joondalup are fine, but that is not the case with a keg of port provided at Turkey Creek. I am not a connoisseur of drinks but I would have thought a keg of port supplied by the Liberal Party would not be of the same quality as a keg of beer supplied by Bond Corporation.

Mr Clarko: The keg of port at Turkey Creek was supplied by a man called Medcalf, who was no relation to Hon Ian Medcalf. There were two 44-gallon drums, and the wine had a certain oak flavour.

Mr TRENORDEN: It was probably quite an event. I have heard it claimed several times that the Liberal Party was responsible for providing that port at the wine festival. I recall that the T-shirts made available at the time of the Turkey Creek wine festival were extremely popular and are highly regarded in Western Australia. I know a person who has one and he would not part with it for the world. The question of the beer provided at Joondalup is also confusing. I must admit that I wondered whether it was Foster's or Swan beer.

Mrs Watkins: It was fruit juice and cordial.

Mr TRENORDEN: It still begs the question - no pun is intended - that an issue has been raised in the public eye. From time to time members of the public have asked me when I thought it would be resolved. It does not matter what the Liberal Party, the National Party or the Labor Party think; what matters in the efficient running of the provisions of the Electoral Act is public opinion. This delay is causing some harm to the system, as has been stated several times in this debate. It is sad that nine months have passed and a question mark still hangs over this issue. If this debate achieves anything, it should be that the Electoral Commissioner will indicate that the charges will be dropped or proceeded with forthwith.

MR HASSELL (Cottesloe) [10.05 pm]: A certain degree of confusion is arising in this debate, and I think it is important to put the matter on the proper plane. Some very clear issues and responsibilities are involved. Firstly, the petitions which have been lodged in the Supreme Court seeking Courts of Disputed Returns are civil proceedings which have nothing to do with the Electoral Commission. They are not complaints to the Electoral Commissioner. Secondly, I understand that one complaint has been made, and not five, and that complaint is against the member for Wanneroo and the member for Whitford relating to the social event which has become known as the sausage sizzle where free food and drink were provided, and it has been suggested that that was a contravention of the Electoral Act. That is a complaint to the Electoral Commissioner alleging the committing of an offence. That is a responsibility of the Electoral Commissioner, overridden by the general responsibility in relation to legal matters of the Attorney General. A number of petitions have been lodged in the Supreme Court seeking the invalidation of certain election results, and those are civil proceedings. The motion before the House - it has not been deleted - seeks to deal with the matter of the complaint. The motion has nothing to do with the civil proceedings in the Court of Disputed Returns.

Mr Peter Dowding: You cannot sustain that argument and you would not have put it if you were not embarrassed about the facts released tonight. You have been caught out once again misleading the people.

Mr HASSELL: I will explain the position to the Premier, although I think he understands it: The Electoral Commissioner has no control over the Courts of Disputed Returns, is not responsible for taking them forward, and is in no way involved in those courts. They are civil proceedings taken by people who lodge petitions, usually defeated candidates - in fact, I think only defeated candidates can lodge such petitions - and the direction of the court is entirely in the hands of those people who lodge the petitions. The complaint which has been lodged with the Electoral Commission relating to the social event known as the sausage sizzle alleges an offence has been committed, and that complaint is the responsibility of the Electoral Commissioner. What are his responsibilities? It is important that we are clear

about this. The Leader of the National Party suggested that if somebody had a complaint he could pursue it himself. It is sometimes possible for people to pursue complaints in the criminal jurisdiction, but in this case we are talking about a very serious complaint that was taken to the Electoral Commission. The commission has two responsibilities: Firstly, to investigate the complaint and, secondly, following proper legal principles, to decide on the basis of the investigation whether there is sufficient substance for the complaint to warrant a prosecution.

What the Opposition says in this case is that the Electoral Commission, for reasons unknown to us, has not completed the job. We believe the Government has the responsibility, through the Attorney General, to oversee the Electoral Commission. What the Electoral Commissioner did was to have the matter investigated by the police; or if the complaint was lodged with the police in the first place, the police undertook an investigation. It is very important to get the facts straight. The Attorney General was asked, in a question on notice on 28 September, "On what date did the Crown Law Department receive the police report on the investigations the police had made into the Whitford/Wanneroo sausage sizzle?" The Attorney General replied, "10 May 1989". So on 10 May the Crown Law Department had in its possession the result of the Police Department investigation. I understand that the result of that police investigation was known to the Attorney General.

The Attorney General was also asked, "What was the period of time from the Crown Law Department receiving the police report on the Whitford/Wanneroo sausage sizzle and its subsequent referral to the Chief Electoral Officer?" The staggering reply was, "The Crown Law Department has not referred the police report to the Chief Electoral Officer." I do not know whether the Attorney General was being nice in distinguishing between the Electoral Commission and the Chief Electoral Officer, or whether it is a fact that the Crown Law Department received a report on 10 May, and as at 28 September the matter had not been referred to the Electoral Commission. That is a staggering proposition, given the responsibilities of the Electoral Commission in respect of complaints and whether a prosecution should be launched about such complaints.

In the meantime, on 5 August - that is, between 10 May when the Crown Law Department received the results of the police investigation, and the date of the question when the Attorney General replied that it had not been handed on to the Chief Electoral Officer; and I assume he is referring to the Electoral Commission, although he could be drawing that nice distinction - the Electoral Commission made a public announcement, as reported in *The West Australian* of 5 August 1989, that -

> The WA Electoral Commission has deferred taking further action on bribery allegations made against a Labor minister and backbencher after the February election.
>
> It will wait until three petitions dealing with the issues have been heard by a Court of Disputed Returns which is headed by a Supreme Court judge.

We must be lacking some vital information, or else the facts I have read to the House are simply staggering, because on the one hand the Government is saying that the results of a police investigation were not given to the Electoral Commission, while on the other hand the Electoral Commission was able, without receiving that investigation report, to decide to defer its statutory duty as to whether it should prosecute. It may be that the motion before the House could have been worded in a better way, but the real issue is whether the Electoral Commission has fulfilled its statutory legal obligation to decide whether to prosecute.

If the Electoral Commission has not fulfilled that statutory obligation, why has the Government, in the form of the Attorney General, not asked why the due processes of the law have not been followed? There may be some substantive reason, but on the face of the record - that is, the Attorney General's answers, and the Electoral Commission's announcement - the Electoral Commission has made an extraordinary decision without having the police report in front of it. The Government owes the House an explanation about this matter.

Mr Peter Dowding: You know that is a nonsense, and that if the Government were to interfere you would be the first one to squeal.

Mr HASSELL: If the Government has an explanation about that matter, that explanation is owed to the House. I find it interesting to listen to the interjections of the Premier, when I

consider that there is currently before the Parliament legislation to establish an independent Office of Director of Public Prosecutions. One of the provisions of that Bill clearly preserves the rights, entitlements and responsibilities of the Attorney General in respect of all prosecutions. Why is the Government saying, on the one hand, that we have to preserve the powers of the Attorney General in respect of the generality of the prosecution, and, on the other hand, that it is nothing to do with the Government as to whether the Electoral Commission has fulfilled its statutory and legal duty to decide whether to prosecute?

Mr Peter Dowding: Because that is the function of the commission; you know that as well as I do.

Mr HASSELL: The commission is ultimately accountable to the Parliament, through the Attorney General. The truth is that we have here an extraordinary decision by the Electoral Commission, which is the very basis of the motion before the House tonight, because it is on the public record that the Electoral Commission has made a decision not to pursue a matter in respect of which a complaint was made, without its having considered the result of a police investigation.

Mr Pearce: The commission did consider it. You have changed your argument. You started off by saying the Government should be doing these things. You now concede that what we said was correct; the Electoral Commission has acted independently.

Mr HASSELL: The Government should take this matter seriously. The Opposition has not said that the Minister and the member are guilty; the Opposition is saying that on the known facts, with the legislative provision before us, there certainly appears to be a case against the member and the Minister. We are saying that has been dealt with properly in the sense that a complaint has been made to the person who ought to deal with the issue of deciding whether to prosecute - that is, the Electoral Commission; the commission has sought an investigation; that investigation has been conducted; and the commission has failed in its duty to decide.

It is not that it has failed to do its duty to prosecute, but it has failed to do its duty to decide whether to prosecute; that is the point. The commission has not announced that there will be no prosecution; the commission has announced that it will not decide whether there will be a prosecution until later. The Opposition says, and I say, that that is, to say the least, an extraordinary decision; because as to whether there is a criminal prosecution for an allegation of bribery as defined by the Electoral Act is an issue decided by different criteria, under different rules, with different standards of proof, and on different evidence from the issue of whether a Court of Disputed Returns can succeed. They are totally different matters.

What the Opposition says very simply is that, at the very least, the Electoral Commissioner has failed to explain himself when he owes the public a proper explanation of his proceedings. Secondly, on the face of the record the Electoral Commissioner appears to have made an extraordinary decision. Thirdly, the Electoral Commissioner appears on the face of the public record to have made that extraordinary decision in the absence of a police report which he himself sought. Fourthly, in the absence of a due and proper explanation from the Electoral Commissioner to the public, it is a matter of which the Attorney General, on behalf of the Government, has an overview as the chief law officer of the Crown - not to interfere or direct that there be a prosecution or that there not be a prosecution, but to see that the due process of law is followed.

What this motion is about - and I said earlier that perhaps the wording could be improved - is not the separation of powers; that is not an issue. The separation of powers would not be infringed by anything we would want to see done. It is about whether the due process of law has been followed. I have a deep suspicion of this Government in many respects. I have a deep distrust of the Ministers in this Government and I believe that in these matters of great political sensitivity it is very important that what is done by the Electoral Commissioner and by the Attorney General should be, and be seen to be, following the due process of law without any question being able to arise as to why these things are happening in the way they are. I believe that the Electoral Commission, as of now, has not explained its conduct and, on the face of the record, appears to be engaging in conduct which cannot be explained in terms of the due process of law. A prosecution for an alleged serious offence should not be in any way tied to or dependent on the outcome of civil proceedings which may or may not proceed to fulfilment.

MR PETER DOWDING (Maylands - Premier) [10.24 pm]: This is not a case where the Opposition has a disagreement amongst its own members. It is not a case where the member for Floreat, the member for Marmion and the member for Cottesloe did not quite understand what line they would pursue in this motion and get it under control, in line with the Deputy Leader of the Opposition's motion. This is a case where, yesterday, the Deputy Leader of the Opposition sought to take the Liberal Party down a line of denigrating a number of people - firstly, denigrating the member for Wanneroo; secondly, denigrating the Minister for Housing; thirdly, attacking the independence and integrity of the Electoral Commission of this State.

That is what the boy wonder wanted to do yesterday. That was the headline he wanted. That was the innuendo he pushed for when he spoke outside the House about the superannuation entitlements of the members concerned. That was the way he wanted the flavour - the taste on the public palate - to be when we entered the Parliament today to debate this issue. He wanted the public to believe that for base financial reasons the Government was going slow on prosecutions involving the Minister for Housing and the member for Wanneroo so they could improve their superannuation entitlements. It was as outrageous an allegation as that the Leader of the Opposition made when he suggested that I would choose the election date depending on how my superannuation would look. Do members recall that? He said we would have an election after 25 February and he was absolutely convinced of it because he could not understand, and nor could any of his members, how anyone could possibly call an election which did not suit their pockets.

Dr Gallop: Whom does that reflect upon?

Mr PETER DOWDING: Exactly - whom does it reflect upon? It is a case of while the leader is away, hobnobbing with Mr Elliott, the President of the Liberal Party of Australia - while he is trying to ingratiate himself with the powers that be in the Federal Liberal Party - his deputy leader runs amok. And what does he do? He moves a motion full of bravado and cockiness - that young deputy leader of the sort the people sitting opposite have, and none of them has the maturity of my deputy leader, I must say. We see the Deputy Leader of the Opposition on television bouncing up and down on his heels at a good moment when he thinks he is on a runner - and off he goes with a motion which will make his name, put his leader under a bit of pressure and prove he is a better man than his leader. He denigrates these two members, the Attorney General, and the Electoral Commissioners, and the suggestion is that the prosecution is being delayed so that these members will benefit themselves from their superannuation. There is no alternative reading of that article. When I asked about the way in which this article was written I found it was written absolutely straight, representing the Deputy Leader of the Opposition for what he was trying to push.

What has happened tonight is that the Deputy Leader of the Opposition's argument has been shown - as happens so often in the Deputy Leader of the Opposition's case - to be mistaken, deliberately wrong, and designed to mislead the community of Western Australia. Just as he sat at a news conference and tried to persuade the people of Western Australia that a photograph he produced reflected the current state of the investment of the Western Australian Development Corporation in the Sentosa Island project, just as no journalist left that news conference believing other than that that photograph was a representation of the failure of the WADC to get anything under way, so yesterday's effort was designed to leave the taste in people's mouths of a scandal based on the impropriety of members' looking after their pockets and the Government's seeking to delay prosecutions to achieve it.

But what happened tonight? Before I tell members, let me take them to section 164 of the Electoral Act. That section provides that the Court of Disputed Returns is entitled to find that a person was not duly elected or to declare an election void on the ground of bribery or corruption. Sections 162, 163 and 165 show that what follows from the Court of Disputed Returns where a finding of bribery is made is not only a declaration that the election is void but also a report to the Electoral Commissioner upon the finding of an illegal practice. So all the steps which lead to the end result can occur through the Court of Disputed Returns. What is it that has held up the processing of the Court of Disputed Returns? The Minister with responsibility for electoral matters established to this House - to the embarrassment of all members opposite, and to their utter shame given the nature of their allegations yesterday - that the delays to the processes of that court rests wholly and solely with the Liberal Party.

Mr MacKinnon: That is not true.

Several members interjected.

Mr PETER DOWDING: The Minister with responsibility for the electoral processes has established that what the members of the Opposition tried to establish yesterday is not the case; that is, that the procedure towards the end result of the finding of illegal practices, and a conclusion to these matters, is being held up by the Government. What an embarrassment! The boy wonder did not do his homework; he did not check.

Mr Court: We have done our homework; don't you worry.

Mr PETER DOWDING: The Deputy Leader of the Opposition thought he was way ahead on this occasion; he thought he was absolutely beyond reproach so he launched out with a bitter and personal attack on the two members - impugning their credibility in a way that is absolutely disgraceful. He did not check on why these matters were delayed. Perhaps he should ask the member for Melville and some of his friends why these things are being held up.

Mr MacKinnon: They are not being held up. Has the Premier looked at what is happening in the courts lately? He will find that these matters are being pursued with vigour.

Mr PETER DOWDING: Are they? Can the Leader of the Opposition explain why the request for particulars has not been answered for two months?

Mr MacKinnon: The matter is being pursued through the courts now.

Mr PETER DOWDING: Why has the request for particulars not been complied with for two months? The request was filed on 21 August to 23 August; it has not been answered because the Opposition's people have chosen not to do so. But here is the evidence, Mr Deputy Speaker, not the assertions of the Leader of the Opposition. Here is the evidence that what the Opposition says is untrue, evidence that what it has asserted last night is untrue. The inference from those assertions yesterday is grossly intemperate and improper.

The date on this letter is 24 October. Two months have gone by and the dormancy of these proceedings is entirely due to the failure of the Liberal Party to pursue these matters. For two months the Opposition has sought to ignore the fact that the responsibility belongs to it. The Opposition had the temerity to suggest that the delays had something to do with the superannuation entitlement of the two members affected. The Opposition does not know that it is behaving in a disgraceful way; it has lost touch with the proprieties of the community. It has gone overboard in this case, just as it did with its "Save Our State" campaign. The Opposition has gone overboard in its pretence that that campaign is a product of other people. In its attempts to distance itself from that campaign it has given a clear impression to the community that it is not the Opposition's campaign. Is that not the case?

Mr Court: Bevan Lawrence has the Premier worried. Every day the Premier talks about Bevan Lawrence.

Mr PETER DOWDING: The Opposition has given the clear impression to the community that the "Save Our State" campaign is not an Opposition campaign; just as the clear impression the Opposition sought to leave with the community last night was that the failure to prosecute these proceedings - which can lead to the voiding of the election, and which could lead to the failure of these people to be able to stand again for Parliament - is a matter for the Government, the Electoral Commission or somebody else; that at the very least it was shrouded in impropriety. This is an allegation which the Opposition has utterly and completely failed to prove.

The Opposition has been warned in the past about that failure; that is, when it raises motions and receives the lines in the newspaper, the newspaper and the public are entitled to expect the Opposition will make out those cases. It is a very serious matter for the Opposition to make allegations which it cannot substantiate. When the proof comes to the House, when the Deputy Leader of the Opposition is shown for the shallow character assassin that he is, we see that the Liberal Party has no credibility.

Mr Court: You have not addressed these matters.

Mr PETER DOWDING: I will take members through the case: The Court of Disputed Returns has the power to deal with these matters right through to the point of reporting an

illegal practice to the commission. Secondly, the Court of Disputed Returns has the capacity in the cases that the Liberal Party is pursuing to declare the seats void. But the Opposition is not pursuing the cases; it has allowed them to remain dormant for more than two months. The Opposition has done nothing for two months.

Mr MacKinnon: That is untrue.

Mr PETER DOWDING: What has the Opposition done?

Mr Court: We will tell you exactly what has been done. We will say what the Government has not done.

Mr PETER DOWDING: I will give you that chance!

MR MacKINNON (Jandakot - Leader of the Opposition) [10.38 pm]: I was not planning to speak but I wish briefly to answer one point and to make another. The Premier raised the matter of particulars and placed some importance on that. A request was made of Government members with respect to their particulars in April.

Mr Peter Dowding: It is not their case!

Mr MacKINNON: A request was made for their particulars in April.

Mr Peter Dowding: In which case?

Mr MacKINNON: No response has been made.

Several members interjected.

Mr MacKINNON: We have received no response.

Mr Peter Dowding: It is not in the case that concerns Joondalup; the Leader of the Opposition has not sought particulars for Joondalup; he is misleading the House.

Several members interjected.

The DEPUTY SPEAKER: Order! The level of interjections is clearly unacceptable. In order for debate to proceed and come to a conclusion I suggest that members on both sides tone it down.

Mr Peter Dowding: Prove it - in the case of Joondalup; and in the case of Minister Beggs.

Mr MacKINNON: This question remained unanswered despite the bluff of the Premier. The question is why the Crown Law Department received a police report on 10 May, yet by 28 September - or even by today's date - that report has not been transmitted to the Electoral Commission. Why? Neither of those questions has been answered. So much for the hypocrisy of the Premier.

Amendment (deletion of words) put and a division taken with the following result -

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Ayes (32)

Mr Ainsworth	Mr Graham	Mr Marlborough	Mr Trenorden
Mrs Beggs	Mr Grill	Mr Parker	Mr Troy
Mr Carr	Mrs Henderson	Mr Pearce	Dr Turnbull
Mr Catania	Mr Gordon Hill	Mr Read	Mrs Watkins
Mr Cowan	Mr House	Mr Ripper	Dr Watson
Mr Cunningham	Mr Kobelke	Mr P.J. Smith	Mr Wiese
Mr Peter Dowding	Dr Lawrence	Mr Taylor	Mr Wilson
Dr Gallop	Mr Leahy	Mr Thomas	Mrs Buchanan *(Teller)*

Noes (16)

Mr Clarko	Mr Hassell	Mr McNee	Mr Strickland
Mr Court	Mr Kierath	Mr Mensaros	Mr Fred Tubby
Mrs Edwardes	Mr Lewis	Mr Minson	Mr Watt
Mr Grayden	Mr MacKinnon	Mr Nicholls	Mr Blaikie *(Teller)*

Pairs

Ayes	Noes
Mr Bridge	Mr Bradshaw
Mr D.L. Smith	Mr Shave
Mr Donovan	Mr Omodei

Amendment thus passed.

Motion - as Amended

The DEPUTY SPEAKER: The question now is that the words to be substituted be substituted.

MR COWAN (Merredin - Leader of the National Party) [10.44 pm]: I have no taste at all for the last paragraph of the words that the Minister for Parliamentary and Electoral Reform wishes to substitute for the words deleted.

Amendment on the Amendment

Mr COWAN: I move -

> That all words after "Commission" where secondly occurring, be deleted with a view to substituting the following words -
>
> , including its Chief Executive Officer.

MR PEARCE (Armadale - Minister for Parliamentary and Electoral Reform) [10.46 pm]: The Government will support the amendment to the amendment for one reason; that is, that the principle that would then be espoused would be supported by a considerable majority of members of this House and two of the three major parties. That statement of the Parliament should be a matter of record.

I accept that my amendment was in two parts. Firstly, it dealt with the principle of the matter and the issues raised by the Deputy Leader of the Opposition and, secondly, it dealt with the conduct of the Deputy Leader of the Opposition. The Government is prepared to accept the position of the National Party that the declaration of that principle and the declaration of support for the Electoral Commission and Chief Executive Officer is the most important part of the debate. I am disappointed that the National Party will not, as it has not on other occasions, make judgments about peoples' actions in this place. However, I accept that that is the position it has consistently adopted and which it has adopted on this occasion.

MR MacKINNON (Jandakot - Leader of the Opposition) [10.48 pm]: A complaint has been lodged with the Electoral Commission and we are in the position now, many months after the situation about which the complaint arose, of not having progressed any further. We have not ascertained in this debate tonight the real reason for that. I have indicated to the House - the Premier did not answer my question - that the Crown Law Department sought advice from the police in May.

The DEPUTY SPEAKER: Order! I remind the Leader of the Opposition that we are debating the Leader of the National Party's amendment.

Mr MacKINNON: I understand that. That advice has not been transmitted to the Electoral Commission. We are not in a position to be able to ascertain why that is so. Has pressure been brought to bear on the Crown Law Department?

Mr Peter Dowding: Don't make it worse; you have done your damage.

Mr Pearce: What is your evidence for saying that?

Mr MacKINNON: It has taken five months. Why has that matter not been transmitted for five months? The Opposition is not in a position to indicate why. No answer has been given and no evidence provided. Is it due to the Electoral Commission? The Opposition supports the motion, but what is the answer? The Government considers that the Opposition's motion is a lot of rubbish, and that if the Opposition supports this amended motion, it will not mean anything. The Government suggests that the Opposition will be going against the motion it originally moved, and that the Opposition has no faith in the Electoral Commission. If the Opposition opposes the motion, the Government suggests that will be recorded as a vote of no confidence in the Electoral Commission and the Chief Executive Officer. However, the Opposition has confidence in the Chief Executive Officer.

Mr Pearce: Why are you criticising him?

Mr MacKINNON: The Opposition is not criticising the Chief Executive Officer; it is criticising the Government of Western Australia. The Premier has tried to draw a red herring across the trail by raising the issue of the court case, and he has not explained the failure of the Crown Law Department officers to submit the information to the Electoral Commission. Although the Opposition would like to support this amendment to the motion, it is not in a position to do so on the evidence provided by the Government tonight. Therefore, it will oppose this section of the motion.

Amendment on the amendment (deletion of words) put and a division taken with the following result -

Ayes (32)			
Mr Ainsworth	Mr Graham	Mr Marlborough	Mr Trenorden
Mrs Beggs	Mr Grill	Mr Parker	Mr Troy
Mr Carr	Mrs Henderson	Mr Pearce	Dr Turnbull
Mr Catania	Mr Gordon Hill	Mr Read	Mrs Watkins
Mr Cowan	Ms House	Mr Ripper	Dr Watson
Mr Cunningham	Mr Kobelke	Mr P.J. Smith	Mr Wiese
Mr Peter Dowding	Dr Lawrence	Mr Taylor	Mr Wilson
Dr Gallop	Mr Leahy	Mr Thomas	Mrs Buchanan *(Teller)*

Noes (16)			
Mr Clarko	Mr Hassell	Mr McNee	Mr Strickland
Mr Court	Mr Kierath	Mr Mensaros	Mr Fred Tubby
Mrs Edwardes	Mr Lewis	Mr Minson	Mr Watt
Mr Grayden	Mr MacKinnon	Mr Nicholls	Mr Blaikie *(Teller)*

Pairs

Ayes	Noes
Mr Bridge	Mr Bradshaw
Mr D.L. Smith	Mr Shave
Mr Donovan	Mr Omodei

Amendment on the amendment thus passed.

Motion - as Amended

MR COWAN (Merredin - Leader of the National Party) [10.55 pm]: I move -

To substitute for the words deleted the following -

, including its Chief Executive Officer.

The motion in its completed form would then read -

This House recognises and supports the independence of the Electoral Commission in its conduct of elections and in its dealing with complaints concerning those elections, and expresses its complete confidence in the Commission, including its Chief Executive Officer.

MR PEARCE (Armadale - Minister for Parliamentary and Electoral Reform) [10.56 pm]: I am prepared to second that amendment. It is very important that the Parliament express complete confidence in the Chief Executive Officer. The Electoral Commission has been subjected to a lot of abuse tonight, some by snide innuendo, and some by direct statements from members of the Liberal Party. The Chief Executive Officer was appointed after consultation with all parties. When the appointment was made, for the first time ever in the history of this State, an Electoral Commission was established on an independent basis and its Chief Executive Officer was appointed after consultation with the leaders of all parties.

Mr Peter Dowding: That independence was an embarrassment to a Liberal Party that had manipulated it extensively throughout the 1970s.

Mr PEARCE: It was very important that the appointment of the Chief Executive Officer was

supported by all parties, so the independence of the commission could be guaranteed. Not one scintilla or skerrick of evidence has been produced in the course of the debate to suggest that the Chief Executive Officer, the Electoral Commissioner, has done anything but act in an entirely proper way with regard to these matters. People may make judgments from a distance which are different from those he has made, but the suggestions made that there has been any impropriety or bias are completely wrong. The remarks made by the member for Marmion were the most outrageous in that regard when he directly accused the Electoral Commissioner of acting in a biased way.

Mr Clarko: I did not use the word "bias" once.

Mr PEARCE: The member for Marmion used that word quite deliberately in a disgusting attack. I will be very disappointed if the Liberal Party does not support this amendment. I hope the Leader of the Opposition will listen very carefully because I would like him to know what is being voted on; his motion has now disappeared completely from the agenda of the Parliament, because it has been defeated. We have now agreed to pass an expression of confidence in the Electoral Commission. We are asking for a specific vote of confidence by the Parliament in the Chief Executive Officer of the Electoral Commission. All members of Parliament should support that but, if they are not prepared to do so, there should be very substantial evidence to suggest the opposite. It would be most serious if any member of Parliament were to vote a lack of confidence in that person under the circumstances of his appointment and the exemplary way he has carried out his duties. I shall be watching this vote, as will all Western Australians, with a great deal of care and attention.

Point of Order

Mr CLARKO: I claim to have been misrepresented; I deny categorically that I stated that the Electoral Commissioner was biased. I did not use those words, and I refer anyone who seeks to prove otherwise to *Hansard*.

The DEPUTY SPEAKER: I do not believe that is a point of order. There are ways to seek to make a personal explanation at certain times in the day's business.

Mr CLARKO: I understood it was appropriate to take this action when the Minister for Parliamentary and Electoral Reform sat down. If that is not appropriate, I seek your guidance on when it should be done.

The DEPUTY SPEAKER: I think the point has been made.

Mr CLARKO: I request that he withdraw the words, because they are inaccurate.

The DEPUTY SPEAKER: There is no point of order in saying that the words used are inaccurate. The Standing Orders do not talk about accuracy; they talk about certain other words, of which the member will be aware, but accuracy is not one of them.

Mr CLARKO: I seek leave of the House to request that that statement be withdrawn, because *Hansard* will show that I have been misrepresented. I understand that Standing Orders allow a member, at the completion of a speech in which a member has made a comment which he believes to be false, to seek leave of the House for those words to be withdrawn. I did not use the words that the Electoral Commissioner was biased. This House should enable me to make that point.

The DEPUTY SPEAKER: Standing Order No 117 says that a personal explanation may be made by leave of the House. I guess you could seek permission at this point, but I do not know about your chances. A member is entitled to make a personal explanation only with the indulgence of the House.

Mr CLARKO: I am prepared to do that, but the Minister for Parliamentary and Electoral Reform has indicated that he intends to finish at around this time, and I do not want to drag out the time of the House; suffice to say that it would be wrong to have that in the record, as it is inaccurate.

The DEPUTY SPEAKER: The point has been made, and unless you want to proceed further, I propose to put the question.

Debate Resumed

MR MacKINNON (Jandakot - Leader of the Opposition) [11.02 pm]: The Opposition will

not support the amendment on the amendment. The amendment says that this House recognises and supports the independence of the Electoral Commission - and we support that - in its conduct of elections and its dealing with complaints concerning those elections. We have indicated throughout the debate tonight our unhappiness in respect of the complaints aspect of that matter. The amendment then talks about the Chief Electoral Officer; and the member for Karrinyup has indicated our attitude to him. We are not prepared to support the amendment because of those parts contained in it about which we have previously expressed concern.

Amendment on the amendment (substitution of words) put and a division taken with the following result -

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Ayes (32)

Mr Ainsworth	Mr Graham	Mr Marlborough	Mr Trenorden
Mrs Beggs	Mr Grill	Mr Parker	Mr Troy
Mr Carr	Mrs Henderson	Mr Pearce	Dr Turnbull
Mr Catania	Mr Gordon Hill	Mr Read	Mrs Watkins
Mr Cowan	Mr House	Mr Ripper	Dr Watson
Mr Cunningham	Mr Kobelke	Mr P.J. Smith	Mr Wiese
Mr Peter Dowding	Dr Lawrence	Mr Taylor	Mr Wilson
Dr Gallop	Mr Leahy	Mr Thomas	Mrs Buchanan *(Teller)*

Noes (16)

Mr Clarko	Mr Hassell	Mr McNee	Mr Strickland
Mr Court	Mr Kierath	Mr Mensaros	Mr Fred Tubby
Mrs Edwardes	Mr Lewis	Mr Minson	Mr Watt
Mr Grayden	Mr MacKinnon	Mr Nicholls	Mr Blaikie *(Teller)*

Pairs

Ayes	Noes
Mr Bridge	Mr Bradshaw
Mr D.L. Smith	Mr Shave
Mr Donovan	Mr Omodei

Amendment on the amendment thus passed.

Motion - as Amended

Question put and a division taken with the following result -

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Ayes (32)

Mr Ainsworth	Mr Graham	Mr Marlborough	Mr Trenorden
Mrs Beggs	Mr Grill	Mr Parker	Mr Troy
Mr Carr	Mrs Henderson	Mr Pearce	Dr Turnbull
Mr Catania	Mr Gordon Hill	Mr Read	Mrs Watkins
Mr Cowan	Mr House	Mr Ripper	Dr Watson
Mr Cunningham	Mr Kobelke	Mr P.J. Smith	Mr Wiese
Mr Peter Dowding	Dr Lawrence	Mr Taylor	Mr Wilson
Dr Gallop	Mr Leahy	Mr Thomas	Mrs Buchanan *(Teller)*

Noes (16)

Mr Clarko	Mr Hassell	Mr McNee	Mr Strickland
Mr Court	Mr Kierath	Mr Mensaros	Mr Fred Tubby
Mrs Edwardes	Mr Lewis	Mr Minson	Mr Watt
Mr Grayden	Mr MacKinnon	Mr Nicholls	Mr Blaikie *(Teller)*

Pairs

Ayes	Noes
Mr Bridge	Mr Bradshaw
Mr D.L. Smith	Mr Shave
Mr Donovan	Mr Omodei

Question (motion, as amended) thus passed.

House adjourned at 11.09 pm

QUESTIONS ON NOTICE

WESTERN AUSTRALIAN EXIM CORPORATION - BUSINESS MIGRATION DIVISION

Government Payment - Assets and Liabilities

814. Mr COURT to the Premier:

(1) How much did the Government pay for the business migration arm of Western Australian Exim Corporation?

(2) What assets and liabilities were involved in this transaction?

Mr PETER DOWDING replied:

(1) $300 000 was paid for Western Australian Investment Advisory Services (WAIAS) the business migration arm of Western Australian Exim Corporation Ltd.

(2) Assets - $36 894.
Liabilities - $34 018.

WAIAS, as manager of the Western Australian business migration investment trust, will earn an estimated $243 000 in its first year with the Ministry of Economic Development and Trade - 1989-90.

STATE EMERGENCY SERVICE - NEW LEGISLATION

Guidelines Availability - Funding

1121. Mr NICHOLLS to the Minister for Police and Emergency Services:

(1) Has there been any proposed legislation drafted regarding the State Emergency Service?

(2) (a) If yes, when will a Bill be introduced into Parliament; and

(b) if no, is it being compiled at the moment and, if so, when is it expected to be completed?

(3) Are the current guidelines or Cabinet minute covering the SES available to all members of Parliament on request?

(4) What funding was provided to SES, during the 1988-89 financial year, from -

(a) Federal funding;

(b) State funding; and

(c) other funding?

(5) What funding is expected this financial year?

(6) Who is responsible for funding to allow SES emergency vehicles to be replaced?

(7) What are the guidelines regarding the replacement of such vehicles?

(8) (a) Has there ever been an avenue for SES branches to purchase the vehicle which is being replaced, at a minimal cost; and

(b) if so, does this avenue still exist?

(9) (a) Are funds made available to SES branches for members to obtain uniforms; and

(b) if so, what funding and who is eligible?

(10) Are funds available to allow SES branches to obtain new equipment, such as tarpaulins, to replace that which is damaged or lost during emergency situations?

(11) Have any State funding or grants been provided to assist the Mandurah SES branch construct and equip its new facilities?

Mr TAYLOR replied:

(1)-(2)

The matter of possible legislation for the State Emergency Service and the content of such legislation is currently under consideration. It is premature to speculate when any proposed legislation may be introduced into Parliament.

(3) Cabinet minutes are the property of the Government and are not, as a matter of course, made available.

(4) The following funding was provided to the State Emergency Service during the 1988-89 financial year -

(a) Federal funding - $518 838;

(b) State funding - $1 887 000; and

(c) other funding - nil.

(5) The expected funding for the State Emergency Service this financial year is as follows -

(a) Federal funding - $457 000; and

(b) State funding - $1 523 000.

(6) Replacement of State Emergency Service vehicles is funded by the State Government.

(7) The normal guidelines set down, by the Treasury, for the replacement of Government vehicles are -

(a) Four wheel drive vehicles - 100 000 kilometres or four years; and

(b) sedan type vehicles - 40 000 kilometres or two years.

State Emergency Service four wheel drive vehicles' annual kilometrage is low and these vehicles are identified as "special purpose vehicles". They are replaced using different criteria from those described above. In general the vehicles must have travelled at least 100 000 kilometres or be identified as being beyond economical repair by a competent authority before they can be considered for replacement.

(8) (a) Yes. The vehicles are provided to units that ask for them at a price of $12 000. The Government paid 50 per cent of this figure with the local authority or SES unit contributing the balance.

(b) The funding arrangements have been re-assessed.

(9) Uniforms are purchased by the State headquarters of the service, based on bids received from individual units through appropriate regional coordinators. State funds are used for the purchase of such uniforms for both permanent and specified volunteer members.

(10) The State Emergency Service coordinates the replacement of equipment which is expended or damaged during emergency operations.

(11) The Commonwealth Natural Disasters Organisation, through its accommodation subsidy scheme, may provide funds up to $20 000, on a dollar for dollar basis, to local government authorities for the construction of local State Emergency Service headquarters facilities. Applications for such subsidies are made by local authorities to the Director, State Emergency Service. Mandurah received a subsidy of $7 000 in 1981 for the old local State Emergency Service headquarters, but no application has been received for the new complex.

PETROCHEMICAL INDUSTRIES LTD - ARCHER, MR STEPHEN
Western Australian Government Holdings Ltd - Proceedings Representative

1163. Mr HASSELL to the Treasurer:

(1) Is it correct that Mr Stephen Archer, who currently represents Mr Laurie Connell in both civil and criminal proceedings, also represented Western

Australian Government Holdings in relation to its proceedings over the future of Petrochemical Industries Ltd and associated companies?

(2) Bearing in mind that Petrochemical Industries Ltd was acquired by the Government from Mr Connell in controversial circumstances, and without questioning the undoubted reputation of Mr Archer, is the Treasurer concerned at the possibility of a perception arising of conflict of interest?

Mr PARKER replied:

(1) Apparently Mr Stephen Archer, barrister, has accepted briefs from Jackson McDonald, solicitors, acting on behalf of Mr Connell and from Robinson Cox, solicitors, acting on behalf of WAGH.

(2) No. The honourable member is known to have been a legal practitioner. He must know that, under legal convention, a solicitor assembles the materials necessary for presentation to a court and then briefs a barrister who presents the client's case. He must also know that each brief from a solicitor is handled seriatim by the barrister and that a barrister is likely to have many briefs from different firms at any one time. In the client's interest, a solicitor chooses the best available barrister. Professional regard has high priority in the selection criteria and a choice is made without any regard to whether any other particular firm of solicitors may also have briefed that barrister.

A barrister is presumed to be independent and impartial and is bound by the rules of the Bar to accept any brief in an area in which he or she professes to practice, unless he or she considers some special circumstance justifies refusal. The onus is on the barrister to justify any refusal, by showing, for example, possession of confidential information relevant to the brief as a result of advising or appearing for another person on another occasion.

Knowing all of this it is scandalous and outrageous for the honourable member to place this question on notice because, despite the artifices he adopts, he impugns Mr Archer's reputation by it. The clear imputation from the question is that Mr Archer accepted a brief from the solicitors for WAGH in circumstances where he knew he had a conflict of interest.

I also totally reject the member's mischievous and professionally dishonest attempt through this question to contrive a linkage between the legal matters in respect of which Mr Connell's solicitors may have briefed Mr Archer and WAGH's petitions for the winding up of PIL and PCH.

FAMILY - PREMARITAL EDUCATION PROGRAMS
Marriage Guidance Counselling - Expenditure and Allocation

1203. Mr TUBBY to the Minister representing the Minister for The Family:

(1) What was the Government's expenditure in 1988-89 supporting -

(a) premarital education programs; and

(b) marriage guidance counselling?

(2) What is the Government's allocation for 1989-90 supporting -

(a) premarital education programs; and

(b) marriage guidance counselling?

Mrs BEGGS replied:

(1) I thank the member for the question as it allows me to highlight another notable step taken by this Government in supporting families.

The Commonwealth Government supports marriage education through the Marriage Act and marriage guidance counselling through the Family Law Act.

The State Government provided $30 000 in 1987-88 in the Family Package to encourage the development of marriage education programs. This assistance went to three agencies: Marriage Guidance Council of Western Australia;

Centrecare; and Anglican Marriage and Family Counselling. The same level of support was continued in 1988-89. In the 1987-88 Budget the Government recognised the unique situation facing families in rural areas and established the family counselling in rural areas program. An allocation of $200 000 for each of the three year programs is being provided. Five regional agencies are now delivering counselling services to support families and marriage counselling is an important aspect of these services.

In 1989-90 the Government has announced that an additional $200 000 will be provided for marriage education. Of this amount $30 000 will go to the Marriage Guidance Council of WA and up to $20 000 will support activities associated with the WA Marriage and Family Week 1990. Advertisements calling for applications for funding from agencies working in this field will be published shortly.

In addition to the above, members will be interested to know that in this calendar year the Western Australian Family Foundation has provided community grants totalling $21 000 for marriage education initiatives. The State Government has sought to diversify support to families and those entering relationships through grants for initiatives which complement marriage guidance counselling.

(2) As above.

CONSERVATION AND LAND MANAGEMENT DEPARTMENT - TANGANERUP LOTS, NANNUP DISTRICT

Sale Proposal - Ministerial Involvement

1253. Mr MINSON to the Minister for Conservation and Land Management:

(1) (a) Has the Minister been involved in the proposed sale of Department of Conservation and Land Management property in the Nannup district known as the Tanganerup lots of some 200 hectares; and

(b) if yes, in what way?

(2) (a) Did the Minister act on advice from the Department of Conservation and Land Management;

(b) if yes, was the property valued at rural values or special rural values;

(c) if yes, why is the Department of Conservation and Land Management recommending sale of this property and is this normal CALM policy;

(d) if no, can the Minister justify the Minister's actions for any independent negotiations; and

(e) how was the property value determined?

(3) If the sale does not proceed, will the department -

(a) replant the area with -

(i) pines;

(ii) eucalyptus globulous; and

(iii) native tree species; and

(b) use the land for other purposes?

(4) If the sale does proceed, will there be -

(a) a cash settlement;

(b) land exchange; and

(c) any other terms of settlement?

(5) (a) If the sale of this property does proceed, how many properties will CALM be offering for sale in the southern forest region; and

(b) will the Minister identify these blocks and the location numbers?

(6) Will these blocks be sold by -

(a) tender;

(b) private treaty;

(c) land exchange; and

(d) other methods?

Mr TAYLOR replied:

(1) (a) Yes; and

(b) the owner of an adjoining property requested a meeting with me.

(2) (a) Yes;

(b) I have not seen any valuation;

(c) it is unusual, but the case is being treated on its merits;

(d) not applicable; and

(e) see 2(b).

(3) No decision has been made on this matter.

(4) Arrangements have not been finalised, but a cash settlement has been the basis of discussions.

(5) I am not aware of any other proposed sales.

(6) Not applicable.

PETROCHEMICAL PROJECT - PLANT ORDERS
Payment Guarantees - Government Liability

1333. Mr COURT to the Deputy Premier:

(1) Is the Government still liable to pay any funds in relation to the petrochemical project for plant that has been ordered and guaranteed for payment by the Government?

(2) If yes, what is the extent of these outstanding liabilities?

Mr PARKER replied:

(1)-(2)

A letter dated 21 October 1988 from WA Government Holdgins Ltd to the Kwinana petrochemical complex construction and supply contractors has been tabled. In this letter, WAGH gave the contractors an undertaking that all moneys due to them under the Petrochemical Industries Ltd construction and supply contracts, including all moneys due in the event of the termination of those contracts, would be paid. The PIL construction and supply contracts have now been terminated. The contractors have not yet finalised their claims for moneys due on termination of the contracts. However, subject to verification and acceptance of these claims, pursuant to its undertaking, WAGH will have to pay them as PIL is unable to do so. These claims may include charges for plant that has been ordered.

STATE FINANCE - FINANCIAL ASSISTANCE
Mandurah - Bunbury

1359. Mr NICHOLLS to the Treasurer:

What was the extent of financial assistance to Mandurah and Bunbury from all sources within the State Government for the financial years -

(a) 1986-87;

(b) 1987-88;

(c) 1988-89; and

(d) proposed for 1989-90?

Mr PARKER replied:

This information is not readily available. The member for Mandurah should address specific questions to relevant Ministers.

WESTRAIL - HOUSES
Merredin

1405. Mr COWAN to the Minister for Transport:

(1) Is the Minister aware that many of the houses occupied by Westrail employees in Merredin have outside toilets and laundries situated on only partially enclosed verandahs?

(2) Is the Minister also aware that many of the Westrail houses have received little or no maintenance for the last five years?

(3) What is Westrail's policy in regard to renovating and upgrading these houses?

(4) Has responsibility for the maintenance of Westrail houses in Merredin been transferred to the Government Employees' Housing Authority or does it remain with Westrail maintenance staff?

(5) Irrespective of who is responsible, what action will the Minister take to ensure that proper maintenance is carried out on Westrail housing in Merredin and that the general standard of house available to Westrail workers is improved?

Mr PEARCE replied:

(1) Yes.

(2) Maintenance is not carried out to those houses no longer required by Westrail and leased to non-employees. The level of maintenance associated with the remainder has varied from complete upgrade to isolated attention to reported problems.

(3) Westrail's current policy is to progressively upgrade those dwellings essential for its ongoing operational requirements.

(4) The maintenance of houses in Merredin is the responsibility of Westrail.

(5) With the exception of houses which are surplus to requirements, essential maintenance is being carried out on Westrail housing in Merredin and as funds permit those houses that are to be retained will be progressively upgraded.

BUILDING MANAGEMENT AUTHORITY - PUBLIC BUILDINGS FINANCE
Western Australian Building Authority - Loan Amount

1414. Mr MENSAROS to the Minister for Works and Services:

(1) How much of the total amount to be used for public buildings by the Building Management Authority in the current financial year has been or will be borrowed by the Minister for Works and Services as the Western Australian Building Authority?

(2) If the total amount has not been or will not be borrowed by the Western Australian Building Authority, how is the balance sourced?

Mrs HENDERSON replied:

(1) Nil.

(2) All construction of public buildings is financed from the General Loan and Capital Works Fund.

FORESTRY - DIEBACK
Environmental Protection Authority - Occurrence and Severity Inquiries

1434. Mr WATT to the Minister for Environment:

(1) Further to question 17 of 1974 -

(a) since 1984, has the Environmental Protection Authority - or the

former Department of Conservation and Environment - investigated the occurrence and severity of the various types of *Phytophthora* dieback in the State, or sought a report or briefing from the Department of Conservation and Land Management; and

(b) if so, what conclusions have been reached and further actions proposed?

(2) (a) Since 1984, has the Environmental Protection Authority - or the former Department of Conservation and Environment - examined the scope and extent of research being carried out into the nature, extent, implications of depredations and measures required to tackle them, of *Phytophthora* dieback; and

(b) if so, what have been the conclusions reached and further actions proposed?

(3) If the Environmental Protection Authority has not obtained a reliable overview of the current extent, implications and research into *Phytophthora* dieback, will it now seek to obtain such information?

Mr PEARCE replied:

(1) The Environmental Protection Authority has not specifically investigated diseases in the State since 1984. However, the authority has required proponents of development proposals to fully address, where relevant, issues associated with the management of dieback diseases, through the environment impact assessment process. This is done in consultation with the Department of Conservation and Land Management with the major objective of avoiding the spread of the diseases.

(2) No, although the Environmental Protection Authority is represented on the research steering committee, which reviews research programs including CALM's disease research. In addition, the authority was made aware of and supported CALM's disease research in the WA Chip and Pulp Co Ltd woodchip review in 1988. The authority pointed to the need to undertake research into the ecological implications on the forest affected by disease and pests in its report of WACAP's proposal.

(3) The Environmental Protection Authority advises that it has confidence in the work being undertaken by the Department of Conservation and Land Management on *Phytophthora* diseases and in the advice received from that department.

HEALTH - HOSPITALS
Laundry and Linen Services - Cost

1452. Mr MENSAROS to the Minister for Health:

For each of the past three years or financial years - for whichever the accounting is done - what has been the cost of Hospital Laundry and Linen Services expressed per kilogram of laundry and linen services?

Mr WILSON replied:

1986-87	$1.31.7 per kilogram;
1987-88	$1.24.4 per kilogram; and
1988-89	$1.50.0 per kilogram.

PORTS AND HARBOURS - GERALDTON
Deep Water Port Proposal - Commencement

1454. Mr MINSON to the Minister for Mid-West:

With respect to the proposed deep water port for Geraldton -

(a) has a decision been made as to when the port will be commenced;

(b) has a decision been made as to where the port will be constructed;

(c) can the Minister give any details of how the port and its infrastructure

will be funded - for example, will the cost be met from public funds or will the "user pays" principle apply; and

(d) in the event that the Oakajee site cannot be funded, will the Minister support Point Moore as an alternative?

Mr CARR replied:

(a)-(d)

The present Port of Geraldton adequately meets the current needs of the region. The Geraldton region plan noted that there may be draft limitations to the port for its future operations and the present public debate stems from the recent release of the Geraldton Port Authority's engineering assessment of the feasibility of establishing a deep water port at Point Moore. However, it is important to note that there are other considerations not addressed in the Port Authority study: An expanded port may not be suitable for other exports such as large volumes of ore; congestion of road and rail services to the port is already an issue and may be exacerbated; and the impact of additional port services on the town centre needs to be explored.

Another planning issue for the future is the establishment of an industrial park for Geraldton. The Geraldton Mid West Development Authority has identified the area at Oakajee as suitable and will shortly establish an automatic weather station in the area to confirm the suitability of the proposed site for heavy industry. As with all long term planning issues, the question of funding for the development has not yet been considered. The first need is to establish options that will satisfy future needs; determine the most suitable option in all of the circumstances; and then develop that option to the next state. It is clear, however, that the final costs for a deep water port in the Geraldton mid west region would ultimately lay with a proponent of an industry with sufficient export cargoes associated with the development.

PORTS AND HARBOURS - GERALDTON
Deep Water Port Proposal - Site

1455. Mr MINSON to the Minister for Transport:

With respect to the proposed Geraldton deep water port -

(a) has a decision been made as to the site of the port;

(b) when will the development commence;

(c) if the answer to (a) is no, does the Minister have a preference for a site; and

(d) how will the development be funded -

(i) public;

(ii) user pays; and

(iii) other?

Mr PEARCE replied:

See answer to question 1454.

WESTERN AUSTRALIAN DEVELOPMENT CORPORATION - WESTERN AUSTRALIAN TREASURY CORPORATION
Loan - Rate of Interest

1456. Mr MacKINNON to the Premier:

(1) Why did the Western Australian Development Corporation borrow $18 million from the Western Australian Treasury Corporation during the year ending 30 June 1989?

(2) When did the Western Australian Development Corporation borrow the funds?

(3) What rate of interest was payable on the funds?

(4) What further funds have been borrowed by the Western Australian Development Corporation from the Western Australian Treasury Corporation since 30 June?

(5) Has the Western Australian Development Corporation also borrowed funds from any other Government source - for example, State Treasury - and, if so, how much, when and at what rate of interest?

Mr PETER DOWDING replied:

(1) The funds were used to purchase assets from the Urban Lands Council (Landbank) and provided working capital for the operations of LandCorp.

(2) Draw down commenced 28 March 1988.

(3) Interest rate varies relative to market fluctuations, but is struck for the term at the average bank bill rate published on Reuters screen BBSW on the day. An administration fee of 0.05 per cent is paid in addition to the rate.

(4) $2 million. Interest rate varies relative to market fluctuations as per answer to (3).

(5) Exim pastoral properties were transferred to WADC at a value of $5.5 million to allow Exim to close its operating accounts in this area. Interest is accruing on the debt to Exim Corporation at the rate of 15 per cent per annum. The properties are for sale and when the sales are concluded this outstanding debt will be repaid.

GOLD CORPORATION - WESTERN AUSTRALIAN TREASURY CORPORATION
Loan - Reason

1458. Mr MacKINNON to the Premier:

(1) Why did Gold Corporation borrow $75 658 541 from the Western Australian Treasury Corporation during the year ending 30 June 1989?

(2) When did Gold Corporation borrow the funds?

(3) What rate of interest was payable on the funds?

(4) What further funds have been borrowed by Gold Corporation from the Western Australian Treasury Corporation since 30 June?

(5) Has Gold Corporation also borrowed funds from any other Government source - for example, State Treasury - and, if so, how much, when and at what rate of interest?

Mr PETER DOWDING replied:

(1) As part of its former gold banking activities - now transferred to R & I Gold Bank - Gold Corporation established a US dollar facility with the Western Australian Treasury Corporation to draw funds from time to time as required to fund gold banking operations. Use of the facility began in January 1989.

(2)-(3)

As at 30 June 1989 outstanding borrowings were as follows -

Draw Down Date	Amount (US$)	Interest Rate	Maturity
30.6.89	8 430 957.48	9.51%	31.7.89
31.5.89	9 912 587.50	9.62%	03.7.89
15.6.89	36 100 063.88	9.33%	15.9.89
21.4.89	2 853 202.72	10.29%	18.10.89

(4) None.

(5) The Gold Corporation subsidiary, the Western Australian Mint, has two loans, both of which pre-date the formation of Gold Corporation. These are -

(i) $250 000 loan from the then State Government Insurance Office taken out in 1978 for coining equipment - which is still in use. The term is

15 years at a fixed rate of 9.7 per cent. The then Treasurer, Sir Charles Court, provided a guarantee.

(ii) $5 million interest-free loan from Treasury taken out in May 1987 as part contribution to the construction of new gold refineries in Perth and Kalgoorlie.

The corporation operates a US dollar account with R & I Gold Bank which includes an overdraft facility.

STATE GOVERNMENT INSURANCE COMMISSION - WESTERN AUSTRALIAN TREASURY CORPORATION

Loan - Reason

1459. Mr MacKINNON to the Treasurer:

(1) Why did the State Government Insurance Commission borrow $40 million from the Western Australian Treasury Corporation during the year ending 30 June 1989?

(2) When did the SGIC borrow the funds?

(3) What rate of interest was payable on the funds?

(4) What further funds have been borrowed by the SGIC from the Western Australian Treasury Corporation since 30 June?

(5) Has the SGIC also borrowed funds from any other Government source - for example, State Treasury - and, if so, how much, when and at what rate of interest?

Mr PARKER replied:

(1) The $40 million were borrowed to assist with the commission's cash flow requirements.

(2) 28 July 1988.

(3) The funds were borrowed on a 30-day rollover basis with the interest rate renegotiated at approximately 0.10 per cent per annum above the bank bill rate - that is, on 31 May 1989 renegotiated to 30 June 1989 (30 days) at 18.239 per cent per annum.

(4) As the State Government Insurance Commission utilises the Western Australian Treasury Corporation facility for its normal day-to-day overdraft requirements, and from time to time there have been both drawings and repayments since 30 June 1989.

Date	Transaction Millions	Balance Outstanding To WATC
30.06.89		$40 million
07.07.89	5.00 Repayment	$35 million
30.08.89	(2.00) Drawing	$37 million
04.09.89	(0.50) Drawing	$37.5 million
05.09.89	(2.00) Drawing	$39.5 million
11.09.89	1.20 Repayment	$38.3 million
12.09.89	(0.70) Drawing	$39 million
18.09.89	1.80 Repayment	$37.20 million
20.09.89	2.20 Repayment	$35 million
03.10.89	25.00 Repayment	$10 million

Note: A repayment of $30 million was made against bills of exchange falling due in the first weeks of July 1989 under a short term bank credit facility arranged in December 1987 with a consortium of five major banks in the Australian market.

(5) The State Government Insurance Commission arranged a $400 million syndicated bank facility to fund the purchase of various Bell Group Limited

large central business district property and shares in BHP. To meet the required settlement date and draw down of this facility, bridging funding of $230 million was obtained through the Western Australian Development Corporation for four days from 27 November 1987 to 1 December 1987 at 15.25 per cent per annum. The State Government Insurance Commission from time to time may have recourse to limited access of bank overdraft facilities with the R & I Bank. A credit facility with five of Australia's leading banks had the R & I Bank as a member for this special short term borrowing. No other Government sources have been used for borrowed funds.

STATE GOVERNMENT INSURANCE COMMISSION - WESTERN AUSTRALIAN GOVERNMENT HOLDINGS LTD
Investment - Money Source

1460. Mr MacKINNON to the Treasurer:

From where did the State Government Insurance Commission obtain the $175 million it invested into Western Australian Government Holdings Ltd?

Mr PARKER replied:

These funds were obtained from the sale of securities within the commission's fixed rate interest portfolio.

HEALTH - NURSES
Mental Health Training - Review Committee Report

1481. Mr HASSELL to the Minister for Health:

(1) Further to question 382 of 1989, has the review committee reported its findings on the training of mental health nurses?

(2) If so, will the Minister table the report?

Mr WILSON replied:

(1) The committee convened in March 1989 to report on the transfer of mental health nurse education to the tertiary section has not yet completed its task, although it is anticipated that it will report in the near future.

(2) I will table the report when it has been completed.

ROADS - SERVETUS STREET
Current Plans

1482. Mr HASSELL to the Minister for Transport:

What are the current plans for Servetus Street?

Mr PEARCE replied:

The metropolitan region scheme allows for a new road to be built to the west of Servetus Street. The Government has acquired the majority of private houses required for this road. There are no plans for construction of this new road in the immediate future. Arising out of traffic management and other road related matters, there have been recent discussions with local government representatives, which involved some design aspects of the new road. Details of design proposals will not be finalised before consultation has taken place with the local governments involved.

SPORT AND RECREATION - COMMUNITY SPORTING AND RECREATION FACILITIES FUND
Funds Allocation

1487. Mrs EDWARDES to the Minister representing the Minister for Sport and Recreation:

Will the Minister please advise what total funds have been allocated to the community sporting and recreation facilities fund for 1989-90?

Mrs BEGGS replied:

$2.682 million.

SPORT AND RECREATION - COMMUNITY SPORTING AND RECREATION FACILITIES FUND
Projects - Funds Allocation

1488. Mrs EDWARDES to the Minister representing the Minister for Sport and Recreation:

Referring to question 795 of 1989, will the Minister please advise the amount of funds allocated to each of the projects alluded to?

Mrs BEGGS replied:

Projects committed to the community sporting and recreation facilities for 1989-90

	$
Wyalkatchem Gold Club - Redevelopment of Golf Clubhouse	20 000
Toodyay Tennis Club - Upgrade four tennis courts with synthetic grass	20 000
West Stirling Tee Ball & Softball Club - Construction of clubrooms	20 000
Albany Sea Rescue - Construction of Amenities Block	20 000
Walliston Riding and Pony Club - Reconstruction of Clubhouse Kalamunda	15 000
Trigg Island Surf Life Saving Club - Planning of Clubhouse	25 000
Shire of East Pilbara - Construction of Swimming Pool in Marble Bar	168 000
Shire of Boddington - Construction of Recreation Centre - Recreation Grounds, Boddington	20 000
Shire of Shark Bay - Construction of Recreation Centre, Denham	20 000
Shire of Donnybrook-Balingup - Construction of Aquatic Centre and Recreation Centre - VC Mitchell Park, Donnybrook	65 000
Women in Sport Council - Provision of Child-care facilities	250 000

MEMBERS OF PARLIAMENT - GOVERNMENT FILES
Access - Government Policy

1492. Mr MENSAROS to the Premier:

Is it the Government's policy to allow members of Parliament - even if on a confidential basis - access to Government files if the consideration of matters in these files affects the members' electorates?

Mr PETER DOWDING replied:

The policy as with previous Governments is that consideration is given to each request and a decision made on the merit of the application.

IRON ORE - JAPANESE IMPORTS
Australia - Brazil and India

1493. Mr MENSAROS to the Minister for Resources Development:

(1) What are the percentages of the total Japanese imports for Western Australia-supplied iron ore for the Japanese financial years -

(a) 1986-87;

(b) 1987-88; and

(c) 1988-89?

(2) What were the respective percentages of Japanese imports from Brazil and India during the same years?

Mr PARKER replied:

(1)

	JFY	
(a)	1986	39.9%
(b)	1987	41.4%
(c)	1988	42.7%

(2)

	JFY	BRAZIL	INDIA
(a)	1986	22.9%	18.9%
(b)	1987	24.1%	17.3%
(c)	1988	23.0%	17.8%

HOUSING - HOMESWEST
Residential Rental Tenancies - Statistics

1498. Mr LEWIS to the Minister for Housing:

What is the total number of Homeswest's residential rental tenancies on its inventory as at 30 June 1989?

Mrs BEGGS replied:

The total number of Homeswest rental properties is 33 189 as at 30 June 1989.

HOUSING - KEYSTART HOME LOANS SCHEME
Administrators - Service Remuneration

1502. Mr LEWIS to the Minister for Housing:

(1) Are the administrators to the Keystart home loans scheme being remunerated for their services?

(2) If yes, what is the rate of remuneration applicable and how much have they been paid to 30 September 1989 since the inception of the scheme?

Mrs BEGGS replied:

(1) Yes.

(2) Price Waterhouse, International Chartered Accountants' fee is 0.35 per cent of funds under management. $150 000 has been paid to 30 September 1989.

HOUSING - KEYSTART HOME LOANS SCHEME
Financiers - Government Surety

1503. Mr LEWIS to the Minister for Housing:

Under what Statute, regulation or authority has the Government - via the Treasury, Homeswest or any other Government department or agency - guaranteed, indemnified, underwritten or given any other surety or letter of comfort to the administrators, trustees or otherwise the lenders of funds to the Keystart home loans scheme?

Mrs BEGGS replied:

A deed of indemnity in favour of National Mortgage Market Corporation Ltd was issued under section 12 of the Housing Act 1980. National Mortgage Market Corporation Ltd, being a "person" engaging in an activity related to the objects of the Housing Act, pursuant to section 16.

QUESTIONS WITHOUT NOTICE

STATE GOVERNMENT INSURANCE COMMISSION - BELL GROUP SHARES
Sale - Tenderers

240. Mr COURT to the Treasurer:

(1) How many tenderers were there for the SGIC shareholding in the Bell group of companies?

(2) Are any of the tenders to be accepted?

(3) If the shares cannot be sold by tender, how will they be sold?

(4) Is the Government currently involved in negotiations with the SGIC and Bond Corporation in relation to the sale of these shares?

The SPEAKER: Before calling on the Treasurer to answer, the third part of that question is out of order. The balance can be answered.

Mr PARKER replied:

(1)-(2), (4)

No notice was given of this question, so I do not have any details with me of the responses to the tender which the SGIC issued. The SGIC has issued a public release on the matter in which, as I recall it, it has detailed both the nature of the expressions it received, including one made very public by Bond Corporation, its response, and what it might do in the period after that. I do not have it with me and I cannot recall the detail because it happened while I was away, but it is really a matter for the SGIC and its board. I shall be more than happy to obtain the information from the SGIC if the member puts that part of the question on the Notice Paper.

Discussions have taken place on a range of fronts in an endeavour to resolve many of the matters outstanding between the Government and Bond Corporation. I would not go so far as to describe them as negotiations, but there have been discussions. To date there has been no outcome.

CHARITIES - GOVERNMENT FUNDING
Liberal Party's Save our State Campaign - Reduction Claims

241. Mr CATANIA to the Premier:

Is the Premier aware of the claims attributed to the Liberal Party's Save Our State campaign that certain State charities have had their funds slashed by the State Government? If so, what can the Premier say about these claims?

Mr PETER DOWDING replied:

The advertisement put out by the Liberal Party and its organisation is totally misleading and utterly incorrect. I have had some telephone calls and contact from some of the people referred to in that advertisement complaining bitterly that they are being politicised by the Liberal Party as a result of their inclusion in this advertisement.

The vote for the particular charities in the 1988-89 Budget was $1.233 million. In the 1989-90 Budget the estimate for those charities is $1.593 million, an increase of $360 000. The reduction in the allocation to the Association for the Blind was negotiated with the association as a result of its startlingly good performance in putting itself on a commercial footing. Good Samaritan Industries has done equally wonderful work to put itself on a

commercial footing - work for which I commended that organisation publicly at an opportunity I recently had to visit it; that organisation can only be commended for its approach. There was a $5 000 reduction for the State WA Memorial. Those reductions can be compared with a $28 000 increase for the Anzac Day Trust, a $20 000 increase for the Asbestos Diseases Society, and a $90 000 increase for the Civil Rehabilitation Council. There are extras for a whole variety of other organisations as well.

It is not helpful for the community to have the Liberal Party actively misleading it about the way in which the Government has proposed the distribution of funds in its Budget. The Liberal Party, in its enthusiasm for the cause, having lost the election, is now trying to whip up the perception that there is a major community demand against the Government. It is now trying to use charitable institutions in this campaign without their knowledge, consent or approval, without even having the decency to tell them that they will be included in advertisements or giving them an opportunity to withdraw or have their names deleted from the advertisement. The Liberal Party has included in this most embarrassing and over-the-top advertisement, which is untrue and absolutely incorrect, misleading information put in without any authorisation from the organisations concerned. That is an absolute disgrace.

INTERNATIONAL BUSINESS DEVELOPMENT PTY LTD - TREASURY DEPARTMENT

Consultancy Contract

242. Mr HASSELL to the Treasurer:

(1) Is he aware of any contract for consultancy or services between the State Treasury or a subdepartment and the firm International Business Developments jointly owned by Kevin Edwards and Tony Lloyd?

(2) If so, will the Treasurer please furnish details to the House?

(3) If he is not aware, will he please investigate and advise the House tomorrow?

Mr PARKER replied:

(1)-(3)

I am not specifically aware of any of the points the member has raised. I have had contact with the firm mentioned, but I do not understand that it is jointly owned by Mr Tony Lloyd or Mr Kevin Edwards, or by them at all. I could be wrong; I shall check that. As to the rest of the matter, if the member genuinely wants an answer to these matters he can put the question on the Notice Paper.

CRIME - PORT HEDLAND

Assault Report - Public Concern, Government Action

243. Mr GRAHAM to the Minister for Police and Emergency Services:

(1) Is the Minister aware of an incident reported in today's *The West Australian* about an assault reported in Port Hedland? It appears to be an isolated incident, but it would concern me if this type of incident became the norm.

(2) The Minister would also be aware of public concern about the level of crime in Port Hedland. Can the Minister please advise the House what steps the Government has taken on these types of issues in Port Hedland?

Mr TAYLOR replied:

(1)-(2)

I am aware of the report referred to. It is appropriate to say to the member for Pilbara in particular that the example he sets in his electorate in terms of being involved with the local community and with the Police Force in that area to try to overcome some of the problems faced by the community in Hedland last year is an excellent one for all members of Parliament.

Last year I attended an unforgettable meeting at the community centre in

South Hedland. Many hundreds of people attended, and great concern was expressed for the law and order position in both South Hedland and Port Hedland. Since then there have been some remarkable examples of how a community, a Police Force, and particularly a member of Parliament, can work together to overcome some of those problems.

Since that meeting the community police liaison officer appointed to that community has been made Citizen of the Year in Port Hedland for the work he has done there. The Police Force has run blue light discos for juveniles; an Aboriginal visitors' scheme has been introduced which, I am pleased to say, is being run by a local church organisation, and the Commissioner of Police has appointed a forensic officer to the area, as well as a significant number of additional police officers. The police have gone out of their way to ensure they work closely with the local media to try to get the point over that they are working with the community. In addition, other Government organisations such as the Department for Community Services have clearly improved their liaison with the Police Force and their after hours contact with police officers and the community; the police station itself is now open 23 hours a day, which is a significant improvement on what existed before. The police have also instituted truancy patrols during school hours, which has had a remarkable impact on the number of daylight break and enter offences in that area. There has also been a reduction in sales of bottled alcoholic drinks from liquor outlets with an emphasis on the reduction of selling drinks in glass containers. All in all, in South Hedland in particular this has meant a great improvement in the law and order situation. The Police Force has received both written and verbal appreciation for its efforts from the people running the shopping centre there. Most importantly for the member for Pilbara, I am told that stealing offences are down by 37 per cent against the previous 12 months. On top of that, break and enter offences also are down by 12 per cent.

I congratulate the Hedland community for the way in which it has worked with the Police Force and the police officers for the way in which they have gone about their job; and I especially congratulate the member for Pilbara for his close involvement with the community and the Police Force to ensure that these remarkable figures and the positive outcome are the results of a meeting that took place nearly 12 months ago in what at that time was a very angry community.

PETROCHEMICAL PLANT - EXPLOSION, HOUSTON, TEXAS
Kwinana Location - Government Consideration

244. Mr LEWIS to the Deputy Premier:

(1) Did the Government take into account an explosion and disaster such as that which occurred at a petrochemical plant in Houston, Texas, this week, when it decided to locate its petrochemical project in the tight environs of the Kwinana industrial area?

(2) Would the plant's close proximity to other industry - for example, an oil refinery, LPG plant and a sodium cyanide plant - add to the risks involved?

(3) In view of the Houston disaster, will the Government review its decision to site a future petrochemical plant at Kwinana rather than in the Pilbara?

Mr PARKER replied:

(1)-(3)

It is interesting that the member for Applecross seems to have different ideas about the problems in the Pilbara and Kwinana. However, I do not think highly of the Opposition for using a tragedy such as this for political purposes.

Mr Hassell: It is a legitimate issue.

Mr PARKER: I find it a little sick when people try to make capital out of things like this. As every person of decency in this House knows, the tragedy happened the day before yesterday and the information -

Mr Lewis: Your left wing knows about it.

Mr PARKER: If the member for Applecross wishes to align himself with Dr Dale, he can go right ahead. As far as I am concerned consideration of this or any other tragedy forms part of the thinking of various State authorities such as the Environmental Protection Authority, and the assessment of tragedies of this sort and the extremes that might be possible form part of the assessments made of these projects. Extensive risk assessment was done by the EPA and the Department of Resources Development in respect of this project, as well as other projects to which the member for Applecross has referred. All of them have shown certain standards of risk. As each new experience comes along, it forms part of the work done to assess what that means. I do not doubt that in the fullness of time, away from the emotionalism of those who would seek to capitalise on this tragedy, the EPA, the Department of Resources Development and the State Emergency Service will ensure that all the lessons of this tragedy are taken into account when planning for any future industry, whether that industry is developed in the Pilbara, in the Kwinana area, or anywhere else in the State which might have an impact on Western Australians.

EDUCATION - TERTIARY FEES

Up Front Payment, Federal Proposal - Rural Family Effects

245. Mr READ to the Minister for Education:

What impact will the introduction of up front tertiary fees to the tune of $1 200 per annum, as proposed by the Federal Opposition, have on country families?

Dr LAWRENCE replied:

This is a question worth examining because there has been very little comment generally about the possible impact of these proposed fees. I have always believed strongly that tertiary education should be free. There is debate within my own party and between parties about that. However, if it cannot be entirely free, the higher education contribution scheme, introduced by the Federal Government, is at least a fair scheme because people do not pay it until they have completed their degrees and are able to earn sufficient funds to cover the cost. That is infinitely preferable to the up front payment proposed by the Federal Opposition. That would have a particularly devastating effect on country people, who already pay heavily to send their children to Perth for higher education. Even if they are able to take advantage of country contracting for perhaps one year, they still eventually face sending their children to the city and the cost of travel, accommodation, books, board and other fees which they inevitably have to pay. An additional $1 200 would be more than many of them could bear.

Rural participation in higher education is already alarmingly low and we need to do a lot to improve it. This proposed fee, which adds considerably to parents' up-front costs, will not help that participation rate. For example, it is very low in the Kimberley - the lowest, and the most distant - where costs are highest for parents compared with the metropolitan area. I think that participation rate could drop considerably. I know the Federal Liberal Opposition is proposing some scholarships, but the indications are that these will be allocated to students with the highest TEE marks. Although I would be the first to claim that people from country areas are as smart as those in city areas, they do not always have the competitive push nor do they always get the highest TEE marks which would enable them to get those scholarships. Those scholarships would almost certainly go to students from privileged and wealthy backgrounds, so country people would be hit for a double whammy by the Opposition's proposals.

EDUCATION - "AGRICULTURE AND YOU" TEACHERS' GUIDE
Publication Delay - Due Date

246. Mr AINSWORTH to the Minister for Education:

(1) Why has the publication by "WestEd" of the teachers' guide, "Agriculture and You" been delayed?

(2) When can agriculture course teachers expect to receive the text to go with the newly developed course, which is already being taught in schools?

Dr LAWRENCE replied:

(1)-(2)

I will have that matter investigated for the member. I am not sure of the answer but I feel it has something to do with the industrial disputation and the fact that the Teachers Union would not receive any material from the ministry.

DRAINAGE SUMP - SCENIC DRIVE, WANNEROO
Relocation Plans

247. Mrs WATKINS to the Minister for Planning:

Following recent discussions between Department of Planning and Urban Development officers, Wanneroo City councillors and local residents concerning the drainage sump in Scenic Drive, Wanneroo, could the Minister advise whether a solution has been found to relocate the sump?

Mrs BEGGS replied:

I thank the member for her concern in this matter. This is not an isolated issue that relates only to Wanneroo, but it is a matter brought to my attention through the member for Wanneroo because of the diligence of local residents. The City of Wanneroo requested the location of a necessary drainage sump in Scenic Drive in what is a recreational reserve. Naturally the residents were somewhat concerned about that, not only for aesthetic reasons but also because of the possibility of that sump affecting the quality of the water in Lake Joondalup. As members know, that lake forms an integral part of the proposed Kings Park of the north. At my request, the Chief Executive of the Department of Planning and Urban Development met with the Wanneroo City Council, which also sent a deputation to me on this matter, and local residents to look at the options.

Mr Lewis: Was that Mr McKendrick?

Mrs BEGGS: Mr McKendrick is not from the office of the Department of Planning and Urban Development, as the member well knows. Of course, he could have forgotten it.

Mr Pearce: You have to tell him every day. The retraining costs for the member for Applecross are immense.

Mrs BEGGS: They are indeed.

Unfortunately, there has not been appropriate planning about the extent of the drainage that was required - I am not blaming the authority - and it was impossible to locate the drainage sump anywhere other than on the recreation reserve. I have been advised by a meeting at my department that a compromise has been reached to meet the needs and concerns of the residents about relocating it on the open space adjacent to Lake Joondalup.

The member for Wanneroo - quite correctly - raised the matter earlier today, before I had the information, that it would be subjected to clearances by the EPA and CALM. I am sure we will be able to work out that matter. For the member's information, as a result of the advice I have received from the department, I will ask the council to submit a development application and it will have to go through those processes. Once approval is given, construction will commence. I am aware, as a result of the information that has come

forward from the member for Wanneroo and other residents, of other developments in the area that will impact on the lake area. For example, I understand there are plans for a two-carriage road. I advise the member that, in consultation with the Minister for Transport, I will certainly be looking at the matter to see whether it is compatible with the components of the Kings Park of the north program. I hope the residents' requests will be met and the fragile environmental system in the area will be protected from encroaching developments.

MARINE AND HARBOURS, DEPARTMENT OF - HILLARYS MARINA
Retail Traders' Problems - Government Action

248. Mr CLARKO to the Minister for Transport:

(1) What role is the Department of Marine and Harbours taking in regard to the considerable disquiet among retail traders located at the Hillarys marina?

(2) Does the Government plan any action to restore business confidence among these retailers?

Mr PEARCE replied:

(1)-(2)

Obviously, there has been a problem with the Hillarys marina because of the financial difficulties faced by the Lombardo group. It is known for a fact that the tenants of Lombardo's have suffered and this has flowed on to the tenants of the Department of Marine and Harbours on the Hillarys marina. I have met with a number of people in various situations in the marina and I have been prepared to tell them that I am happy to look at any proposal. The difficulty is that some businesses are experiencing problems and some businesses are in a very profitable situation. That is no different from the standards that apply in any shopping centre; but I accept that there are some significant problems as a result of Lombardo's collapse and selling assets to someone else. It is a matter of bad advertising because when one of the main tenants is in difficulties, that will have a flow on effect to all other tenants. However, it is necessary to understand that these people became involved in a commercial enterprise for commercial profits and took commercial risks. I thought that commercial risk was something the other side of politics was very keen on; I thought members opposite did not want the Government to take action to save people when they get into a commercial problem. I am sympathetic with the problems of these small business people, but I wish to know from day to day when I come into the Parliament whether we will be chastised for assisting, or asked to assist, commercial people by the Opposition. With a little consistency it may be possible to answer this kind of question.

ABORIGINAL AFFAIRS - SACRED SITES, BROOME
Status - Leader of the Opposition's Statements

249. Mrs BUCHANAN to the Minister for Aboriginal Affairs:

Has she seen the report on statements made by the Leader of the Opposition regarding the status of sacred sites in Broome?

Dr LAWRENCE replied:

I am sorry that the Leader of the Opposition is not here this evening to hear my reply. I was impressed by the serious attempts made by the Aboriginal people to identify the sites of archaeological significance near Broome, yet the Leader of the Opposition and Mr Lockyer, from another House, jumped on the bandwagon and described the report developed by the department as "evil". This report was produced at the request of the local Aboriginal community who were attempting, quite sensibly, to develop a heritage trail called the LuruJarra Heritage Trail. In an attempt to prevent conflict, this report was undertaken and the local community has been advised of a proposition.

It was suggested that the local shire and others be involved in a management

plan for the whole area. Although the Leader of the Opposition may not know it, prosecutions under the Aboriginal Heritage Act do not require that sites be known before developments are halted and problems can be encountered when a site is not known - as happened at Rottnest where the developer found in the middle of a development that he was in breach of the Act. This provision has been in operation since 1972. The other option is to have the sites identified in advance, and this was a responsible attempt by the Aboriginal community and the sites department to ensure that all parties knew where the areas were. It is not the case, as suggested by the Leader of the Opposition, that these sites necessarily prevent development, as there is not necessarily an incompatibility between the development and the identification of the area. The Act does not ensure that.

In addition, the Leader of the Opposition insisted on calling sites of archaeological significance sacred sites when, under the Act, they are not so described. Another example of misrepresentation was when he said that the Cable Beach Resort, the Palm Beach Resort, the planned General Broome Hotel, land subdivisions and so on would all be affected by the presence of these archaeological sites; that is clearly rubbish and I hope that the Leader of the Opposition will inform himself properly and not seek to describe what is a responsible process as evil.

STATE FINANCE - ARNOTTS BISCUIT COMPANY
Government Assistance - Newspaper Advertisement

250. Mr LEWIS to the Premier:

In view of the Premier's comments about advertising and charities, I ask him -

(1) Was the biscuit company Arnotts mentioned as a recipient of State Government assistance in a Government full page newspaper insert advertisement of last week?

(2) Is it true that contrary to the Government's assertions, Arnotts has never received any grant of moneys for the purpose purported in the advertisement?

(3) Is it also true that Arnotts name was used without any reference to or authority from that company?

Mr PETER DOWDING replied:

(1)-(3)
I will give an answer to the question when the member is serious about it.

Mr Lewis: You can throw mud across the floor.

Mr PETER DOWDING: "We can throw mud across the floor" say the people who have been throwing more mud with less justification than in any parliamentary year in which I have ever been involved. These people have slaughtered the reputation of public servants and business people of this State and people who have worked in a purely professional capacity, yet they say that to me when I criticise the member for participating in politicising a charitable body without permission.

Several members interjected.

Mr PETER DOWDING: One of the responsibilities of Government is to provide services and a variety of programs for the public, and to make those programs known to the public; they are not just for a select few of the Opposition's mates. If the department decided it is appropriate to inform the community of the variety of schemes that are available to assist enterprises in this State, it ought to be allowed to do so rather than being chastised; however, this has enabled us to know where the Liberal Party is coming from. But that has absolutely nothing to do with the frankly disgraceful political attempt to involve a charitable organisation, without reference to it, in a secret political process. Was it a Liberal Party advertisement, or was it not?

Several members interjected.

Mr Lewis: It was misinformation - $60 000 worth.

Mr PETER DOWDING: Is it a Liberal Party advertisement, or is it not?

Mr Court: No, it is a Labor Party advertisement.

Mr PETER DOWDING: I am not talking about that one.

Several members interjected.

Mr PETER DOWDING: Is the copy of the advertisement which I have in my hand a Liberal Party advertisement?

Several members interjected.

The SPEAKER: Order!

Mr PETER DOWDING: The member asked me about an advertisement inserted by the Government and he asked that in reference to a comment I made about another advertisement. Yes, the Government did insert the advertisement to which the member referred. Did the Liberal Party insert in the Press this advertisement which I have in my hand?

Mr Lewis: I didn't.

Mr PETER DOWDING: Did the Liberal Party?

Mr Lewis: I don't know.

Mr Court: Read what it says on the bottom.

Mr PETER DOWDING: It says that it was authorised by Bevan Lawrence, convener of the Save Our State campaign.

Mr Court: Why are you asking us that question when it was put in by that organisation?

Mr PETER DOWDING: Does it not have something to do with the Liberal Party?

Mr Court: Every question time Bevan Lawrence's name comes up. He has you worried.

Several members interjected.

The SPEAKER: Order! Can members imagine reading *Hansard* tomorrow and making sense of it? I would be most confused.

Mr PETER DOWDING: For the record it should show that the advertisement that I am holding and which purports to be inserted by Bevan Lawrence, the convener of the Save Our State campaign, is an advertisement which the Liberal Party says was not inserted by it as part of its program. Is that right? Members opposite have an opportunity to deny it.

Several members interjected.

Mr Court: Tell us about the $60 000 you have spent.

Mr PETER DOWDING: The Liberal Party has not denied it.