

Legislative Council

Thursday, 7 March 1985

THE PRESIDENT (Hon. Clive Griffiths) took the Chair at 2.30 p.m., and read prayers.

MEMBER OF PARLIAMENT

Hon. Garry Kelly: Leave of Absence

On motion by Hon. Fred McKenzie, leave of absence for 20 consecutive sitting days granted to Hon. Garry Kelly on the ground of parliamentary business overseas.

AGRICULTURE: RURAL SECTOR HARDSHIP

Government Inaction: Motion

HON. C. J. BELL (Lower West) [2.36 p.m.]: I move—

That this House condemns the Government for its failure to address the financial and social plight of rural communities in Western Australia, and calls on Governments both State and Federal actively to support rural industries and country businesses against the effects of greatly increased Government taxes and charges, tariffs, and other factors which are severely damaging the viability and quality of life in rural areas.

I move my motion because the agricultural industries in this State and this nation are facing a grave crisis. I know they have faced a number of crises in the past which have affected them greatly, but all the indicators are that they are heading towards a worse situation than they have probably faced before. To introduce my topic I will quote from the editorial in this morning's *The West Australian*, as follows—

Farming woes

AUSTRALIAN farmers have long had to endure a popular image which portrays them as "whingeing cockies" who drive expensive cars.

The new mood of militancy sweeping the farming community is due partly to the frustration of trying to convince an apathetic populace that there really is something wrong down on the farm.

The rural industries are still in a trough and recent good harvests have failed to alleviate cost-price pressures which threaten to squeeze the life out of agriculture.

Official figures show that farming costs have risen three times faster in recent years

than have the prices farmers receive for their products.

Rising costs and high interest rates are biting deeply into farm profits and damaging the nation's competitive position on world markets.

The problem is compounded in a number of rural industries by the protectionist policies of the EEC and the dumping of surplus European produce on Australia's traditional markets.

The Federal Government's capacity to influence the EEC is limited, but it can do something about the high costs of rural production. This is because government taxes, charges and tariffs on the necessities of farming are a major cause of the cost spiral.

Rural organisations have warned for some time that farmers may take direct action to get a better deal—a warning borne out by the recent dairy farmers' dispute in Victoria.

For all the mining and energy developments of past years, Australia still rides on the back of its farming and pastoral industries. If the rural sector suffers, so does the nation: It's time the farmers' pleas were taken seriously.

I must say that it is a long time since we have seen that sort of comment in the metropolitan Press, other than perhaps during drought periods.

The situation is that everyone thought a good season would fix things up and, unfortunately in a way, we had a bumper season; but it did not fix things up. I will quote now from an article from *The Countryman* written by Mr David Kid—

The farm sector, employing one million people and producing \$10,000 million in export income annually, is being hobbled by government meddling, unfair taxes, and massive protection given to other industries.

That is a damning statement. I know Government members will say they are not totally responsible for the situation today. They may not be historically responsible, but they are members of the Government. They have had two Budgets, and are now in the process of preparing a third, in which to do something about it. We have seen no indication whatever or any suggestion of intent or concern about the problems facing rural industry. Government members might ask what they can do about it. I point out that the Government imposes charges. My accusation is that the Government has failed to look at the impact of those taxes and charges.

If one looks at the increases in Federal Government taxes, one sees that they rose by nine per cent in 1982-83 and 18 per cent in 1983-84. That gives an indication of the very severe cost problem being loaded onto farming industries. It has reached the stage where we have to say, "Halt". Many of those charges are being used strictly as revenue sources. The best illustration is tariffs. I know it is a Federal issue, and I will come back to other State charges shortly.

Two or three years ago the primary industry asked that the tariff on harvesters be replaced with a bounty. Early last year the Government made its decision; it said, "No", and that it liked the tariff. We said, "Gee whiz, if tariffs are about protecting Australian jobs, why has the Government made that decision?" Tariffs on harvesters were giving the Federal Government an annual income of about \$15 million or \$16 million. If the Government wanted to protect the jobs in the machinery production industry in Australia it would give out a bounty which would cost between \$2 million and \$3 million. This meant effectively that the grain producers in Australia were being taxed \$12 million for Government revenue for no benefit whatever. The cost of a bounty—about \$2 million or \$3 million—was insignificant compared to the revenue income.

That gives a clear indication of the problem. The rate of tariff on harvesters was 15 per cent in 1982-83 and 1983-84. One must add to that the fact that the value of the dollar has gone down. Every time the dollar is devalued it compounds the effect of the tariff because while it increases income from exports it also increases the cost of imports. It can be said that in the last two months there has been an effective doubling of that tariff.

I refer now to agricultural chemicals. My information is that in this State—and perhaps some grain producers will tell us later the exact dollar value—bills for agricultural chemicals range between \$40 000 and \$60 000. The tariff on that commodity is 37 per cent according to my information. It is a huge cost. It has been estimated that the cost of tariffs alone amounts to \$35 per tonne of wheat. If our grain producers could get an extra \$35 a tonne there would be none of the concern expressed at the recent Outlook conference and farmers would not be so distraught. The tariff adds \$140 to a bale of wool, \$80 per beast for cattle, and \$6 a head for live sheep. The average cost of tariffs for the export farmer is \$17 000 per annum.

Clearly that is a huge cost and if one looks at what is happening with farm incomes he will perhaps have a better understanding of the situation. I refer to the papers produced by the Bureau of

Agricultural Economics at the recent Canberra conference. I was dismayed at that conference that not a single member of the Parliamentary Labor Party in Western Australia was in attendance. That conference is recognised nationally and internationally.

Hon. J. M. Brown: You mean the State Parliamentary Labor Party?

Hon. C. J. BELL: Yes.

Hon. J. M. Brown: Our Federal member, my colleague Graeme Campbell, was there.

Hon. C. J. BELL: He was there, but the State Parliamentary Labor Party was not in attendance. Mr Campbell was the only one there, other than Mr Kerin, who opened the conference and was there for two hours. Other than them, I did not see a Labor Party member from anywhere. That indicates the concern felt by Labor Governments at State and Federal levels.

The farming financial performance paper delivered by Onko Kingma, the Assistant Director of the BAE, stated—

Farm income on family farms for these surveyed industries is expected to be \$12 000 in 1984-85.

That is not good, although it does not sound too bad. The paper goes on as follows—

The real rate of return to capital and management, including capital appreciation, for these industries is expected to be 1.5 per cent in 1984-85.

That gives one an indication of the depths of disappointment the industry is plunging into. The paper goes on to give an indication of the trend as follows—

The real rate of return to capital and management, including capital appreciation, over the past nine years was an estimated 2.0 per cent. The rate in 1984-85 is expected to be 1.5 per cent.

There is no way a farmer can realise his capital appreciation and keep his business working. The capital appreciation figure is a red herring in real terms if one looks at agriculture as an ongoing industry. Let us look at farm investment returns and farm incomes. A better measure identified by the BAE is the bureau's measure of farm income and farm income per working year of family labour. The paper states—

The Bureau's measures of farm income and farm income per work-year of family labour come closest to measuring the welfare situation of the family farm household. The farm incomes on family farms are presented in Table 5. Family farms are those on which

there is at least the equivalent of one full-time family worker (operator/partner or a member of their families). Farm income is the income left to be distributed among family members after allowing for cash costs, inventory changes and depreciation—that is, it is the family's return to their capital and labour input. In 1982-83, farm income on family farms was close to zero.

Of course, that was the drought year. To continue—

In 1983-84, it increased to \$17 000. When divided by the estimated family labour input of 1.8 workers, this is about \$9000 per work-year of family labour. Farm income is expected to decrease in 1984-85 to a level of \$12 000, or about \$7000 per work-year of family labour.

It should be quite clear to everybody in this place that family farms do not work a 38-hour week and do not receive a 17.5 per cent holiday loading. Farmers do not have holidays, except for those they manage to scrape together.

That is the reality of it—farmers scrape together relaxation time away from the farm. I am sure Hon. Sam Piantadosi would say that had his union members been placed in that position he would have pulled out all stops in an endeavour to improve the situation.

Hon. S. M. Piantadosi: If they want to employ me, I will be happy to help them.

Hon. C. J. BELL: I am sure they will be interested to hear that. To ensure that I am not distorting the situation I will refer members to the farm family labour situation on a yearly basis. In a farm enterprise comprising only sheep, the farmer's income for the family's labour in 1984-85 is estimated at \$3 540, which is \$70 a week. I understand that that is about the same as a 17-year-old receives on the dole.

As far as the beef industry is concerned, the farmer will receive \$6 136 in 1984-85, which is still not comparable to the dole received by a married man. A farmer who has a combined sheep and beef farm will receive \$12 450—nearly \$250 a week. A farmer in the wheat industry will receive \$8 320; a farmer in the dairy industry will receive \$4 325; and the average payment from all industries will be \$6 098 this year.

It is a disastrous situation for the rural industries, and unless something is done about it there will be an exodus from the rural areas to the city which will compound the unemployment situation in the city and will not benefit this country one iota.

Perhaps we could take a more detailed look at some of the charges levelled by the National Farmers Federation in regard to the costs that are imposed on the agricultural industry by both the State and Federal Governments. I will refer to a telex which was sent to Mr Michael Shanahan from an economist, Mr Andrew Robb, which outlines the cost to farmers. It reads as follows—

A. The Cost to Farmers	Cost Per Farm
(i) Tariffs	\$19 694
(ii) Wages: (Mostly included in (i) above)	
(iii) Transport	\$1 050
(iv) Fuel	\$443
(v) Interest rates	\$1 706
(vi) Machinery and Plant	\$221
(vii) Total cost (\$3912M)	\$23 014

That is not the full story because the farmers do receive some benefits from the Government which are as follows—

(i) Domestic Pricing Arrangements (\$320m)	\$1 294
(ii) Tariffs on Agricultural Imports (\$320m)	\$288
(iii) Agricultural Research	
—Commonwealth (\$120m)	\$706
—State (\$150m)	\$882
(iv) Income Tax Concessions (\$194m)	\$1 141

We have always heard about the tax concessions which are available to people in the agricultural industries. The farmers have carried out a costing including the assistance they have received from the Government, and it reads as follows—

(v) Fertilizer Subsidies (\$52m)	\$306
(vi) Miscellaneous Subsidies (E.G. Drought) (\$180m)	\$1 059

Hon. H. W. Gayfer: Did you say a fertiliser subsidy or bounty?

Hon. C. J. BELL: I think the word should be "bounty".

Hon. H. W. Gayfer: It seems to misconstrue it.

Hon. C. J. BELL: It does, but I will stick to the word that has been used because I am quoting from a document. It continues—

(vii) Interest Rates being 5% higher than they would be with sound economic management (\$150m)	\$882
Total benefits (\$1115m)	\$6 558
C. Net balance	
Total costs (\$3912m)	\$23 014
Less total benefits (\$1115m)	\$6 558
Deficit (\$2797m)	\$16 456

The farmer has been told that his farm income will be \$9 000, but the Government will take \$16 000, which leaves the farmer with more problems with which to cope.

We know that Governments will not make any attempt to improve the situation, but will merely hope the whole issue will go away.

I refer to a statement which appears in the *Western Farmer* under the headline, "Farmer summit waits as delegates argue on costs". Prior to the last election Mr Hawke promised to hold a farmer summit yet when he attended a summit on Tuesday he did not have the necessary figures. Had it been a summit on labour the figures would have been available because that is an issue about which people are concerned and they would want to have all the information. However, farmers are a minority group.

Hon. J. M. Brown: There was a disputation between the national farmers conference figures and the Federal Government's figures, and the summit will meet again in one month's time.

Hon. C. J. BELL: The only information the Federal Government had was five years old.

Hon. J. M. Brown: There will be consultation between the Treasury, the Industries Assistance Commission and farmer organisations.

Hon. C. J. BELL: I know that, but the Federal Government was not prepared to turn up with the new figures and I am sure it knew what they were.

At the National Agricultural Outlook Conference a statement was made by Sir Roderick Carnegie, who is hardly a farmer. He talked about competitiveness in the export industry. I am strongly of the opinion, and anyone who is aware of the problem will be of the opinion, that unless we can export competitively this nation's standard of living will decline. It has already gone down on the international scale. Sir Roderick Carnegie made a very valid point; that is, the people concerned should be informed about the importance of exporting. He said the following—

We as exporters must succeed in convincing the rest of the community that there is a direct link between export performance, standards of living and where this country is heading. What is going wrong and why are our concerns not shared and understood?

There are two parts to the economic problem. The first is overseas markets where prices and quantities are determined largely beyond our influence. The second part is our costs of production and our competitiveness: this responsibility is very much Australia's own.

That is very true. Sir Roderick Carnegie added further—

Australia has been blessed with an abundance of natural resources for rural and

mining industries to develop. However, a false emphasis upon "luck" may lie close to the heart of the explanation of Australia's indifferent economic performance. Why work, or take risks, or strive for excellence, if "luck" will enable you to take four weeks leave plus a few sickies and attend at work only 36 hours a week in air-conditioned quarters in the main coastal cities or, here in the National Capital?

He also made a point to the National Farmers Federation with regard to Government borrowings and Government debts. It is a valid point that if Governments create deficits and if they try to do so for very long we live in a fool's paradise. Sir Roderick also said the following—

Drugs offer many unfortunate people a false escape from hard reality. Nationally, one of our most dangerous and addictive drugs is debt, both national and foreign. It offers the false promise of a nation living beyond its resources indefinitely. Australia's twin deficits—the Budget deficit and the current account deficit—ensure that our indebtedness will continue to grow for some years yet.

And further—

Too many in Australia just do not understand that controlling our costs is important. Few understand the link between cost levels and jobs.

I put to the House that unless every one of us—rural and metropolitan members of this House, and members in the other place—inform people in the community and start to put the message out, we will not do very well.

We have to take away from the rural industries those shackles which we placed on them by imposing unfair costs and unfair taxes on them as revenue sources for the Government. We must give consideration to the effect on Australia as a whole, in the long term.

I might be asked, "What have you spoken of so far with regard to the State Government?" Well, I have taken out a couple of figures in relation to the various Government charges in this State over the last couple of years. The total revenue for water supplies went up in 1981-82 by 26 per cent; in 1982-83 by 21 per cent; in 1983-84 by 17 per cent; and in 1984-85, by a further 15 per cent. Stamp duties increased in 1981-82 by 16 per cent, by 6 per cent in 1982-83; in 1983-84, a massive 29 per cent; and a further 11 per cent in 1984-85. In relation to State Government licences of various sorts, in 1981-82 the increase was 12 per cent; in 1982-83, 20 per cent; and 1983-84, 84 per cent!

This is at a time when the Government keeps telling us that it has reduced inflation to about 6 per cent, yet every one of those charges has doubled or trebled during those periods. Clearly the Government is irresponsible and spendthrift in terms of its expenditure. In the ultimate, the exporting industries bear all the costs.

I am intrigued, as I mentioned earlier, that no members of the State Parliamentary Labor Party attended the Outlook conference. The conference is undoubtedly the premier agricultural conference, and it is acknowledged nationally and internationally. However, nobody from the Parliamentary Labor Party in this State bothered to attend.

Hon. H. W. Gayfer: The National Country Party was there.

Hon. C. J. BELL: The Liberal Party was there as well. However, when it comes to the launching of another 12-metre challenger for the America's Cup, the members will be there shoulder to shoulder. They all want to be in it. Important as that event will be to Western Australia—I do not say it will not be important, because it will be—nevertheless, it is really insignificant when it comes to comparing it with agriculture in the long-term. I do not say that the Government members are the only ones who want to be in front of the television cameras seeking publicity at events such as the launching of such a boat.

Hon. Kay Hallahan: That is rubbish. I do not know what you are on about. I have not been out there.

Hon. C. J. BELL: Mrs Hallahan does not bother to listen to anybody else. She only wants her opinions expressed and does not listen to anybody else.

Another piece of sleight of hand which has been practised in the last two weeks is the so-called national dairy agreement. I knew that Mr Dans was waiting for me to have a go at the dairy industry, because he always understands that I like to bring it into a rural conversation if I can.

The dairy industry is heading towards massive problems nationally and internationally. An agreement was made last Thursday to get the Victorian Labor Government off the hook and get it through the State election. The reality is that while the Press announced a major dairy industry agreement, and all the rest of it, this week it has become apparent that there are four different versions of what was agreed last week; and we have heard the acknowledgment that the agreement meant absolutely nothing. It was publicity designed to cover the problems in the short term, until Saturday, 2 March.

If the agreement were put into effect, the dairy industry in this State would be disadvantaged substantially. Our Minister did not even bother to attend the conference. He said, "Well, I've sent you a telex that tells you what I want. I won't be there". He just had his lunch in Parliament House in Perth.

Hon. Kay Hallahan: That is scurrilous. As if he would say that!

Hon. A. A. Lewis: Quite different from Mr Dowding, is it not?

Hon. C. J. BELL: If that had been a straightforward situation, I might not have minded; but there are four different versions of the agreement, one for Queensland, one for New South Wales, one for Victoria, and one for South Australia. The Tasmanians hang on the coat-tails of Victoria because they have nowhere else to go. The Western Australian Minister has a different version which he got from 3 200 kilometres away at the end of a telephone.

The only problem was that on Monday the agreement went to the Federal Cabinet and the Federal Cabinet said, "That's interesting. We'll send that to our Caucus rural committee to see what they think about it". This is the so-called dairy industry agreement. There was big publicity to make sure that a couple of Victorian country seats did not change hands. It was agreed; there was big publicity. Mr Hawke was there; Mr Cain was there. They put out to the media that the agreement would go through, but on Monday, when the election was over, it was sent off to the Caucus committee, not to look at, but for them to make a proposal to the Cabinet in two weeks' time.

Hon. J. M. Brown: Did you agree with the proposal?

Hon. C. J. BELL: Not entirely, no. The Government of Western Australia should look closely at the costs involved and it should identify clearly the future needs of the dairy industry in this State. An objective view of the future of this industry in Western Australia has never been taken. In the past we have staggered from crisis to crisis, from decision to decision, and from expedient comment to expedient comment. I do not condemn only the present Government for that.

I have mentioned these points at this stage to draw to the attention of this House the need for both State and Federal Government action to be taken to alleviate the tremendous problems which are being imposed on rural Australia. I use the expression "rural Australia" advisedly, because one cannot say these problems are confined to farmers. Farmers require service industries, ser-

vice personnel, and goods. I am sure Hon. Sandy Lewis will tell us more about that later.

No longer can we run away from the situation. We cannot continue to use agriculture as a source of Government revenue on the basis that it was profitable at one time. If we fail to acknowledge the position, massive areas of rural Western Australia will be depopulated. Members should not think that I am overstating the position. If this trend continues substantial areas of Western Australia will be depopulated.

Over the last four years the Australian farm inflation rate has averaged 41 per cent, whereas in the United States for the same period the figure is 17 per cent. We are competing with that market-place and one must ask for how long we can continue to be competitive if that trend continues.

I hope the Government will view this matter with concern. I know Mr Dans has taken an interest in agriculture in the past. It is a field with which he is not totally familiar, but I hope he will draw to the Government's attention and pass on the message to Federal members and the Federal Government that the burden of costs farmers are experiencing must be addressed.

It is no longer possible to wait for a good season. We have had a record season this year, yet between 10 per cent and 20 per cent of our farmers will be worse off at the end of the harvest than they were at the beginning. The situation cannot be expected to improve unless attention is given to the problems.

Mr Gayfer knows the tremendous impact it will have on an organisation with which he is familiar if large areas of our State cease to be productive. Silos and other facilities will either not be used or will be grossly under-utilised.

It is no good turning our backs on the problem. Mr Brown has a real working knowledge of agriculture. However, he is a lone voice on the subject on the Government benches and every member of this House should be concerned about the position in the agricultural industry today. We must take action.

In the last two Budgets from the State and Federal Governments nothing has been done for the agricultural industry. I have indicated the areas in which costs have increased. If a third Budget comes down which does not acknowledge those problems and do something about rectifying them, agriculture in Western Australia will be diminished by default.

Debate adjourned, on motion by Hon. J. M. Brown.

DENTAL PROSTHETISTS BILL

Assembly's Further Message and Request for Conference

Message from the Assembly notifying that it—

- (a) disagreed to the Legislative Council's further amendments Nos. 1 to 3 in message No. 95;
- (b) continued to disagree to amendments Nos. 1 to 5, 9 to 16, and 18 to 46 insisted upon by the Legislative Council; and
- (c) requested that the Legislative Council grant a conference on the amendments insisted upon together with further amendments Nos. 1 to 3 and advising that the managers for the Legislative Assembly would be the member for Balcatta, the member for Kalamunda and the Minister for Health,

now considered.

In Committee

The Chairman of Committees (Hon. D. J. Wordsworth) in the Chair; Hon. Lyla Elliott in charge of the Bill.

The further amendments made by the Council, to which the Assembly had disagreed, were as follows—

No. 1.

Clause 3, page 2, after line 8—To insert the following—

"Dental Technician" is a person who has successfully completed an apprenticeship or an approved course of training or who has in the opinion of the person holding the office of Director of Dental Health Services in the Health Department of Western Australia established under the Public Service Act 1978, become proficient in the technical construction of removable dental appliances for use within the jaw under the instruction of a dentist.

No. 2.

Clause 18, page 11, after line 17—To insert the following—

(2) When on the coming into operation of this Act a person is desirous of engaging in the practice of dental prosthetics in the State and has been continuously engaged as a dental technician for a period of not less than five years he shall for the purpose of dealing with an application made under Section 17 within one year after the coming into

operation of this Act, be taken to be qualified as required by Subsection (1) (b) (i) if he undergoes an assessment by a written and practical examination of a prescribed standard as approved by a person holding the office of Director of Dental Health Services in the Health Department of Western Australia established under the Public Service Act 1978, and performs to the satisfaction of that person in that assessment.

No. 3.

Clause 19, page 12, lines 1 to 30—To delete these subclauses.

The Assembly's reasons for disagreeing to the further amendments were as follows—

Amendments to the Dental Prosthetists Bill proposed by the Legislative Council (Message 95, amendments 1, 2 and 3) are unacceptable to this House.

As previously stated in this House on November 27, 1984, the deletion of the clause relating to the endorsement of licences would prevent the Government from regularising what is now an untenable situation.

The intention and spirit of the proposed legislation are completely undermined by these and previous amendments and the original Bill would be almost unrecognisable in the form now proposed by the Council.

Hon. LYLA ELLIOTT: I move—

That the Assembly's request for a conference be agreed to; that the managers for the Council be Hon. John Williams, Hon. P. H. Wells, and the mover; and that the conference be held on Wednesday 13 March at 9.30 a.m.

Question put and passed, and a message accordingly returned to Assembly.

PARLIAMENTARY COMMISSIONER FOR ADMINISTRATIVE INVESTIGATIONS: RULES

Adoption: Standing Orders Suspension

HON. J. M. BERINSON (North Central Metropolitan—Attorney General) [3.24 p.m.]: I move—

That Standing Orders be suspended so far as to enable the Hon. I. G. Medcalf to speak to the motion.

I can provide reasons briefly. The position that we all acknowledge is that there was some misunderstanding when the rules were first up for debate. Mr Medcalf thought before the question was put

that there would be a later opportunity for him to address the House.

I think we should all be cautious about getting into special arrangements which in effect bypass Standing Orders, but there is a special reason in this case why we should do so. The fact is that the drafting of rules has only come about because of a particular position to which Mr Medcalf referred in debating the earlier legislation which extended the authority of the Ombudsman to the Police Force and its members.

His amendment to the Bill at that time had the effect that rules were required to be drafted and it would be incongruous against that background if Mr Medcalf were precluded from addressing the House. I move the suspension on that limited basis.

Question put and passed.

Motion

Debate resumed from 28 February.

HON. I. G. MEDCALF (Metropolitan) [3.25 p.m.]: I thank the House for permitting me to state the reasons for the Opposition's approval of these rules. I think it is important that they be recorded because we would not want the Parliamentary Commissioner to feel that due to the technicalities of our rules, or due to any situation which happened to have arisen in this House, we did not have the opportunity of full debate on this important matter of the rules which have been put forward by the Parliamentary Commissioner under the Parliamentary Commissioner Act.

Therefore, I do appreciate the opportunity which the House has given me. I can also give an assurance that it is only because of these special circumstances that I have sought the opportunity of putting before the House the view of the Opposition in respect of these rules.

The Opposition has no objections to the rules put forward. Indeed, the Opposition welcomes the fact that the rules have been put forward by the Parliamentary Commissioner and now require the approval of Parliament, and that Parliament has the opportunity of endorsing those rules.

That does not mean that Parliament will automatically accept any rules which are put forward, but it does mean some of the members of Parliament have studied the rules and are prepared to accept them.

The Opposition has maintained all along that Parliament's rightful duty is to approve the rules of the Parliamentary Commissioner rather than leave it to the Parliamentary Commissioner simply to handle the matter himself. I believe the Parliamentary Commissioner and his office would ap-

preciate the fact that it is in their interest that Parliament should have a special concern for the way the Parliamentary Commissioner, as an officer of this Parliament, not as an officer of the Government or of the Executive, carries out his duties. It does not mean there is any lack of confidence or faith in the ability of the Parliamentary Commissioner to carry out his duties; indeed, just the reverse. The Opposition is well satisfied with the work of the Parliamentary Commissioner and his officers, but believes that he should be assisted by Parliament taking an interest in his work and accepting the responsibility for the rules which he requires in order to conduct his operations.

Having said that may I make one or two observations. Firstly, I note that the Acting Parliamentary Commissioner, under section 7 of the Parliamentary Commissioner Act, has all the functions in certain limited circumstances of the Parliamentary Commissioner. That is already in the Act. The Deputy Parliamentary Commissioner has all the functions of the Parliamentary Commissioner in certain limited cases under section 6A subject, however, to there being no Acting Parliamentary Commissioner at the time.

Now, under regulation 4, even when the Parliamentary Commissioner is present, the Deputy Parliamentary Commissioner will have many of the powers of the Parliamentary Commissioner; hence there will be a considerable increase of power in the hands of the Deputy Parliamentary Commissioner under regulation 4 which will be delegated to him by instrument in writing signed by the Parliamentary Commissioner.

So, the powers of the Deputy Parliamentary Commissioner will extend as set out in the rules to the investigation of administrative acts and omissions; the investigation of action taken by a member of the Police Force or Police Department; the giving of notice of intention to undertake an investigation; the obtaining of information and making of inquiries; the requirement to give an affected department or authority an opportunity to comment before a report is made; entry of premises; a direction to a person not to disclose the contents of a document; and notification to a claimant of the results of any investigation and other matters.

In other respects however the Parliamentary Commissioner will retain certain powers which will not be delegated to the deputy commissioner.

Perhaps the more important part of the rule relates to the delegation to special officers. This is contained in regulation 5 which states that the commissioner may, either generally or as otherwise provided by the instrument of del-

egation, by writing signed by him, delegate to a special officer of the commissioner, the performance of any of his functions under any of the following provisions: investigation of administrative acts and omissions; investigation of action taken by a member of the Police Force or Police Department; the giving of notice of intention to undertake an investigation; obtaining information and making of inquiries; and entry of premises.

It will be noted that the delegation to special officers is more restricted than the delegation to the deputy commissioner. The special officers have been defined in regulation 3 to mean investigating officers, legal officers, or any other officers occupying a position not lower in classification than an investigating officer or a legal officer.

It would seem, from the answer supplied by the Minister on 20 February last to a question asked by me as to who were the various officers of the Parliamentary Commissioner, that, apart from the Deputy Parliamentary Commissioner, there would be four officers in the category now who are classified as special officers. All the other officers in the Parliamentary Commissioner's office would appear to be of a lesser classification than those four. The Minister may care to comment and indicate whether that is correct. I do not necessarily expect him to recall the classifications of the various officers. However, it seems to me that there are four officers who are now special officers. That means, in effect, that, apart from the deputy commissioner, four officers would be classified as special officers and therefore able to carry out the duties which have been detailed and referred to.

Their duties include the investigation of action taken by a member of the Police Force or Police Department, among other things; and one may perhaps express some surprise that those officers, technically, may well be able to investigate a matter involving the Commissioner of Police.

However, the Parliament Commissioner, in making the delegation, would no doubt strongly bear in mind the provisions of regulation 6, which require that in delegating any function under the rules, he shall have regard to the experience, qualifications and suitability of the person to whom the function is to be delegated and, where appropriate, the seniority and status of the person to whom a particular investigation relates.

In those circumstances, one might well expect that a more junior officer would not be entrusted with an investigation in relation to a more senior officer in an authority or department under investigation. That would be left entirely to the dis-

cretion of the Parliamentary Commissioner and is contemplated in the rules before the House.

I have indicated already that we have complete confidence in the Parliamentary Commissioner and in the way he conducts his office. We have no reason to doubt that he would exercise his future functions and carry out his duties in the careful and proper manner in which he has always carried them out in the past.

The Opposition therefore supports the adoption of the rules now before the House.

Question put and passed.

PARLIAMENTARY PAPERS AMENDMENT BILL

Second Reading

Debate resumed from 28 February.

HON. J. M. BERINSON (North Central Metropolitan—Attorney General) [3.35 p.m.]: Members will recall that I was absent from the Chamber during the second reading debate. However, I have since taken the opportunity to consider the comments made by contributors to that debate.

Mr Medcalf raised what I think was the most serious question to have emerged from that early discussion, and that was a question about whether the Bill, as now drafted, would provide protection only where a complete speech, including interjections, was printed or whether it would also cover extracts of speeches. "Extracts" in this context might be understood to be either the member's complete speech with interjections deleted, or "extracts" in the sense of a partial printing of the speech. That matter deserves to be made quite clear.

I have distributed two proposed amendments which Mr Medcalf, I think, agrees would cover the point of his concern. We might deal with those in what little detail they require in the Committee stage.

Mr Medcalf also made the point that the protection provided by this Bill to the Government Printer does not extend to outside publishers. That is correct. However, it is also the intended effect of the legislation. The difference between the Government Printer and private printers is that the Government Printer can be called on, under our rules, to print certain things, whereas a private printer can make up his own mind whether or not he accepts a particular job.

Mr Wells looked to the future and to the rapidly expanding scope of technology. He was concerned whether this Bill might cover extracts or speeches which were produced from databases; for example,

from the Parliamentary Library. To be quite technical, I think the position would be that the Bill would cover any extracts which emerged from the database through the printout process. It would not necessarily apply where an extract was simply brought up on a visual display unit. I believe the risks involved in that to be so negligible that we really need not pursue it at this point.

It should be remembered, of course, that any true and fair report of proceedings in Parliament is, in any event, covered by qualified privilege. It is impossible to conceive of a librarian bringing up anything out of *Hansard* which was not a true report. Questions of malice which might otherwise cloud the issue are most unlikely, indeed inconceivable, in that context.

Hon. P. H. Wells: What would happen if the statement made in Parliament was libellous and then you took a photocopy of it or a copy of the VDU?

Hon. J. M. BERINSON: The point is that the reports in *Hansard* are subject to absolute privilege. The distribution of true reports which would be represented by a true copy of the *Hansard* report is covered by qualified privilege. I do not perceive of any difficulty there that would require further amendment. I think, in the context of this discussion, that we should keep it within limits. After all, without any special measure at all, speeches have been printed for years on our behalf with the assistance of *Hansard* and the Government Printer. It is only because some question has been raised recently by way of utmost caution, that the question has come up for consideration at this point.

This Bill completely covers the concern of *Hansard* as that was previously expressed. It covers any risk to the Government Printer which might arise, although he has not expressed any concern about that in the past.

It is, all in all, a minor measure only and adds to the comfort of people who are concerned about these matters rather than act on any real or serious risk.

Subject to the comments I have made about the intended amendments in the Committee stage, I believe my comments cover the points previously expressed.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (Hon. John Williams) in the Chair; Hon. J. M. Berinson (Attorney General) in charge of the Bill.

Clause 1: Short title and principal Act—

Hon. P. H. WELLS: I suspect the Bill really does not cover the question of VDUs and prints from copying machines. I wonder whether the Attorney is aware of the experiment in the Parliamentary Library which was discontinued because of doubt about the legal position. This was done in the Parliamentary Library with the assistance of new technology in Telecom. One can visualise that a database of *Hansard* might become available to every person with a television set. That would mean transmitting that information to units, which is very much the same as actually printing. In this case the printing happens to be on a unit.

This Bill sees some necessity to protect parliamentary people who take copies. Is the Attorney certain that if some other firm is transmitting that information, or copying it, it is protected?

Secondly, if a person with a copy of *Hansard* makes some copies of it, to all intents and purposes he is printing information. He is not the Government Printer, but he is printing the information.

Hon. J. M. Berinson: But he is an employee of Parliament.

Hon. P. H. WELLS: Not necessarily. I could go to a photocopying machine in a library and print 10 copies of *Hansard* and take them to a public meeting. In my office I am continually printing extracts of the Attorney's speeches to let people know what is going on.

Hon. J. M. Berinson: I am flattered.

Hon. P. H. WELLS: There are two questions. Firstly, there is a need to protect people within the Parliament in terms of this printing. The second is in relation to databases which are already in use elsewhere in the world. One can have the debates of the Congress of America transmitted to Australia.

The Parliamentary Library was researching *Hansard*. It seems simple to have *Hansard* on a database. Doubt has been expressed whether the law is adequate to prevent its transmission in that way.

Hon. J. M. Berinson: The protection of whom?

Hon. P. H. WELLS: If it is transmitted to a library.

Sitting suspended from 3.45 to 4.00 p.m.

[Questions taken.]

Hon. P. H. WELLS: Perhaps the Attorney General might be able to give me some explanation about the coverage of the three areas.

Hon. J. M. BERINSON: Because the honourable member's contributions are always so memorable they do not really require repetition and

I am happy to deal with his comments without further ado. I think the best advice that I can give to Hon. Peter Wells is that the whole question of the use of technology in the Parliament is currently under review by the parliamentary officers. They are looking at all the ramifications of that and I am advised that when they are in a position to do so they will present a report which would indicate whether or not the current Bill meets all requirements or whether some further modification of it might be desirable. For myself, I can only say that when those ramifications are known in some detail I will be happy to review the question further.

Hon. D. J. WORDSWORTH: I am grateful to hear what the Attorney General has said because I have looked at the original Act which is dated 1891, and to try to tie it up with *Hansard* copies is very difficult. The Act is about the Government Printer printing the minutes of the Legislative Council. I suppose this has some application to *Hansard* but it is fairly remote because the Act we are referring to talks about the authority under which parliamentary papers are printed. If one looks at yesterday's *Minutes of the Proceedings of the Legislative Council* one can see it has on it, "By Authority" of the Government Printer, whereas in *Hansard* there is no such authority, but states that it is printed by the Government Printer. The Bill we are now debating has no acknowledged printer and the word "authority" has been dropped. So, by whom is it printed?

I think the Bill may have been printed by the Clerk, and perhaps he could have to get his act into gear too. I believe there is a need for a whole examination of the matter of the printing of Bills and *Hansard*. Who is protected? An examination has to be made of when a thing is "printed" and when it is "copied". When one looks at this early Act what it refers to as "a copy" is different from what we refer to today as a copy. A copy was made from a block in the old days. Now, a copy is when one photocopies a copy. The technical terms have changed and I think this needs redefining. I hope there will be a full examination. I believe quite a number of members photocopy their speeches and those of others for the benefit of their constituents and they have had to do so more and more because we have not been able to obtain copies. This Bill is designed to protect the member who comes along and says, "I want 1 000 copies made of my speech". Too often members of Parliament are asked to provide copies of someone else's speeches on the spot for the benefit of electors.

People, for example say, "We are concerned about the registration of fire trailers in the Mt. Barker area; could I have a copy of what the

Attorney General said?" Sure enough we zip them out on the photocopier from the nearest copy of *Hansard*.

That is a matter which needs addressing.

Hon. J. M. BERINSON: The member is making a perfectly valid point. Very few Acts would come up for their first amendment after more than 90 years. In these circumstances it is inevitable that trying to match original purposes with a new purpose such as this tends to throw up some at least anomalous looking language.

Hon. D. J. WORDSWORTH: The Act was so short that it would have been just as easy to make a new one altogether.

Hon. J. M. BERINSON: I can only say that, to the extent I have indicated, I am prepared to take the member's views on board. What we had in mind here was to quickly cover a situation which had caused embarrassment to *Hansard*, which had potential for embarrassment for the Government Printer, and which impinged directly on facilities available to members.

Therefore, the first concern was to get something going as quickly as possible. If I remember correctly, Hon. Ian Medcalf, in his earlier comments in the debate indicated that this issue had already arisen in his time, but that the search for solutions was batted back and forth and in the end nothing had happened by the time the change of Government took place. The last thing in which I wanted to be involved was an exercise like that which can easily happen in the processes of Government.

Here attention is being given to the immediate problem which should serve the purposes of all the parties directly concerned. I am quite happy to take on board the proposition that it is indeed time to look at the Act as a whole.

Clause put and passed.

Clause 2: Section 3A inserted—

Hon. J. M. BERINSON: I move the following amendments—

Page 2, line 8—To insert after the word "speech" the following—

, or extract from a speech,

Page 2, line 11—To insert after the word "speech" the following—

, or extract from a speech,

I do not think I need to elaborate on the purpose of these amendments. I covered them as best I could in the reply to the second reading debate and, as I indicated then, they are designed to meet the point raised by Hon. Ian Medcalf.

Hon. I. G. MEDCALF: I am glad that the Government has accepted these amendments. It is

a sensible move and it will enable people to have parts of speeches recorded and not necessarily the entire speech. It should also be possible now to delete interjections, something which is important where the interjections do not relate to the context of the speech.

We support the amendments.

Amendments put and passed.

Clause, as amended, put and passed.

Title—

Hon. P. H. WELLS: It appears to me we are passing a piece of legislation which will ensure the protection of people employed in Parliament, but members of Parliament and their electorate secretaries will not be covered.

If I ask the officers of this House to take a copy of one of my speeches on one of the photocopying machines provided here, I will be covered by the legislation we have just passed. However, if the copy of that speech is made by either my secretary or myself on the equipment provided by the Department of Premier and Cabinet in my office, neither I nor my secretary will be protected. That is an anomaly. Could the Attorney tell me whether any other anomalies occur where protection is not given by the legislation?

Hon. J. M. BERINSON: There is no such anomaly, because, with due respect to the member, his understanding of the Bill is incorrect. This Bill does not in any way affect the position of members of Parliament in relation to possible defamation actions arising from their use of material. It does not effect any change in that area or to the position of their employees. Certain protections exist in any event, depending on the fairness of the report which is contained in the material they circulate and depending on the absence of malice; but there is nothing in this Bill which goes beyond the question of extending protection for members of *Hansard*; other employees of the Parliament, among whom members of Parliament are not counted; and the Government Printer and his employees.

Hon. D. J. WORDSWORTH: The Act says that if one purports to be the Government Printer, one has broken the law. If Mr Wells uses his photocopier to make a copy of certain material on the bottom of which appears the inscription "Printed by the Government Printer", I am not sure whether Mr Wells is falsely saying that he is the Government Printer.

Hon. P. H. WELLS: It appears to me that the Attorney did not understand exactly what I was saying. I said that if someone employed by Parliament copies extracts from *Hansard*, he is protected because he is an employee of Parliament. Thus if I use that method to have material

copied, I am not liable. However, if I copy material on my own machine I am liable. The same applies to my secretary.

I would have thought the material would be covered by this legislation if it originated from within the Parliament and was copied and distributed exactly as it appeared in the book.

Hon. J. M. BERINSON: We are really dealing with two matters; firstly, where the defamation arises from the printing and, secondly, where the defamation arises from the distribution. Whether the member distributes the material printed in the House or by the Government Printer, he will not necessarily be protected against defamation, depending on a range of other factors. Therefore, there is no difference in respect of his distribution of material printed here or in his office. Defamation will arise from the distribution, not from the method of printing.

Hon. P. H. WELLS: One day I may be confronted with this problem, when distributing speeches. Would that mean then that if the Government Printer printed something which was libellous and I distributed copies, I could stand to be charged? If that is the case, what would happen if I decided to obtain 50 copies of *Hansard*? Is that a separate protection?

Hon. J. M. BERINSON: I am reluctant to get into a full-scale explanation of all the ramifications of the law of defamation as it applies to the distribution of this sort of material.

From memory, papers have been prepared in the past for the guidance of members. I would be happy to have them revived and a copy provided to Hon. Peter Wells; or, alternatively, if he wishes, to have an account of the state of affairs prepared for his own guidance. That would be preferable to a process whereby in fact it does not go to the question of the position of members at all when attempting to cover that field.

Title put and passed.

Bill reported with amendments.

WESTERN AUSTRALIAN TRIPARTITE LABOUR CONSULTATIVE COUNCIL AMENDMENT BILL

Returned

Bill returned from the Assembly without amendment.

COAL MINES REGULATION AMENDMENT BILL

Receipt and First Reading

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

Second Reading

HON. J. M. BERINSON (North Central Metropolitan—Attorney General) [4.53 p.m.]: I move—

That the Bill be now read a second time.

Commercial mining of coal commenced in the Collie coal basin in 1898. Legislation, in the form of the Coal Mines Regulation Act 1902, was enacted on 1 June 1902 to protect the safety health and welfare of Western Australia's coal miners. Being patterned on British law, the Act banned the employment of females in coal mines. This discrimination against females is now contrary to article 11(1)(b) of the United Nations convention on the elimination of discrimination against women.

This Government has a commitment, in line with national and State Labor Party policy, to the removal of discriminatory barriers against women, particularly in the workplace.

The proposed Bill will remove the barrier against employment of women, and widen the scope for equal opportunity for women in the workplace.

Although the appalling conditions which existed in underground coal mines last century and which led to the exclusion of women no longer prevail, heavy, difficult and potentially dangerous jobs still exist. For this reason, and to a considerable extent due to a traditional attitude which is naturally ingrained in the industry, there is some opposition to removal of this barrier.

Nevertheless, modern technology has relieved much of the heaviest physical work, and many jobs now exist which are dependent on training and skill rather than physical strength.

Due to the character of underground coal mining, with its own peculiar hazards, and the traditional perceptions that prevail, the acceptance of this change may well be less readily achieved than in the metal mining industry.

However, if a restrained and low-key approach is taken, and every attempt is made to accommodate gradually to changes, and if confrontation is avoided, then the transitional phase following the legislation should be accomplished with minimal dislocation.

The Bill is therefore submitted with the object of removing a discriminatory barrier against employment of women in this State.

I will now briefly explain the major features of the amendments.

Clause 3 repeals section 24(1) of the Act and replaces it with an amendment designed to remove

discriminatory legislation against the employment of females in coal mines.

Clause 4 amends section 25 of the principal Act so as to ensure that proper and accurate details of all junior employees are recorded in a register which is available for scrutiny by the inspector. The purpose of this register is to safeguard the employment of children.

The remaining clauses are designed to remove the specific words of one gender, "men" and "boys" and replace them with the words, "persons" and "juniors" respectively, which are non-discriminatory and which will be applicable to both sexes.

I commend the Bill to the House.

Debate adjourned, on motion by Hon. A. A. Lewis.

MINES REGULATION AMENDMENT BILL

Receipt and First Reading

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

Second Reading

HON. J. M. BERINSON (North Central Metropolitan—Attorney General) [4.56 p.m.]: I move—

That the Bill be now read a second time.

Women have already made their mark in the metalliferous mining industry as mobile equipment operators, shovel drivers, treatment and processing plant operators, laboratory technicians, and as mine workers in many other surface functions. In isolated areas, their contribution as mine employees has been particularly valuable as their presence greatly contributes to a more harmonious, stable and balanced work force.

This Government is committed, in line with national and State Labor Party policy, to the removal of discriminatory barriers against women, particularly in the workplace. Moreover, the existing legislation, which prohibits the employment of women underground, is contrary to article 11(1)(b) of the United Nations convention on the elimination of discrimination against women.

The effect of this Bill will be to remove this barrier and increase the scope for equal opportunity for women in the workplace. The arguments against this course of action have been heard and the most effective response is to consider the extent to which women have entered the underground mining work force in other developed countries. No serious problems have been experienced of which we are aware.

Various partial approaches, which go some of the way toward removing barriers, have been considered and rejected. Such legislation can lead to disputation, inconsistent interpretation, and thus abuse.

With the application of commonsense and forbearance in all sectors of the industry, there need be few more difficulties than have been experienced with the entry of women into the surface mining scene and this has been a straightforward process.

The legislative change is achieved simply by replacing section 41(1) of the existing Act and making a minor change to section 41(2).

I commend the Bill to the House.

Debate adjourned, on motion by Hon. A. A. Lewis.

CONTROL OF VEHICLES (OFF-ROAD AREAS) AMENDMENT BILL

Receipt and First Reading

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

Second Reading

HON. J. M. BERINSON (North Central Metropolitan—Attorney General) [5.00 p.m.]: I move—

That the Bill be now read a second time.

This amending legislation provides for overdue safety requirements for off-road vehicles.

The Bill requires the compulsory fitting and wearing of seat belts in four-wheel vehicles and the wearing of crash helmets on motorcycles. As members will be aware, these safety precautions are necessary for normal on-road vehicles and are considered similarly appropriate for off-road vehicles.

Provisions are made for exemption from these requirements. These are similar to those which apply in respect of on-road vehicles.

The proposed requirements do not apply on private land where an off-road vehicle is being used with consent, provided the land is neither a permitted area nor a prohibited area under the Act.

Members will recall that in recent times a number of deaths have occurred where off-road vehicles have rolled over in sand hill areas. In these cases the occupants have not been restrained in their seats and the compulsory wearing of seat belts will assist in overcoming this problem. It should be noted that the Act already provides for the compulsory fitting of roll bars.

The unfortunate experiences of the past lend support for the need for the introduction of these safety measures.

I commend the Bill to the House.

Debate adjourned, on motion by Hon. D. J. Wordsworth.

COMMERCIAL ARBITRATION BILL

Second Reading

Debate resumed from 21 February.

HON. I. G. MEDCALF (Metropolitan) [5.04 p.m.]: This Bill is a landmark Bill in the sense that it has taken many years to prepare. It is also curious that its predecessor is the Arbitration Act 1895 and the new Act will carry the year "1985". That will cause a bit of a problem for typists in the future.

Hon. J. M. Berinson: It just beat the Parliamentary Papers Act by four years.

Hon. I. G. MEDCALF: I had quite a bit to do with this Bill because for many years it was debated at the Standing Committee of Attorneys General. Each time it came forward there would be a new draft with new provisions and further arguments about what should or should not go into it. I am not saying that was necessarily a bad thing, because there are some quite involved questions in relation to commercial arbitration.

Of course, commercial arbitrations can involve matters of very serious moment, particularly in terms of the amount of dollars and cents involved. Commercial arbitrations can extend to matters involving millions of dollars or to ordinary disputes over the building of a domestic home or other similar matters. Whether they involve millions of dollars or a comparatively smaller amount, the arbitration procedures are still of great importance to the people involved because commercial arbitrations always follows a dispute of one kind or another.

The Bill before the House also incorporates provisions for enforcement of awards made in accordance with the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards. That is an international agreement to which the Commonwealth of Australia is a party. It involves disputes, international in character, which sometimes get extremely complicated because of the problems of which law applies when parties in different countries are involved. That problem may take a great deal of consideration and often a great deal of litigation before the parties can get down to the task of deciding the dispute. Hence, the United Nations convention re-

ferred to is an attempt to provide an international code which, of course, will only bind those countries which are signatories to it and will ensure that specific procedures will be uniform throughout those parts of the world, which indicate their agreement to the convention.

When that convention was being considered, we were concerned that the Commonwealth of Australia had to appreciate that these matters are governed by State law. The situation could have been quite serious had the Commonwealth Government at the time not appreciated the fact that State law must apply and therefore there must be some consideration given to the views of the States. Some people in Canberra have the view that because they are translated into the Federal Parliament they have some special powers as though Canberra is the head office of a company and the States are just the local branches. Contrary to the views of those people, it is essential that, where an international covenant deals with State law, proper consultation should be carried out with State Governments.

I believe there was in this case. Certainly there was quite a lot of consultation when I was Attorney General. I trust that the present State Government will not overlook the fact that it is very necessary to stand up for the interests of State law and State citizens.

That is often referred to as States' rights, but it is not a question of State's rights at all. It is a question of getting the Federal Government to understand that matters of traditional State law which are well understood by citizens locally should be taken into account when they sign international agreements. It takes a bit of doing sometimes to make the public servants and the politicians in Canberra, who often know nothing about the State laws, understand that point and not think that they are the head office of the corporation and the branch office must not be given any consideration.

That is all I propose to say about the international convention. The procedures are embodied in the legislation. There is provision for enforcement of those awards. To that extent, it is a good thing.

The second reading speech refers to the Bill being substantially based on the model Bill approved by the Standing Committee of Attorneys General, with minor variations in accordance with particular laws of particular States. So Australia is to have a substantially uniform system of commercial arbitration.

We are not told in the second reading speech of any differences from the standard uniform Bill

which have been incorporated in this Bill apart from one item, which is where the Government has used the Latin form instead of the English form. However, we are not told of any real differences. I trust that there are not any particular differences about which we should have been told which may come to light at a later stage.

Some of the new matters which are now included in the Bill and which are referred to by the Attorney General are the following: There is now power for a court to appoint an arbitrator where the existing arbitrator is not available for various reasons; a certain amount of discretion is allowed for the arbitrator in connection with the conduct of arbitrations; there is power for the courts to issue summonses to witnesses to require them to attend the arbitration, even though the court is not conducting or settling the dispute—the arbitrator is doing that; the court has power to order people to attend; the arbitrator may make interim awards before he makes his final award; and the arbitrator may order that contracts be specifically performed, which is a power he did not have under the old Act.

The arbitrator's awards are to be final and binding under the legislation and the arbitrator has a discretion as to who will pay the costs. He can now order the costs to be paid by whichever party he believes should be liable for them. Normally the costs follow the event, which means the loser pays. However, the arbitrator has a discretion. He may also order that interest be paid as part of the award so that, not only may an award for damages be made, but the arbitrator may add interest onto that amount because of the time taken before the aggrieved party receives the damages for the injury he has suffered.

Some provisions deserve a special note. I have referred already to clause 22(2) which follows the United Nations' form of words in the convention to which I referred.

These are French expressions with which no doubt the average member would not be familiar. Indeed they are quite antique expressions. They may be in use in international agreements, but they are not what one would expect to find here. The average member would not be familiar with these expressions.

In Victoria, the English form is used, and I would have preferred to see that, because it is necessary that legislation is meaningful to members of the public. To see a phrase like *ex aequo et bono* might not convey much to the average person, but if he saw a phrase like "In accordance with good conscience," he would know what that might mean.

There is another French phrase which I have never struck before and which I will not attempt to translate because I might get it wrong.

Hon. H. W. Gayfer: I thought it was one of your strong subjects.

Hon. I. G. MEDCALF: Would the member like me to attempt it?

Hon. H. W. Gayfer: Yes.

Hon. I. G. MEDCALF: The phrase referred to is *amiable compositeur*. When I looked up my French dictionary I had a fair idea what *amiable* might mean, because it is the French form of "amiable". *Compositeur* did seem to me to be something to do with the printing trade, but I discovered it was not. I think it really means somebody who composes differences between parties to a dispute.

An Opposition member: An arbitrator?

Hon. I. G. MEDCALF: Somebody who settles disputes.

Another comment which I think should be made is that there is no jurisdiction in the court to set aside an arbitrator's award. If an arbitrator settles a dispute between two parties, the court cannot set that aside on the ground that the arbitrator has made a mistake of fact. If he has made an error of fact, the court cannot intervene.

There is, however, a right of appeal if he makes an error in law, subject to a number of very technical rules which take a lot of unwinding and which I do not propose to go into at this stage. These allow parties to make an exclusion agreement and to exclude the court.

The idea is that one can have complete confidentiality or secrecy in relation to commercial dealings. The whole idea of an arbitration and why people go in for it is that the matter will not be publicised. If companies have confidential matters they will frequently go to arbitration so that the Press is not present when the matter is decided behind closed doors by an arbitrator. That is one of the significant aspects of arbitration for maintaining privacy.

There are many disadvantages, because if one is the losing party in an arbitration and one considers there are errors of fact or of law which one believes ought to be appealed against, one cannot appeal unless one comes under one of these technical rules. The arbitrator can make a finding in regard to fact. For instance, if he is arbitrating on a house and he measures it incorrectly, he can correct that at a later stage if his attention is drawn to it. If he does not correct it there is not much he can do.

There is much to be said on both sides. This was the subject of dispute for a number of years by the Standing Committee of Attorneys General and others. We have to take the good with the bad and realise that every now and then one must make a decision which will not necessarily be preferred. In some circumstances it will disadvantage some people and in other circumstances it might advantage the same people; therefore we have to accept that we cannot always have a perfect law.

There may be an appeal with the consent of the parties or by leave of the court in certain circumstances and subject to certain strict safeguards which will protect the privacy and respect to a certain extent, of the agreements made by the parties.

Another aspect which requires some reference is that one does not have an automatic right to be represented at an arbitration; one can only be represented if the arbitrator agrees. It is left to the arbitrator's discretion as to whether one can be represented or whether one has to appear for oneself.

There are problems here. The arbitrator can decide there should be no representation because it may save costs or it may expedite the matter. While this is laudable, I can visualise many situations where people may desire representation but cannot get it, particularly where large amounts of damages are involved. In those cases—I would imagine in most cases—the arbitrator will agree to representation.

I would like to mention in passing that there are various human rights covenants, such as United Nations agreements and so on, which give a right of representation as one of the basic rights to which people are entitled. It may well be that at some future date when the Human Rights Commission is operating fully in this country and we are all conscious of our human rights with every step we take, somebody will say, "This provision is invalid because it denies one of those basic rights". When we reach the stage the United States has reached we will certainly examine provisions such as those.

I am told that in the United States whenever big parties come to court they might spend the first two hours with the judge insisting everyone must have representation. If anyone does not have representation the court is adjourned so that discussions can take place to ensure that every party is represented, even if representation is not wanted.

No doubt many lawyers wait outside the court for a brief on those occasions. But one can overdo

representation, and I think probably it is overdone there.

Clauses that exclude representation may well be held to be contrary to some of these covenants which people seem to fall in love with, often not knowing what they are falling in love with.

The question of costs also deserves some reference. It is now going to be illegal for the parties to agree that they will each pay their own costs, whatever the result of the arbitration. That will no longer be possible under clause 34(3), as I read it. In future the arbitrator will be able to exercise this discretion and award the costs where he feels they should go.

The old practice was very intriguing. I have acted as an arbitrator on several occasions. The old practice was that the two parties came forward—very often one did not even see them, and sometimes they made written submissions. One made one's decision and put it in an envelope, because one did not know who would pay the costs. The parties were informed that the decision had been made, and that upon receipt of a cheque for the amount of the costs, one would forward a copy of one's decision to each party. One did not really care where the cheque came from so long as it did come and was cleared through the bank. When that happened one could send out the decision. Perhaps the wrong party paid the costs, but everybody would be happy except the party which lost and paid the costs.

That will no longer happen. Well, it may happen but there is provision in the Bill for the matter to be taken to the court, and if the arbitrator is hanging on to his decision and will not give it until he is paid, either party can go to the court and the court can order that the arbitrator give his decision to ensure someone does pay the costs.

That is an advantage, because there were some instances when an arbitrator would make his decision and hang on to it. The parties might not be too sure what his decision would be and no-one was prepared to pay the costs, so they came to an agreement between themselves and the arbitrator did not get paid.

This legislation will also apply to existing arbitration agreements; that is, contracts in existence now which provide that they be decided by arbitration should there be a dispute. So it will apply to those contracts which have that kind of clause in them, even though the clause now refers to the old Act. When the Bill is enacted it will not apply to arbitrations which have already started under the old Act; that is, where the dispute has broken out and arbitration has commenced, it will continue under the old Act.

Really my own query—because I know the trauma which has attended the long gestation period of this legislation—is what other differences there may be from the standard form which was agreed to by the Standing Committee of Attorneys General. There may be very few or no other differences, but if there are they have not been disclosed and perhaps the Attorney General will inform the House whether there are any other differences. It would be a good thing to have his assurance that this contains no other changes on the basis of the agreement reached by the standing committee.

I support the Bill.

HON. P. H. WELLS (North Metropolitan) [5.22 p.m.]: From the outset I indicate that, unfortunately, I omitted to bring the relevant file along to help me in this debate, so I shall have to speak from my memory of the facts.

Hon. H. W. Gayfer: Perhaps you could go to your office.

Hon. P. H. WELLS: It would be closer for me to go to the Attorney's office, because he should have a file there of a case I have been dealing with, one I suspect that the Hon. Graham Burkett brought to his attention at one time. The chap involved told me that Mr Burkett had been unable to be assisted by the Attorney and had informed him that he might do better to palm it off to a member of the Opposition.

Hon. Graham Edwards: Mr Burkett does not work like that.

Hon. P. H. WELLS: The case deals with arbitration over a problem on a building site. Perhaps the Attorney could reassure me that when a dispute occurs between developers and builders and the dispute is to be settled by arbitration, it will be covered by this Bill rather than the existing Arbitration Act.

Hon. J. M. Berinson: This Bill repeals the current Act.

Hon. P. H. WELLS: I just wanted to be certain about that. A number of people in the community have real concerns because they feel that the present arbitration system does not really offer them adequate protection, and I hope the Attorney can convince me that this Bill will overcome some of the inefficiencies in the present Act.

His second reading speech indicated to me that this legislation was following on from other pieces of legislation and becoming part of a domino effect. There could be reasons to support uniformity in various areas—I am not saying there is no justification for uniformity—but I wonder whether the Attorney can explain later about the difficulty the

Eastern States have had in getting their Acts off the rails. It seems their Acts have been passed but are not yet operating.

The case I have in mind involves a man by the name of Skender, if my memory serves me correctly. I gather that, once an agreement has a provision which provides that if a party is willing to go to arbitration, either party can bring the other to arbitration by creating a dispute. In the case I have in mind the developer was locked out of the building and could not take possession. Apparently the builder's accountant was also the developer's accountant, so an arbitrator was brought in to make a decision.

The Minister's second reading speech indicated that one of the advantages of this legislation was that it would save time and cost. In most cases that would be true provided the arbitrator came out in one's favour. One person I know lost hundreds of thousands of dollars under the provisions of the present Act, despite his legal advisers having copies of the arbitrator's notes indicating the basis on which he made his decision, which were all questionable. The only avenue open to this person was for him to challenge the decision in a court of law. He could not use the arbitrator's notes in his claim despite his accountant having said to him that they would stitch him up and that they were out to get him.

I believe Skender has suffered from a miscarriage of justice under the present arbitration system in that he was prevented under the present Act from taking his case to a court.

The arbitrator decided that the signed contract was a contract of convenience. I do not know how that could happen. I have always understood that, when a person signs his name to an agreement, that agreement becomes legal and binding and enforceable with the full weight of the law behind it.

It appears that on a number of occasions, and certainly on this occasion, the arbitration system has failed. I am not in a position to say who is right and who is wrong, but the question remains: Was justice done? Does the arbitration system ensure that justice is done within the system? I have some doubts in that regard in terms of the cases presented to me. It is not altogether clear but I have discussed the matter with the legal people involved and read the documents regarding this case. This particular case involved the development of some home units. The legal person to whom I spoke said that because this case had gone to arbitration the only appeal that could be made against the decision was on the basis of the way

the arbitrators had made their decision or on a point of law, and no further action could be taken.

I have some doubts about the present system, and I hope that the new system will overcome the inequities which presently exist. I am anxious for the Attorney General to give me some assurance on the difference between the existing and proposed systems. I would like to be able to assure the constituents who came to me that the new system will take into account the inefficiencies in the existing system which left some people out in the cold. It certainly resulted in some people losing their assets.

It appears that the arbitrators are able to ask for a decision of the court on a question of law. However, once a decision has been made—even if it is wrong under the law—there is no way that decision can be challenged. It seems incredible to have an arbitration system which provides that the arbitrators may go directly against a legal agreement—an agreement which has been made by the two parties—because someone creates a dispute.

It appears that in some cases one of the parties involved may decide he can gain financially by creating a dispute. The question arises on these occasions of whether justice is seen to be done. An arbitrator may make this type of decision, but if the case was before a magistrate he would decide the issue on the basis of the terms of the agreement made. The arbitrator has the right to ask for and receive legal interpretations and advice and he is then entitled to make his own decision. However, that decision cannot be challenged except on a point of law. In the case to which I referred, for instance, he decided that the contract was a contract of convenience. The contract was made in good faith and one of the parties involved had lost his rights because an arbitrator decided that the original written terms of the contract no longer applied.

I am anxious to ensure that the Bill before the House makes provision for a person who innocently finds himself involved in an arbitration court because some other person has engineered it. Some people try to engineer the system for their own gain; they create a dispute and employ delaying tactics in the hope that the arbitrator will make a decision in their favour. If that happens, the other person is left carrying the can. Of course, it can be said that the arbitrators are selected to make arbitral decisions when the parties to an agreement are in dispute.

People entering into contracts employ lawyers to prepare the documents. For instance, a developer may sign a legal agreement with a builder for him to erect a building within a certain

time, and the contract will also detail certain commitments on the part of the developer to make payments on specified dates. Surely, if a dispute arises in such a case, the decision about who is right or wrong should be referred to a court of law.

It appears to be convenient to take such disputes away from the costly legal system. However, a person who finds a way to get around the law should not be able to resort to these tactics. The end result in many of these cases is unfair. In the case to which I referred, the innocent party was required to pay some thousands of dollars. If I remember correctly, the builder started the building and then ran into financial trouble and could not complete it. He sought to create a dispute to upset the original contract.

I have enough experience to know that in the preparation of agreements one takes into account all possible areas where minor misunderstandings could occur at a later stage. One attempts to minimise the number of opportunities for parties involved to challenge the agreement. Unfortunately, my files on the case to which I referred are in my office which is 30 minutes drive from this place, and I do not have the exact details. However, I am aware that the type of dispute involved in that case is created on a number of other occasions.

In every arbitration case someone will lose out. However, we must have some confidence that our legal system will protect the rights of the individual. I would say that my responsibility as a member of Parliament is basically to protect my constituents and to ensure that the legislation we pass is fair to all parties. In other words, a developer should not be in a position where he can be taken for a ride, and neither should a builder. One questions a system where this kind of dispute can be removed from the legal area and decided upon by two independent people who are not necessarily versed in the law. It seems strange to resort to that when the original agreement has been drawn up by the lawyers of both parties. When the matter becomes an area of dispute, suddenly the lawyers originally involved are not consulted.

I believe that the arbitrators in these cases are drawn from an association of arbitrators who have certain skills in the arbitration field. I am not saying they do not achieve successful results in many cases. However, I query whether the Bill before the House addresses some of the inequities in the existing system which have caused problems as a result of cases being referred to an arbitration court. If we do not deal with these cases, we shall leave a wound that will become a sore. We shall have disruption in the development area, because

people will seek to circumvent the law if they see that the law cannot achieve its aims.

I ask the Attorney to give some consideration to filling me in as to how this Bill addresses some of the present problems of the arbitration system. How will it better represent the rights of individuals, whether they be developers or builders, in terms of settling disputes in a fair and equitable way?

HON. J. M. BERINSON (North Central Metropolitan—Attorney General) [5.41 p.m.]: I thank Hon. Ian Medcalf for his support of the Bill, for his concise and helpful summary of a number of issues raised by it, and not the least for his impeccable pronouncement of some phrases in clause 22 which might otherwise have presented me with some small difficulty.

Hon. I. G. Medcalf: I could improve on it.

Hon. J. M. BERINSON: The member indicated how long the Bill has been in the process of consideration. While I suppose that in itself is no guarantee of perfection it might indicate to Mr Wells that it has not, on the other hand, just slipped through. It has had an enormous amount of consideration and it is now in a form, I believe, which is as good as can be looked for.

Hon. Ian Medcalf asked me to outline the differences between this Bill and the uniform draft. I am sorry I am not in a position to do that at the moment. The sort of thing that arises has never come to me in that form. What happens is that an individual case will arise where, for example, New South Wales will say the Supreme Court and County Court have jurisdiction and we say our equivalent is the Supreme Court and the District Court, and relatively small issues like that are involved.

It is clear we will not be able to process the whole of this Bill today including the Committee stage although I would like to process that as far as possible. Before we resume next week I will have a collation done of the sort of differences to which the member referred. I am sure that nothing in which we will be engaged in today's debate will preclude further consideration if this raises further difficulties in his mind.

Mr Wells' requests present me with rather more difficult problems. I am always happy to accommodate the member with as much information as I can provide. In this case he asks for some assurance that this Bill will indeed overcome the serious inefficiencies of the present Act. I think the only way I could realistically be asked to approach that sort of proposition is by some indication by members of what particular problems they perceive in the present Act. I then would apply myself as best

I could to an explanation of those parts of the Bill which might meet the problem. I am sorry I cannot meet this more generalised inquiry which is looking for a comparison of the present conditions and those which would apply with the passage of this Bill.

Hon. P. H. Wells interjected.

Hon. J. M. BERINSON: I was coming to that. I am sorry I have no recollection of the file to which Mr Wells referred as the Skender case. I guess it is another way of saying the same thing: Without having the facts before us it is not possible to say whether the problem which arose was created by the form of the present Act and could be cured by something that is done here or whether it is a problem that is not amenable to solution by the Act or this new Bill. I simply cannot comment without knowing what the real basis of the problem is.

Hon. P. H. Wells: I did not have the file.

Hon. J. M. BERINSON: I understand that, but one has to accept that in any event there will be commercial situations which will not be satisfactorily met, or not met to the satisfaction of one or other of the parties, no matter what the framework of arbitration is. Whether this Scanda case comes within that category I do not know, and the member will understand why I do not know.

It is clear that this Bill has the support of the House and I welcome that. In respect of the delay in implementation in other States, so far as I am aware the States which have passed the Bill but have not yet proclaimed the Act have not delayed that action because of any inherent difficulty, but because certain procedures have to be finalised. In both States where the Bill has been passed the event is fairly recent and, as in our case, there will be rules and regulations to be developed. Sometimes this takes time. I am not aware of any difficulty which has been recognised in the other States to prevent the implementation of their respective Acts.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (Hon. John Williams) in the Chair; Hon. J. M. Berinson (Attorney General) in charge of the Bill.

Clause 1: Short title—

Hon. P. H. WELLS: I notice the Bill provides a number of allowances and I gather they may have been covered by the Industrial Commission. I notice from second reading speeches in the other States there was a necessity for cognate Bills to

cover amendments to the Legal Practitioners Act, the Oath Act, the Supreme Court Act and the Justices Act. Is there any necessity to do that in this State to cover the various matters and are there a number of other Bills in preparation which are related to this Bill and deal with charging or approaching the Supreme and District Courts as was the case in New South Wales?

Hon. J. M. BERINSON: So far as I am aware there will be no need for further legislation.

Clause put and passed.

Clauses 2 to 19 put and passed.

Clause 20: Representation—

Hon. J. M. BERINSON: I move an amendment—

Page 14, after line 8—To insert the following subclause—

(4) In this section "duly qualified legal practitioner" includes a legal practitioner who is duly qualified in any part of Australia but is not a certificated practitioner in Western Australia.

As Hon. Ian Medcalf explained during the second reading debate, clause 20 is directed to limiting representation except where that can be justified by the particular circumstance. I would be happy to be associated, on record, with some of his comments, as well as the implications of them. He spoke about trends in the United States and, on different occasions, I have done that as well.

My general attitude has been that while I have been a consistent and, I might say, an enthusiastic supporter of the United States in many respects, I do make an exception to that general rule in the case of the litigious nature of that society and the extent to which they go to almost encourage litigation in every conceivable circumstance.

This amendment is to cover a fairly restricted problem that might arise and could undermine the obvious intention of clause 20.

Clause 20 is designed to limit the representation of parties by duly qualified legal practitioners. The effect of our own Legal Practitioners Act is that that limitation would only apply to a person who is certified to practise in Western Australia.

One could accordingly take the position where a person who is certified to practise in other States, but has simply not taken the trouble to be admitted in Western Australia, could be briefed to appear without the sort of restrictions which clause 20 is designed to impose. This is to overcome that possibility. I do not know how remote it is, but whether it is remote or not it is possible and it has been put to the Government as justifying some precaution and this amendment will meet that.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 21 to 60 put and passed.

Clause 61: Supreme Court rules—

Hon. J. M. BERINSON: I move an amendment—

Page 42, lines 19, 22, 26 and 34—To delete "Supreme" wherever it occurs in paragraphs (a), (b), (c) and (d).

I will give a brief explanation for the purpose of this amendment. If I can anticipate events, it is linked to the proposed amendment which is designed to delete clause 62.

The effect of the amendment to clause 61 would be that rules of the court would be made under the Supreme Court Act and they would apply to applications to the court rather than to the Supreme Court as is now specified in all the subclauses. Because of the effect of other clauses of the Bill this will mean that these rules of court will apply whether or not the matter is taken up in the Supreme Court or the District Court.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 62: District Court rules—

Hon. J. M. BERINSON: I suggest to the Committee that clause 62 be opposed because of the reasons I indicated in my comments to clause 61.

Clause put and negatived.

Clause 63 put and passed.

Schedule put and passed.

Title put and passed.

Bill reported with amendments.

House adjourned at 5.58 p.m.

QUESTIONS ON NOTICE

EDUCATION: PRIMARY SCHOOL

Allanson: Plans

591. Hon. A. A. LEWIS, to the Minister for Employment and Training representing the Minister for Education:

What plans are there for a new school at Allanson?

Hon. PETER DOWDING replied:

The needs of the Allanson Primary School are monitored regularly and these are considered when preparing capital works programmes.

An external and internal repair and renovation programme was completed at the school in 1983 at an estimated cost of \$17 000.

Because of the pressure to provide new schools in areas where there is population growth it is not anticipated that a replacement Allanson school will be included in the 1985-86 programme.

598 and 599. *Postponed.*

GAMBLING: LOTTERIES

Instant Distributions

600. Hon. TOM McNEIL, to the Minister for Employment and Training representing the Minister for Sport and Recreation:

- (1) Is the Minister aware that the 11th and 12th Sports Instant Lottery Fund Allocation lists clearly indicate the months to which the allocations refer?
- (2) Is the Minister aware that SILF allocation sheets prior to numbers 11 and 12 did not indicate the month of allocation?
- (3) If so, why did the Minister, in answering question without notice 626 in the Legislative Assembly on 22 November 1984, insist that "the Department of Youth Sport and Recreation keeps comprehensive records of the grants that are allocated and that the numbering system used clearly identifies the month in which the allocations have been made"?

Hon. PETER DOWDING replied:

- (1) Yes.
- (2) Yes.
- (3) The DYSR records referred to in my answer of November last year are an

internal system which incorporates far more than just the SILF allocation sheets.

In the context of the overall records the numbering system provides a clear indication of the month in which the allocation was made.

The month of allocation has been added to information on the SILF sheets to assist those making external inquiries. This has resulted from the Department's regular practice of reviewing and developing its provision of services to the community.

PORTS AND HARBOURS: FISHING BOAT HARBOUR

Jurien: Completion Date

601. Hon. TOM McNEIL, to the Leader of the House representing the Minister for Works:

- (1) Would the Minister advise the anticipated completion date of the Jurien Bay fishing boat harbour?
- (2) Is it still estimated the harbour will cost \$4.285 million?

Hon. D. K. DANS replied:

- (1) Mid 1987, subject to continued availability of loan funds.
- (2) The current estimated cost of the project is \$4.6m.

GAMBLING: LOTTERIES

Instant: Income

602. Hon. TOM McNEIL, to the Minister for Employment and Training representing the Minister for Sport and Recreation:

- (1) What was the total amount of funds derived from Sports Instant Lotteries from—
 - (a) inception to February 1983;
 - (b) March 1983 to February 1984;
 - (c) March 1984 to February 1985?
- (2) In detail, how was the money disbursed to—
 - (a) sport;
 - (a) arts;
 - (c) administration; and
 - (d) other?

Hon. PETER DOWDING replied:

- (1) (a) \$1 million;
- (b) \$4 million;
- (c) \$3.35 million.

- (2) (a) Prior to March 1983 funds were disbursed in accordance with the Sports Instant Lottery Distribution Advisory Committee recommendations. Since March 1983 the method of disbursement was changed to allow for grants to sports bodies and special projects of State importance. The total funding was divided approximately in half.

From March 1983 to January 1984 grants to sports bodies were disbursed in accordance with Sports Instant Lottery Distribution Advisory Committee recommendations. Since February 1984 money has been disbursed in accordance with the sports grants programme which was released in January 1984 and amended in January 1985.

Disbursement from the special projects allocation has been on application to myself.

- (b) to (d) Not applicable.

TRAFFIC: ACCIDENTS

Duty of Care: Law Reform Commission Report

603. Hon. I. G. MEDCALF, to the Attorney General:

- (1) Has the Government yet determined its attitude to the Law Reform Commission's recommendation that highway authorities be required to take such care as is reasonable in all the circumstances to safeguard persons using the highways against dangers which make them unsafe for normal use so that persons who suffer injury or loss as a result of a breach of that duty can recover damages?
- (2) Does the Government intend to implement the recommendations of the commission?
- (3) If so, when can the legislation be anticipated?

Hon. J. M. BERINSON replied:

- (1) and (2) Government action on the Commission's report is subject to further discussion with the local government associations.
- (3) No timetable has yet been established.

604. *Postponed.*

SPORT AND RECREATION: BICYCLES

National Safety Council Course

605. Hon. P. H. WELLS, to the Attorney General representing the Minister for Police and Emergency Services:

- (1) How many schools have used the National Safety Council's Bicycle Course in the last 12 months, or a convenient 12 month reporting period in which figures are available?
- (2) What number of children in this period took the instruction course?
- (3) How many instruction visits were made to schools?

Hon. J. M. BERINSON replied:

- (1) 153.
- (2) 5 662.
- (3) 122 by the National Safety Council and 625 by the Police.

SPORT AND RECREATION: BICYCLES

Riders: Tests

606. Hon. P. H. WELLS, to the Attorney General representing the Minister for Police and Emergency Services:

- (1) Has any consideration been given requiring bicycle riders to pass simple safety and proficiency tests before being allowed to ride on roads?
- (2) What proposals are before the Government or the Police Department to overcome the bicycle accident rate on our roads?
- (3) Has there been a report proposing that bicycle training be introduced into our education system?

Hon. J. M. BERINSON replied:

- (1) The problems of administration of such a scheme, enforcement, and parental education, have to date precluded recommendations in this field. We believe education of parents and children goes to the heart of this problem and this will be reviewed in the light of the Perth bikeplan report due to be released early in May this year.
- (2) On a per capita use basis the ratio of accidents involving cyclists has actually fallen in recent years. The bicycle policy committee has recently initiated several policy suggestions which are currently under consideration. They will be

evaluated in the light of the bikeplan report.

- (3) One of the principal recommendations of the Perth bikeplan will address this matter.

SPORT AND RECREATION: BICYCLES

Riders: Instruction

607. Hon. P. H. WELLS, to the Minister for Employment and Training representing the Minister for Education:

- (1) What training or instruction is provided to children in schools in connection with bicycle safety?
- (2) Has the department considered any proposals to have children take riding safety courses similar to the present swimming instruction?
- (3) Do all schools participate in the National Safety Council bicycle course?

Hon. PETER DOWDING replied:

- (1) In conjunction with the Department for Local Government through its bicycle policy committee, the Education Department has introduced a programme to train teachers in "Bike-Ed".

Once trained, these teachers are encouraged to conduct Bike-Ed courses for their classes.

- (2) Yes. The Education Department has commenced discussions with the bicycle policy committee and the National Safety Council with a view to implementing vacation safe riding courses as a supplement to the in term Bike-Ed programmes.
- (3) No.

GAMBLING: INQUIRY

Report: Cost

608. Hon. P. H. WELLS, to the Minister for Racing and Gaming:

Further to question 549 of Tuesday, 26 February 1985—

- (1) What was the total cost to produce the 350 copies of the report?
- (2) How many of these reports are still available?
- (3) Will the Minister give a break down of the amount of \$51 943.54

expended into major expenditure areas?

Hon. D. K. DANS replied:

(1) \$4 423.

(2) 33.

(3)

	\$
Travel allowances	266.10
Travel fares	204.90
Parking expenses	309.80
Members' fees	49 941.44
Advertising	1 170.05
Printing	51.25
Total	<hr/> \$51 943.54 <hr/>

EDUCATION: CLASSROOMS

Temporary: Air-conditioning

609. Hon. P. H. WELLS, to the Minister for Employment and Training representing the Minister for Education:

- (1) Has the Government investigated installing air-conditioning in transportable and demountable class rooms?
- (2) If not, why not?
- (3) If so, what are the details of such investigation?

Hon. PETER DOWDING replied:

- (1) to (3) The Government policy for the provision of air-cooling in schools is based on data supplied by the Bureau of Meteorology. All temporary classrooms located in the priority zone are air-cooled.

At present, there is no intention to provide air-cooling in temporary classrooms located outside the priority zone.

COURTHOUSE

Joondalup

610. Hon. P. H. WELLS, to the Attorney General:

When will a courthouse be built in the Joondalup area?

Hon. J. M. BERINSON replied:

A courthouse is listed for Joondalup in the Crown Law Department's capital works proposals for the forthcoming triennial period. The timing will depend upon the availability of funds.

QUESTIONS WITHOUT NOTICE

MR J. J. O'CONNOR: CHARGE

Crown Prosecutor: Advice

567. Hon. G. E. MASTERS, to the Attorney General:

- (1) Was he aware of the Crown Prosecutor's advice in the O'Connor case before he made his decision not to prosecute?
- (2) Were any other official advices given on the matter bearing on his decision?
- (3) Will he table all advices received or sighted by him in the O'Connor case, including the advice of the Crown Prosecutor?

Hon. J. M. BERINSON replied:

- (1) Yes.
- (2) Yes, the advice of the Solicitor General as tabled in Parliament.
- (3) No.

MR J. J. O'CONNOR: CHARGE

Withdrawal: Correspondence

568. Hon. G. E. MASTERS, to the Attorney General:

Will he table all correspondence referring to the O'Connor case and relevant to his decision to advise the District Court that the Crown would take no further action in the case and that indictment would not be presented? I refer particularly to correspondence concerning the TLC, the Transport Workers Union, the ACTU, other unions, and the State executive of the ALP.

Hon. J. M. BERINSON replied:
No.

MR J. J. O'CONNOR: CHARGE

Withdrawal: Correspondence

569. Hon. G. E. MASTERS, to the Attorney General:

Following on my previous question: Why not?

Hon. J. M. BERINSON replied:

There are two main reasons, I suppose. The first is that people and parties who write to me, especially on matters related to legal charges, are entitled to have our correspondence treated as confidential.

The second reason is that I am no longer disposed to encourage the fishing expeditions which have been engaged in by the Opposition for the purpose of manipulating and distorting every possible irrelevant issue. I have already referred to the fact that on "State Affair" last Thursday, when face to face with Mr Hassell, I put to him that the single most crucial issue in this matter was the undesirability of extending or applying the criminal law in its full rigour to essentially industrial situations in the special circumstances of this case. Mr Hassell declined to enter into a discussion on that single most important issue and in fact has never addressed himself to it.

Yesterday I put to Mr Masters and to other Opposition members in this place the same proposition; namely, that the single most crucial issue in this affair was, and still is, the extent to which the criminal law in its full rigour should be applied to essentially industrial situations in the circumstances of this case. Again they discussed everything but that.

Every time I put that single most central issue I am ready to debate it. I am not prepared to be fobbed off with people saying, "Yes, but what did you and the Premier discuss?"

Point of Order

Hon. G. C. MacKINNON: It seems to me that this is no longer an answer to a question but a statement by the Attorney. If he wants to make a ministerial statement, might I suggest he seek leave to do so?

The PRESIDENT: I point out to the Attorney General that Standing Order No. 14 (3) (iii), which deals with replies to questions, states that replies shall be concise, relevant, and free from argument or controversial matter.

Questions (without notice) Resumed

Hon. J. M. BERINSON: I accept your ruling, sir, and my reply will certainly be as uncontroversial as the question.

I was pointing out that I was not going to be led down sidepaths and I was not going to encourage fishing expeditions. I was simply stating, by way of very brief example, the case that when debate on the central issue is required I am not

going to be put off by Mr Hassell's asking about discussions between the Premier and me; I am not going to be put off by Mr Masters' asking questions about what the Crown Prosecutor said; and I am not going to be put off by Mr Richard Court's constructing hollow and fictitious new offences—namely contempt of court—on events which never occurred, and which even if they had occurred would not amount to contempt of court.

I am not going to be led into those by-paths and I am not going to encourage these fishing expeditions. That is why my answer to Mr Masters was "No" and why my answer will remain "No" until Mr Masters and his esteemed leader are prepared to face up to what is the real and central issue of this dispute.

Point of Order

Hon. D. J. WORDSWORTH: I wish to make a personal explanation. I believe my speech yesterday was entirely based on that subject of criminology and the laying of charges.

The PRESIDENT: The Chairman of Committees ought to know as well as anyone else that he is totally out of order, and his blatant breach of the rules is not adding to the decorum of the House.

Questions (without notice) Resumed

ATTORNEY GENERAL

O'Connor Case: Motives

570. Hon. G. E. MASTERS, to the Attorney General:

Bearing in mind that his statement was to be expected, would he agree that his refusal to supply details and correspondence which we know he received from the TLC, the Transport Workers Union, the ACTU, other unions, and the State Executive of the ALP, can only lead to further speculation as to his true motives in this matter and cast doubt on his own honesty and integrity? It seems the Minister has a great deal to hide, as does the Government.

Hon. Fred McKenzie: That is a statement.

Hon. G. E. MASTERS: I have another 10 minutes to go to catch up with Mr Berinson.

The PRESIDENT: Order!

Hon. G. E. MASTERS: I ask the Minister whether the real reason he is not prepared to table those documents is that he has a great deal to hide, his decision was political, and his motives were far from honest?

Hon. J. M. BERINSON replied;

No.

FREEDOM OF INFORMATION

State Legislation

571. Hon. P. H. WELLS, to the Attorney General:

(1) Is it the correct that if the files requested by the Leader of the Opposition were in a Commonwealth department rather than a State department the Freedom of Information Act would ensure the Opposition had access to the files?

(2) Is not his refusal an act of secret Government?

Hon. J. M. BERINSON replied:

(1) and (2) I preface my direct reply by saying that the single most crucial issue involved in this affair is the extent to which the criminal law in its full rigour should be applied to essentially industrial situations in the circumstances of this case. I hope it does not bore the Opposition to hear what the single central issue is because even if it does I intend to keep reminding it of that issue every time it tries to go along one of these bypaths.

Hon. G. E. Masters: What have you to hide?

Hon. J. M. BERINSON: I have nothing to hide. I certainly do not have a letter from the ACTU to hide which Mr Masters proclaimed to be in my files, because having searched them and made the fullest inquiries it appears I have never received such a letter. The answer to the first part of Hon. Peter Wells' question is that I am not sufficiently aware of the details of the Commonwealth legislation to provide an answer one way or the other. The answer to the second part of his question is "No".

DISTRICT COURT

O'Connor Case: Request

572. Hon. A. A. LEWIS, to the Attorney General:

Did the Attorney General or any person on his behalf make a request to the Chairman of the District Court that the court should sit after 1.00 p.m. on Thursday last in order to receive the *nolle prosequi* in the O'Connor case?

Hon. J. M. BERINSON replied:

The single most crucial issue involved in this affair is the extent to which the criminal law should be applied in its full rigour to essentially industrial matters in the circumstances of this case. Having mentioned that in passing by way of introduction in case it has so far escaped the attention of the Opposition that I invite debate on the real issue, I say to Hon. Sandy Lewis that any arrangement as to the presentation of the *nolle* would have been made between the Crown Law Department and the judge of the District Court.

DISTRICT COURT

O'Connor Case: Request

573. Hon. A. A. LEWIS, to the Attorney General:

Does he deny that he or any person on his behalf approached the Chairman of the District Court last Thursday?

Hon. J. M. BERINSON replied:

I certainly did not approach the Chairman of the District Court. To my knowledge, nobody from my ministerial office approached the Chairman of the District Court, but arrangements were no doubt made in the ordinary course of events by discussion between the Crown Law Department and a judge of the District Court.

DISTRICT COURT

O'Connor Case: Request

574. Hon. A. A. LEWIS, to the Attorney General:

If such arrangements were made, is it a fact they were made just after 1.00 p.m. so the court would have adjourned and the Press would not be there so the Attorney or his department could get some

political advantage in processing the *nolle* and so that he had time to bring the whole statement to the House and the reporters at the courts would not have heard it being processed?

Hon. J. M. BERINSON replied:

Let me be frank about it. I knew when the *nolle* was going to be presented and I asked to be advised when it was to be presented. I asked to be advised on the basis that a *nolle* is always presented in open court and I expected that the Press would be there and I wanted to have some preknowledge of when I could expect the Press to approach me on it. There was nothing underhand here, and the member seems to be suggesting there was somehow a presentation of a *nolle* other than in open court. That is not possible, and it was not done.

DISTRICT COURT

O'Connor Case: Request

575. Hon. A. A. LEWIS, to the Attorney General:

So the people acting for the Attorney did not ask for any extension into the usual lunch hour of the court to have this done, and it was not processed at a time to suit the Attorney, that time being in the normal adjournment of the court.

Hon. J. M. BERINSON replied:

I am finding it difficult to follow the point of the question. I asked to be advised when the *nolle* was presented. It would not be presented in the middle of a case so as to intrude into it. If the member is asking whether it was presented after the trial, whatever it was on that day, had either been completed or adjourned, the answer so far as I am aware is "Yes".

MR J. J. O'CONNOR: CHARGE

Nolle Prosequi: Presentation

576. Hon. A. A. LEWIS, to the Attorney General:

As he has admitted that he asked to be advised when it was presented, when was he told that the *nolle* was presented to the court?

Hon. J. M. BERINSON replied:

From recollection, something like 1.10 p.m. on the day.

MR J. J. O'CONNOR: CHARGE

Nolle Prosequi: Presentation

577. Hon. A. A. LEWIS, to the Attorney General:

Would he accept that he would have been advised as soon as the *nolle* had been presented to the court and agreed to by the judge?

Hon. J. M. BERINSON replied:

Near enough.

MR J. J. O'CONNOR: CHARGE

Nolle Prosequi: Presentation

578. Hon. A. A. LEWIS, to the Attorney General:

It seems to me we are getting back to the first question, if only the Attorney had answered it. Does he believe on the evidence of his own mouth it would appear that the *nolle* was presented in the normal adjournment of the District Court?

Hon. J. M. BERINSON replied:

This is absolute rubbish and it is really typical of the sort of desperate raking I was referring to before.

Hon. A. A. Lewis: I am asking some simple questions because you tried to deny the Press.

Hon. J. M. BERINSON: I do not know how anyone could have been more open in his declaration of this position than I was.

I took the opportunity of presenting it in Parliament before any announcement elsewhere. Does Mr Lewis suggest that that was not the proper procedure? Does Mr Lewis suggest that it was a decision designed to minimise the exposure of the issue?

I would have thought it was a decision to maximise the exposure and I think that is perfectly proper, because one of the essential elements of a *nolle* is that it should be open to public scrutiny. That is why it is presented in open court.

I accept that, and I also accept that because of the importance of the particular case I should bring it immediately to

Parliament. That is what I did and there really has to be a limit to the extent we now follow in this umpteenth tangent which ignores the real issues and tries instead to suggest that I was trying to avoid the Press. I was not trying to avoid the Press; there was no reason why I should.

Indeed, my whole preparation on that day was on the basis that the Press would, in fact, know by the time I reached the Parliament. As it happened there was not a reporter in the court and it did not occur. My expectation was that the Press would have it by the time I came to the Parliament.

MR J. J. O'CONNOR: CHARGE

Nolle Prosequi: Presentation

579. Hon. A. A. LEWIS, to the Attorney General:

I am sorry that I am making the Attorney General emotional. As I understand the Attorney's comments to this House he notified the Premier that he made the decision the night before it was announced.

(1) Why could it not have gone to the court first thing in the morning of Thursday last?

(2) Why was it held over until lunch time when the Attorney had made a decision the night before?

Hon. J. M. BERINSON replied:

(1) and (2) I will be perfectly frank. There are two occasions in a morning session of the court when a *nolle* can be presented. It can be presented first thing in the morning before a trial has commenced or the last thing in the morning after a trial has adjourned. It is not right to interfere with the course of a trial.

My preference was to have it at the later time for the very reason that I wanted to minimise the period between the presentation of the *nolle* and my statement in Parliament. I would have thought that that was the proper process in order to ensure, to the maximum extent possible, that any discussion of this issue should take place first in the Parliament.

MR J. J. O'CONNOR: CHARGE

Nolle Prosequi: Presentation

580. Hon. A. A. LEWIS, to the Attorney General:

On perusing the court lists for that day I notice that the Chairman of the District Court sat on a sentencing first thing in the morning and at a later time he sat on a case with a jury. Under those situations I would have thought the Attorney General had three opportunities to present the *nolle*.

Hon. J. M. BERINSON: This is brilliant investigative work.

The PRESIDENT: Order! I never cease to be amazed how members cannot comprehend and understand the rules of this House, particularly in regard to asking questions. There is no limit to the number of questions that a member can ask, but there is definitely a limit to the amount of information a member can give in prefacing his question. The honourable member has uttered half a dozen sentences in the time he has been on the floor to ask a question without notice.

I have said before and I repeat again that the purpose of question time is to seek information, not to impart it. I ask the honourable member to ask his question.

Hon. A. A. LEWIS: I bow to your wishes, Sir, and I am sorry that my prefaces are so long. I really expected this not to have continued for as long as it has and I have had to do it in support of my question.

Does the Attorney General agree with the information with which I prefaced my question; that is, he had three opportunities on that day to present the *nolle*?

Hon. J. M. BERINSON replied:

I have no idea.

ATTORNEY GENERAL

O'Connor Case: Motives

581. Hon. G. E. MASTERS, to the Attorney General:

Does the Attorney General agree that his refusal to answer questions in a straightforward way and his refusal to table papers which may vindicate some of his

actions leads only to one belief; that is, he has a great deal to hide?

Hon. J. M. BERINSON replied:

I do not agree that I have declined to answer questions in a straightforward way, and as to the rest of the question, the answer is, "No".

MR J. J. O'CONNOR: CHARGE

Withdrawal: Crown Law Department Discussions

582. Hon. I. G. PRATT, to the Attorney General:

Under normal circumstances would the Attorney General be aware if any member of the Cabinet had discussions with officers from the Crown Law Department prior to his dropping the charge concerning this matter?

Hon. J. M. BERINSON replied:

I am not aware of any such discussions.

MR J. J. O'CONNOR: CHARGE

Files: Access

583. Hon. P. H. WELLS, to the Attorney General:

In line with the Attorney's expressed desire to be open about this matter and the practice which has been set by the Leader of the House and other Ministers in providing access to sensitive files in their offices when files cannot be tabled in the House, will the Attorney allow the Leader of the Opposition and other Opposition members to view the files in question in his office or one of the offices of his department?

Hon. J. M. BERINSON replied:

May I answer the question with another question?

When will the Opposition be prepared to address itself to the single most crucial issue in this affair; namely, the extent to which the criminal law in its full rigour should be applied to essentially industrial situations in the circumstances of this case?

As to the rest of the question, the answer is, "No".

MR J. J. O'CONNOR: CHARGE

Withdrawal: Crown Law Department Discussions

584. Hon. I. G. PRATT, to the Attorney General:

Will the Attorney make inquiries as to whether the Premier or any other member of Cabinet discussed the O'Connor issue with officers of his department prior to the Attorney making a decision in this matter and conveying that information to the Parliament?

Hon. J. M. BERINSON replied:

I have already indicated I am not aware of any such discussion and I would not expect any such discussion to have occurred. The answer to the direct question is "No".

COMMUNITY SERVICES: DOMESTIC VIOLENCE

Report: Publication

585. Hon. I. G. MEDCALF, to the Attorney General:

With reference to his answer to question 578 yesterday when the Attorney said that the report of the Anderson committee on domestic violence was printed in December 1983 and had been made available to the domestic violence task force, has that report been made public?

Hon. J. M. BERINSON replied:

No. It has been provided to the task force on a confidential basis.

COMMUNITY SERVICES: DOMESTIC VIOLENCE

Report: Publication

586. Hon. I. G. MEDCALF, to the Attorney General:

Is there any objection to that report being tabled in Parliament?

Hon. J. M. BERINSON replied:

It is some time since I have considered that report. The reason it has not been presented, and in fact the reason why it has been used as part of the task force consideration, was because my judgment at the time was that it did not provide a satisfactory basis for action. I would like to refresh my memory on the contents of that report. I will do so and reply to the member direct as to whether I am encouraged by his question to now provide it for tabling.

COMMUNITY SERVICES: DOMESTIC VIOLENCE

Report: Publication

587. Hon. I. G. MEDCALF, to the Attorney General:

In view of the fact that I commissioned that report, will the Attorney General give consideration to enabling me to read it?

Hon. J. M. BERINSON replied:

I will not only consider that but I am quite happy to agree to it. I will make the appropriate arrangements.

TRUSTEE COMPANIES

Reciprocity: Interstate

588. Hon. I. G. MEDCALF, to the Attorney General:

- (1) Has any progress been made in connection with requests for reciprocity for trustee companies to enable them to operate interstate?
- (2) Is the Government actively involved in this area, and
- (3) Are there any developments likely and if so, what and when?

Hon. J. M. BERINSON replied:

- (1) and (2) I thank the member for some advance notice of this question. From my own recollection and from the inquiries which I have been able to make today there do not appear to be any such requests in hand. That will answer the latter of his questions as well. If the member can direct me in more detail to any such request I would be happy to pursue the question further.

TRUSTEE COMPANIES

Reciprocity: Interstate

589. Hon. I. G. MEDCALF, to the Attorney General:

I take it from his last comment, therefore, that no action at the present time has been taken by the Government in relation to that particular matter?

Hon. J. M. BERINSON replied:

To the best of my recollection I have had no reason to address myself to this ques-

tion; so, yes, the member's view of the current state of affairs is correct.

MR J. J. O'CONNOR: CHARGE

Withdrawal: Cabinet Discussions

590. Hon. I. G. PRATT, to the Attorney General:

Following his refusal to inquire as to whether any Cabinet member discussed the O'Connor matter and report that information to the House, will he inquire for his own information in order that when we question him in future he is in possession of that knowledge and can give us an answer?

Hon. J. M. BERINSON replied:

This is a bit like Hon. Sandy Lewis's discussion about the District Court timetable. It is another one of these efforts to go off on an entirely peripheral and irrelevant track. I am not going to be encouraged along that track and I am quite happy to accept Mr Masters' invitation to give my speech again at any time. My speech happens to go to the real issues and not to all these funny muck-raking issues in which Mr Masters and his colleagues are so intent on engaging. I will swap my speech for his any time because my speech is about the facts and the crucial issues. Mr Masters can stay with the muck if he likes. I will stay with the facts and the merits of the issues.
