Legislative Assembly

Thursday, 26 November 1987

THE SPEAKER (Mr Barnett) took the Chair at 10.45 am, and read prayers.

PARLIAMENT HOUSE

Premiers' Gallery: Statement by Speaker

THE SPEAKER: I wish to advise members of certain changes to areas in Parliament House. As members know, Parliament House is a prestigious public building which has had many individuals pass through it whose destiny was to lead this State. It is only fitting, therefore, that a Premiers' gallery be established in honour of those persons.

After extensive consultations with both the Museum of Western Australia and the Art Gallery of Western Australia, it was decided to locate the portrait gallery on our impressive staircase, starting from the Forrest Foyer on the ground floor and ending on the second floor. This will form a link between the two foyers with the first portrait always being the Premier of the day opposite the bust of the first Premier of Western Australia, and ending with the portrait of Lord John Forrest opposite his own furniture on the top floor.

The second floor foyer will become the centre of an historical display of items of interest relating to the Parliament of Western Australia.

The large painting of the first meeting of the Legislative Council in 1832 is the central focal point, with historical documents relating to the first Legislative Council and the first Legislative Assembly mounted next to the painting.

It also gives me pleasure to announce that the central foyer has been prepared for displays of art by Western Australians. The initial display, which some members may already have noticed, has been prepared by the Art Gallery of Western Australia. It is envisaged that the gallery will provide collections on a short-term basis for Parliament House, and these will be supplemented by displays by young Western Australian artists and by our own art collections.

MEMBER FOR EAST MELVILLE

As to Personal Explanation

MR LEWIS (East Melville) [10.51 am]: I seek leave to make a personal explanation.

Mr Pearce: To say what? I know nothing of this.

The SPEAKER: Order!

Mr MacKinnon: The Speaker made a statement to the Parliament yesterday.

The SPEAKER: Order! Your behaviour has caused me considerable concern in the last few days. You have continually ignored my calls for order. I do not want to take action now, but I do want to draw your attention to this. It is not acceptable. On very few occasions do I actually have to shout; you caused me to do so this morning and that causes me some concern. I will rule on this in a moment.

Points of Order

Mr BRIAN BURKE: If the member delays seeking leave to make a personal explanation until later in the day, he can conform to what is a standing arrangement, which is that the Opposition discusses with the Leader of the House its proposed personal explanation, and the matter can then proceed.

Mr MacKINNON: There is no arrangement, to my knowledge, between the two sides of the House about personal explanations. Certainly the Opposition has never been consulted every time a personal explanation has been made to Parliament by the Government, nor when statements have been made to Parliament by the Speaker of the House. The member for East Melville merely wants to respond briefly to comments contained in a statement made by the Speaker to this House yesterday, and I think he is entitled to that privilege.

Mr Pearce: We are not going to have a personal explanation used to attack the Speaker.

Mr LIGHTFOOT: It may very well be detrimental to the member who seeks leave to make a personal explanation, if that is done later on. I suggest that if the member thinks it most appropriate to make the statement now he should be allowed to do so.

The SPEAKER: Order! It is my intention, after making a few cautionary remarks, to allow the member to seek the leave of the House to make his personal explanation. However, there are two points that I want to draw to his attention. The first is abundantly clear, and that is that if one person in this place denies him leave, he will not have that opportunity. The second may not be as clear. Over the last two days matters have been raised in this House with respect to an incident which occurred last Thursday. Those matters -- that is, criticism of the role of Speaker -- may be discussed in this place only by way of substantive motion. I warn you that if your personal explanation in any way criticises the role of the Speaker I will sit you down.

Debate Resumed

The SPEAKER: The member for East Melville has sought the leave of the House to make a personal explanation.

Leave denied.

As to Standing Orders Suspension

MR MacKINNON (Murdoch -- Leader of the Opposition) [10.57 am]: I move --

> That so much of the Standing Orders be suspended as would prevent me from moving the following motion forthwith --
>
> > That this House gives leave to the member for East Melville to make a brief personal explanation to the Parliament in response to comments made by the Speaker in this House yesterday (25 November 1987).

It is remarkable that the Government refuses the member for East Melville the opportunity at this stage to make a brief explanation to Parliament in response to your comments, Mr Speaker, to this House yesterday. In some respects those comments were critical of the member for East Melville, and all he wants to do is place his point of view on record in this Parliament. He is entitled to that point of view. As you, Mr Speaker, rightly outlined prior to my rising to speak, the proper place for criticism or comments to be made in relation to your comments to this Parliament is in this Parliament.

The Government, via the Leader of the House and every other member on that side of the House, on Tuesday of this week refused the Opposition any opportunity to rationally and reasonably debate the particular matter which we now want to have before Parliament. It is disgraceful that the Leader of the House, with the concurrence of the Premier and every other member on that side of the Parliament, refuses the right of a member of this House to express his point of view about this matter in the proper forum, in the proper way, at the proper time.

I urge every single member of this Parliament to think very carefully before voting on this motion. It is not our intention to delay the proceedings of Parliament. We do not want to be sitting here all day for hours and hours debating this issue. We could easily today, through a substantive motion on a matter of public importance, have sought your concurrence to debate the issue, but that would have taken far longer than is necessary, and far longer than the member for East Melville would need to make a brief explanation to the Parliament and ensure that his point of view -- and that of those on this side of the House -- on this issue is recorded in Parliament.

I urge all members to support this motion in the interests of what I believe is very important, and that is, the standards of this Parliament -- standards which we must fight very hard to protect. Members have the right, in this Parliament, to express their point of view free of intimidation and free of the tyranny of Government numbers to suppress that point of view.

MR PEARCE (Armadale -- Leader of the House) [11.00 am]: The Government will not support this motion. By and large the Government moves to accommodate the Opposition if it seeks to suspend Standing Orders on some matter for the simple reason that it wants the Parliament to debate matters of significance. Two things should be said about this debate. Firstly, we have had it. The Government accommodated the Opposition on Tuesday with regard to this matter.

Several members interjected.

Mr PEARCE: The second thing is that it is abundantly clear, from the Leader of the Opposition's speech, that what the member for East Melville will seek to do by way of his personal explanation is to make some kind of direct or indirect attack on the Speaker, which is not allowed under the forms of this House.

Several members interjected.

Mr PEARCE: That is, an effort is likely to be made to use a form of the House to do something which one is not allowed to do. I guess that is the reason, contrary to the normal way in which the Opposition and the Government work on parliamentary business, why an effort was not made to seek an accommodation from the Government for this matter before the House sat. We are very suspicious of the member for East Melville. As members of the House, we are not prepared to stand by and allow a misuse of the forms of the House. The Leader of the Opposition made it perfectly clear in his speech that what he proposes to do is to allow the member for East Melville to use the making of a personal explanation to comment on a statement made by the Speaker. That is not allowed by the forms of the House. It is as simple as that.

What a bunch of hypocrites members of the Opposition are on this matter. Just yesterday the Speaker was in every position to demand an unqualified apology from the member for East Melville for comments made by him outside the House. There is a stack of precedent for that. When the member for Kalamunda was Speaker, I well recall when the former member for Swan, Mr Skidmore, who made comments much less volatile outside the House with regard to his suspension by the Speaker, was hauled over the coals in no uncertain terms with regard to what he had to say. He was forced to apologise.

Mr Carr: And his suspension was extended.

Mr PEARCE: I am sure that that is the truth. In fact, he was dealt with very harshly. Yesterday, the Speaker made it clear that an apology was due from the member for East Melville, but he would not insist on it, as he had every right to do both in terms of the forms of the House and the precedents which were established by Speakers from the Liberal Party. If the guy had any decency at all, he would have stood in his seat, demanded or not, and made the apology.

If we believed that the member's statement today was that long overdue apology, we may have been prepared to accommodate him. What is likely to happen is that the member for East Melville will do another trick like "the wheels have fallen off my car" to try to pretend again --

Several members interjected.

Mr PEARCE: -- like his half of the conversation.

The SPEAKER: Order! This debate, in my view, is reaching ludicrous proportions. Although it is unfortunate that I have to say this, in my view there has been ample opportunity for members on the Opposition side to put their point of view. I absolutely insisted, during that opportunity, that there be no interjection. Also, in respect of the speeches that were made, one and a half hours was set aside for members on the Opposition side to say whatever they wanted. Irrespective of what the Government did in respect of that, one and a half hours was set aside for the facts to be drawn out.

I made a statement yesterday denying some of the statements that were made during that speech.

Order! The Leader of the Opposition will listen to this. I made a statement denying some of the statements which were made during that speech.

As to Withdrawal of Remark

The SPEAKER: I take strong exception to the Leader of the Opposition therefore saying now loudly from his seat that the truth might come out. I take that as a serious reflection on this Chair and I want an apology.

Mr MacKINNON: Mr Speaker, I am not prepared to apologise for that statement. I put it to you also, Mr Speaker, that I think it is quite astounding and it is unprecedented in my

memory of this Parliament for the Speaker to actually make comments about a debate in this Parliament.

The SPEAKER: Order! What I attempted to do was to show that there had been ample opportunity for the Leader of the Opposition, the member for East Melville, and whoever the other speakers may have been to put the point of view. I want to say that to show that it was indeed a reflection on this Chair for the Leader of the Opposition subsequently to say that the truth might come out. I believe it is a reflection on the Chair. I also believe quite strongly that the honourable thing for the member to do is to apologise for that reflection. I again give him that opportunity

Mr MacKINNON: Mr Speaker, again I have to say to you that I am not prepared to apologise. I do not agree with your comment that there was sufficient time for the debate to be carried out to determine whether the facts had been presented. In fact, the only speakers on this side of the House were the Deputy Leader of the Opposition and the member for East Melville. There were two other speakers on this side of the House who wanted to participate in that debate, and as you well know the debate was then gagged by the Government; not because the Opposition had had sufficient time, but because the Government had had sufficient time. With the utmost respect, Mr Speaker, I do not believe --

The SPEAKER: Order!

Mr MacKINNON: -- it is the role of the Speaker to determine whether there was --

The SPEAKER: Order!

Mr MacKINNON: -- sufficient time for the debate or not.

The SPEAKER: Order! The Leader of the Opposition insists in pursuing that course of action, even though I am continually calling him to order. I believe that in the past I have been extraordinarily lenient with him. I have asked him twice to apologise. I do not believe it is an unreasonable request. Under normal circumstances, should I ask any other member in this House a third time and they deny me an apology, the course of action would be for me to name him. As the member concerned is the leader of his party I am most reluctant to take that course of action, but I am not going to rule out that course entirely. Before I take that course of action, I will leave the Chair until the ringing of the bells and I would like to see the Leader of the Opposition and the Leader of the House in my office.

Sitting suspended from 11.08 to 11.38 am

Mr MacKINNON: Following our discussions outside the Chamber I would like to make a statement. Mr Speaker, my comments today in the Parliament were not in any way meant to reflect on the Chair. Those comments were made in the strong belief I have that a proper debate on this issue would have enabled the truth of the matter to be established.

Debate Resumed

Mr PEARCE: The Government is not proposing to support this motion to suspend Standing Orders to allow the member for East Melville to make a personal explanation. As I have said, it is our view that the member is intending to misuse the forms of the House to make an attack upon or question the truth of statements made by the Speaker in a way not allowed by the forms of the House.

However, I make this offer, which is always standing from the Government side: Once the motion is defeated, the leave already having been denied, I am prepared to listen to a proposal from the member for East Melville as to what he seeks to say, and if I am satisfied on the Government's behalf that he is not proposing to --

Opposition members interjected.

The SPEAKER: Order!

Mr Cash: It is the substance of it which determines whether leave is granted.

Mr PEARCE: We need to be satisfied that the member for East Melville is not seeking the call in a way he could not get it otherwise without assent in order to do something which is improper. We have had a few problems with the Opposition side because the member for Cottesloe, when he was Leader of the Opposition, came to me and said, "We wish to make a brief personal explanation." I agreed to that; I did not ask what the content was, but it was

the member for East Melville again popping up to allege a person or persons unknown, but it was not hard to guess who they were from his statement, had sabotaged his car. It was a strange and bizarre statement made with my consent and I had to apologise to my colleagues for allowing that to occur because it was an abuse of the forms of this House.

We believe the member for East Melville, in his speeches so far and in his public utterances, has not told the truth about this incident. Yesterday, if the member had any honour at all, he would have stood and apologised for what he said which was clearly against the forms of this House. The member for East Melville is a weak wimp and a squealer and it is not the Government's intention to allow the forms of the House to be misused by him.

House to Divide

Mr THOMAS: I move --

That the House do now divide.

Question put and a division taken with the following result --

---

Ayes (28)

Mrs Beggs	Mr Donovan	Mr Tom Jones	Mr P.J. Smith
Mr Bertram	Mr Peter Dowding	Dr Lawrence	Mr Taylor
Mr Bridge	Mr Evans	Mr Marlborough	Mr Thomas
Mr Bryce	Dr Gallop	Mr Parker	Mr Troy
Mr Brian Burke	Mr Grill	Mr Pearce	Mrs Watkins
Mr Burkett	Mrs Henderson	Mr Read	Mr Wilson
Mr Carr	Mr Hodge	Mr D.L. Smith	Mrs Buchanan *(Teller)*

Noes (22)

Mr Blaikie	Mr Grayden	Mr MacKinnon	Mr Trenorden
Mr Bradshaw	Mr Greig	Mr Maslen	Mr Watt
Mr Cash	Mr Hassell	Mr Mensaros	Mr Wiese
Mr Clarko	Mr House	Mr Rushton	Mr Williams *(Teller)*
Mr Court	Mr Lewis	Mr Schell	
Mr Cowan	Mr Lightfoot	Mr Thompson	

Pairs

Ayes	Noes
Mr Gordon Hill	Mr Tubby
Dr Alexander	Mr Crane
Dr Watson	Mr Stephens

Question thus passed.

Motion Resumed

Question put and a division taken with the following result --

---

Ayes (22)

Mr Blaikie	Mr Grayden	Mr MacKinnon	Mr Trenorden
Mr Bradshaw	Mr Greig	Mr Maslen	Mr Watt
Mr Cash	Mr Hassell	Mr Mensaros	Mr Wiese
Mr Clarko	Mr House	Mr Rushton	Mr Williams *(Teller)*
Mr Court	Mr Lewis	Mr Schell	
Mr Cowan	Mr Lightfoot	Mr Thompson	

Noes (28)

Mrs Beggs	Mr Donovan	Mr Tom Jones	Mr P.J. Smith
Mr Bertram	Mr Peter Dowding	Dr Lawrence	Mr Taylor
Mr Bridge	Mr Evans	Mr Marlborough	Mr Thomas
Mr Bryce	Dr Gallop	Mr Parker	Mr Troy
Mr Brian Burke	Mr Grill	Mr Pearce	Mrs Watkins
Mr Burkett	Mrs Henderson	Mr Read	Mr Wilson
Mr Carr	Mr Hodge	Mr D.L. Smith	Mrs Buchanan *(Teller)*

Pairs

Ayes	Noes
Mr Tubby	Mr Gordon Hill
Mr Crane	Dr Alexander
Mr Stephens	Dr Watson

Question thus negatived.

ACTS AMENDMENT (IMPRISONMENT AND PAROLE) BILL

Second Reading

MR PETER DOWDING (Maylands -- Minister for Works and Services) [11.48 am]: I move --

That the Bill be now read a second time.

The present parole system was implemented in 1964. It has the effect that, where imprisonment is imposed, the former single fixed term is replaced in most cases by both a minimum and maximum term. The maximum term is intended to reflect the seriousness of the offence, but on completion of the minimum term, it is open to the Parole Board to release the prisoner on parole for the period to the expiry of the maximum term. The board can impose such conditions on the parolee as it determines.

Parole is meant, in part, to assist the prisoner's orderly return to the community. Because it limits his freedom in a number of respects, it also serves as an extension of the main prison penalty served. A parolee is still under sentence.

Over the years, a number of difficulties have emerged in respect of the parole system and it has been the subject of considerable attention and criticism. This criticism has led to or been the subject of a number of reports. These include the Parker report in 1979, and a report on that document in 1980 by the Law Society of Western Australia. The conclusions of both these documents were considered by the 1981 Dixon committee on the rate of imprisonment and by an ad hoc interdepartmental committee on the rate of imprisonment in 1983. Further substantial work has been done on an interdepartmental basis in more recent years.

This Bill is intended to change the parole system to meet the main points of the criticism of it. However, the basic philosophy of parole is retained. Some have argued in fact that parole should be abolished. That view is rejected by the Government on the basis that parole, in practice, has proved useful and constructive in very many cases. It remains an important alternative in the available range of prison and community-based penalties.

This Bill preserves the nature of parole as a part of the period under sentence, but a part which is served under supervision in the community rather than in prison. The system will continue to be supported by the sanction that a serious breach of parole returns the offender to prison.

While parole, as modified by the Bill, will in future be virtually automatic in the great majority of cases, the Parole Board will have an unfettered discretion to defer, refuse, or cancel parole where special considerations, particularly questions of public safety, arise. Minimum non-parole periods for the most serious offenders, including those under life sentence, will increase. On the other hand, there will be some reduction in the average non-parole periods applying to shorter terms.

Under the Bill, it will be for the court to decide in its absolute discretion whether a term of imprisonment should include a component of parole. If the court does not positively order that parole is to apply to a sentence, the prisoner cannot be released on parole. Under the present system a court which decides that parole should apply to a sentence has, in effect, to fix two sentences for one offence: the head sentence and then the minimum term. This creates a number of difficulties, including a public perception that the real sentence is the minimum term. There has also been a tendency for a wide disparity to develop between minimum terms and head sentences.

In addition, there has been real difficulty in applying regular criteria to determining the proportion which the minimum term should bear to the head sentence. There have been wide variations in practice, which have led to impressions and charges of inconsistent sentencing.

Where minimum terms have been a very small proportion of the respective head sentences, there has been some criticism of the head sentences as a farce. In such cases, a breach of parole can also create a disproportionate number of "days owing" to the Parole Board.

In the past, courts have sometimes given the impression that mitigating factors have only been taken account of when fixing the minimum term, that being the period which the court considers that the offender must spend in custody. This has often been the apparent basis of the wide disparity between a particular head sentence and the associated minimum term.

To deal with these difficulties, the Bill proposes that courts, in future, should impose a head sentence only. Where the court also orders parole, a statutory formula will then apply to determine the date of release on parole. The court will weigh mitigating factors in fixing the head sentence; this was, of course, the position before parole was first introduced.

The statutory formula provided in the Bill for determining the date of release on parole takes into account a number of important considerations. These include the following --

(a) the current and continuing system of remission of one-third of a head sentence as introduced into the Prisons Act in 1981;

(b) the effect of the present system in a number of cases of creating very long periods on parole. Professional opinion supports the view that parole beyond a period of two years is unlikely to be of value and can well be counterproductive;

(c) that professional opinion also suggests that a period of parole can be too short, and that less than six months is probably pointless. The existing Act reflects this view by precluding parole for sentences of less than a year unless in exceptional circumstances. This limitation is proposed to continue but without the provision for exceptions.

The proposed statutory formula for determining the date of release on parole is on the following basis --

Where the court orders that parole will apply to sentences of less than six years, the prisoner will serve a non-parole period in custody of one-third of the sentence. This will be followed by a period on parole which is equal to the time spent in custody, or six months, whichever is the longer. There will be no power to order parole for sentences less than one year, except where the total of a number of short sentences is more than one year.

Where the court orders that parole will apply to determinate sentences longer than six years, the prisoner will serve a non-parole period in custody of two years less than two-thirds of the sentence. The period on parole in such cases will be two years.

Where a number of sentences are to be served cumulatively, then the calculation already referred to may result in a parole period longer than two years. Therefore, the Bill provides that in such cases a prisoner is not eligible to be released until such time as the parole period does not exceed two years. That period before release on parole is referred to in the Bill as "the extended service period".

Where an offender completes his parole without incident, it will be seen that the total of his time in prison, plus time on parole, will have brought him to the date when he would have been released in any event -- as a result of the standard remission -- had a head sentence only been imposed.

Under current sentencing practice, minimum terms, on average, are a little over 40 per cent of their head sentences. As a result of the proposed changes, prisoners convicted of the more serious offences will spend more time in custody than is now usually the case, while some of the shorter-term prisoners will spend less.

In summary, the method of calculation will have the effect that --

a head sentence only will be imposed by the court;

the non-parole period in custody -- where parole is ordered -- will be calculated on the basis of the statutory formula; and

apart from indeterminate -- including life -- sentences, the period on parole will equal

the period in custody subject to a minimum parole period of six months and a maximum parole period of two years.

The present scheme requires the Parole Board to consider every case in detail before ordering release. This occurs just before the end of the minimum term and has also produced some difficulty. While the great majority of cases -- over 90 per cent -- are routine, and lead to release within days of the earliest eligibility date, the system engenders uncertainty and tension, affecting all prisoners until the decision is made. This makes it difficult to prepare prisoners for release and creates unnecessary hardship for prisoners and their families.

The Bill seeks to minimise these problems by provisions which only require the Parole Board, as such, to consider the difficult special cases, and enable the routine cases to be dealt with by a single member of the board or its secretary.

The Bill ensures that the Parole Board can give full consideration to individual cases --

Where the prisoner is serving a term of imprisonment of not less than five years for those serious offences against the person which are set out in the definition of "special term" in subsection 40B(1); and

in other cases, where there are special circumstances or reasons for concern in respect of a prisoner, and these are reported to the Parole Board, whether by prisons, the police, or others.

In such limited cases the board will retain a power to refuse to order release on parole or to defer release. An example of the situation which this process will meet is where the prisoner's release is seen as presenting too great a risk to the community. Under the scheme proposed by the Bill, and subject only to such special cases, release on parole at the end of the fixed non-parole period will be routine and virtually automatic for the ordinary prisoner.

The Bill also requires that a prisoner, before being released on parole, gives a written undertaking to comply with the terms of the parole order.

I now turn to the question of Parole Board procedures. Recent decisions of the High Court and the Full Court of the Supreme Court in the case of Birnie *v* WA Parole Board -- September 1987 -- have created further difficulties for the Parole Board. The decisions have the effect that when the board is considering many of the matters requiring its decision, the parolee or applicant for parole has a right to be heard under the rules of natural justice.

The Birnie decision was rather surprising because the board has operated without hearings, as this Parliament clearly intended, for almost a quarter of a century. Nonetheless, in keeping with recent developments in the field of administrative law, the High Court has ruled that unless the rules of natural justice are expressly excluded by Parliament, they will be held to apply to a variety of decisions under the Parole Act. The High Court has said, in effect, that if Parliament does not like this result it must amend the Statute to expressly exclude the rules of natural justice. As the Government has previously made clear, we propose to do so. To do otherwise would require a full-time board with drastic effects on the present decision-making process and greatly increased costs. That, however, is a relatively minor consideration. More fundamentally, the Government takes the view that parole should continue to be available as a privilege and not a right. This requires the board to have maximum discretion in arriving at its decisions, and in the process by which it does so.

Where a parolee successfully completes the period on parole, his liability under the sentence imposed upon him ends. However, where a parolee breaches parole, he may -- and in some cases must -- be returned to prison. Under the present system the time spent on parole up to the date of breach is not credited in any way, and the parolee has to serve the whole of the rest of the term of imprisonment -- that is, the whole of the head sentence -- less only the time previously spent in custody. In such a case, the one-third remission otherwise available under the Prisons Act is also lost.

The Bill aims to mitigate this position and to provide an incentive for continued good behaviour on parole, by allowing half of the time successfully completed on parole -- the so-called "clean street time" -- to be credited against the remainder of the sentence.

Changes leading to longer non-parole periods in prison are proposed for persons under sentence of life imprisonment. Under the present system, where a prisoner is sentenced to life imprisonment for wilful murder, he will not normally be considered for release on parole until 10 years after the date of sentencing. That period is to be increased to 12 years.

Where life imprisonment is imposed for an offence other than wilful murder, the current system allows consideration of parole after five years. This is to be increased to seven years. Where a prisoner is sentenced to strict security life imprisonment, consideration of release on parole cannot now occur less than 20 years after the date of sentencing. The Bill maintains this stringent standard.

As is the case in the present Act, the Bill provides that the Minister, in respect of any prisoner, may request a written report at any time as to whether the prisoner should be released on parole. Where there are circumstances that seem to the board to be exceptional, the board may also provide a written report to the Minister on its own initiative.

Where it recommends the release of a person sentenced to life imprisonment or strict security life imprisonment, the board will be required to report, among other matters, on the degree of risk to an individual or the community that the release of the prisoner appears to present. On receiving a report, the Governor may order the release of the prisoner on parole. In every case where the prisoner is subject to a sentence of strict security life imprisonment, the Minister must table the order together with an explanatory note in each House within 15 sitting days.

Where a prisoner sentenced to life, or strict security life imprisonment, is released on parole, the Bill provides that the period on parole is a period, not more than five years, to be specified by the Governor in the order. The special nature of these cases may well require parole periods longer than two years. Should that person's parole be cancelled, any subsequent release on parole is governed by the same procedures. The Bill provides for the release on parole of persons serving indeterminate sentences. The present position is substantially preserved except that, on release, the parole period is not to exceed two years. The transitional provisions aim to promote the standard of a maximum two year period on parole by applying it to current prisoners and parolees.

The Bill includes consequential amendments to the Prisons Act, Criminal Code and Parole Orders (Transfer) Act. It also includes amendments to the Criminal Code to improve the scope of provisions which allow juvenile offenders to be kept in institutions of the Department for Community Services, rather than in adult prisons. Under these provisions, a child sentenced for an indictable offence may serve part of the sentence in a juvenile institution if the court so directs.

The Bill effects significant improvements to the parole system while preserving its fundamental features. The main changes resulting from the Bill may be summarised as follows --

Courts in future will impose a single sentence appropriate to the offence.

The need to impose minimum terms as well will be abolished.

Parole will be available only where a court makes a positive order to that effect. In such circumstances, the date of eligibility for parole will be fixed by application of a statutory formula.

Parole periods, in general, will be subject to a minimum of six months and a maximum of two years.

In the great majority of cases, release on parole on the due date will be virtually automatic.

The Parole Board, however, will have an unfettered discretion to defer, refuse, or cancel parole and to determine its own procedures.

As an added incentive to continued good behaviour on parole, credit will be given against head sentences of one-half of clean street time.

The subject matter of this Bill is both important and complex. I look forward to constructive comment on it.

I commend the Bill to the House.

Debate adjourned, on motion by Mr Cash.

PETROLEUM AMENDMENT BILL

Second Reading

Debate resumed from 12 November.

MR COURT (Nedlands -- Deputy Leader of the Opposition) [12.04 pm]: I appreciate the opportunity to participate in the debate on this Bill. This legislation is in two parts. The first part is to restore the production rights over certain internal waters surrounding the Barrow Island area, which have become a bit of a no-man's land due to changes in how the baseline from which the onshore and offshore rights are determined. It is the baseline from which the territorial sea is defined. The second part of the legislation covers the new lease for the area, petroleum lease 1H, which is the producing Barrow field. That new lease is to be granted on 10 February 1988.

Dealing with the second part of the legislation first, apparently when this new lease is granted it will last only as long as oil production is taking place in that lease area. The technicalities of this -- as has been explained in the second reading speech and in discussions with the company -- are that the company has only a certain amount of storage capacity at Barrow Island. This means at times that if ships are not coming in on a certain basis, the storage capacity is full and the company must stop producing on the wells because it does not have anywhere to physically store the oil. The technical problem with the lease is that if the company does stop producing, under the current arrangements it would risk being able to hold on to that lease. So the second part of this legislation would appear to be essential in order for the company to be able to carry on its operations without the fear of losing that lease.

It is important that this Bill pass through Parliament during this session because we will not be sitting at the date proposed for the granting of the lease.

The first part of the legislation concerns whether the company has the production rights over the internal waters. A complicated sequence of events has occurred because of the difference between the Federal and the State legislation, and I would appreciate the opportunity to make a few comments at this time about the Federal legislation and the special agreements that were made in connection with how the State and Federal Governments handle the administration of offshore exploration and mining activities.

Mr Parker: Be careful about that. It is only allowed to deal with this proposition, and depending on what you have to say, it has little relevance to what we are talking about today.

Mr COURT: The Minister said in his second reading speech that --

> Provision was also made in the Commonwealth and Western Australian Petroleum (Submerged Lands) Acts 1967 for petroleum lease 2H to be surrendered in favour of a production licence at the discretion of the lessee, Western Australian Petroleum Pty Ltd.

I can assure the Minister I will not go into too much detail on this question of the submerged lands legislation, except to say that we have just seen changes to that legislation, which has been referred to in the Minister's second reading speech, go through the Federal Parliament, and we have been concerned that the State Government has been very silent about those moves which take away the special arrangements that Western Australia had in administering the offshore mining and exploration activities.

Mr Parker: We have not been silent about it because the position is that they were shown to be utterly meaningless.

Mr COURT: In what way?

Mr Parker: In that they did not have any impact. The nature of them structurally was such that they could have no impact on decisions that the Commonwealth Government would take. They were a bit of window-dressing which did not mean anything.

Mr COURT: As the Minister knows, there was very lengthy discussion over many years to try to come to some arrangement as to who does control and who should be administering offshore mining and exploration activities. There was a ruling by the High Court which said that the Federal Government had jurisdiction over that area. After lengthy negotiations, those special arrangements were worked out to enable the States to participate in the administration of that activity.

Mr Parker: That side of it has not changed. The only side that has changed is the window-dressing that was set up by the former Premier of this State -- the member's father -- and by Prime Minister Fraser, which was that if there was a dispute between the Ministers -- that is, the designated authority, which is the State Minister, or the joint authority, which is the Federal Minister -- that there would be Prime Minister-to-Premier discussions. It was clear that, in the final analysis, the Prime Minister had the decision-making power and it was just a bit of window dressing that meant nothing.

Mr COURT: The Minister might call it window dressing but inevitably, over the years, the Federal bureaucracy will try to take more of the responsibility from the State bureaucracy in Western Australia. I believe that under the Minister for Minerals and Energy's responsibility, the State bureaucracy is perfectly adequate and suitable to carry out this function. The Minister might believe that it is window dressing to take away that special arrangement, but I do not think one should give away anything. Western Australia has those special arrangements in place which other States do not have, and although the Minister may say that they did not work the one time they were used, that is not to say they will not work in the future.

I was concerned that the Government was silent when the legislation went through the Federal Parliament. Of course that legislation not only concerned those special arrangements, it also covered the whole question of the system of auctioning off the offshore exploration permits as a revenue raising measure. I believe that this system of cash bidding works against the smaller operators and I would be very interested to hear the Minister's comments on that point. The Minister knows only too well that it is vital we have a great deal more exploration for both oil and gas in Australia. We would like to see a great deal more exploration occurring in Western Australia. Perhaps the Minister might be able to give some indication of the level of exploration activity, both onshore and offshore, which has occurred this year. I agree that there has been a dramatic downturn, but there is increasing interest in Western Australia. I would appreciate the Minister giving the House some indication of that.

I do not believe the Minister and the Government should have sat back and allowed the special arrangements to be taken away. The Minister said they did not work the one time they were used but I would prefer to see us make those arrangements work, even though they might never be used. This creates a precedent, particularly when those arrangements were negotiated after many years. The Minister might recall the widespread media coverage, after the High Court decision some years ago, of this State's desire to keep as much control as possible over those activities.

Mr Parker: A lot was achieved at that time because of that constitutional settlement for the State, but I do not think that one of the things achieved in any real sense was the Premier-Prime Minister special arrangements. I am not saying that other things that were important were not achieved for the State. They were, and the State's role in the administration of the offshore petroleum tenements is very important. It has not been altered since that time. However, I think that particular aspect of it meant nothing because the Commonwealth still had the whip hand, even under the arrangements that have now been taken out.

Mr COURT: The Commonwealth might have had the whip hand but I do not believe we should give anything away. After reading Senator Gareth Evans' speech, it appears to me that the Government has brushed that aside. The other question relates to cash bidding for those exploration permits. I would be very interested to hear the Minister's comments in this respect because when I read the Federal parliamentary debates of the last couple of weeks, I noted that on a couple of occasions mention was made of the fact that the Western Australian Government did not seem to oppose this move.

The Opposition supports taking away the uncertainty in respect of inland waters and the uncertainty associated with the company's new lease, which it will receive early next year for its onshore producing areas.

The Opposition supports the legislation.

MR COWAN (Merredin -- Leader of the National Party) [12.15 pm]: The National Party supports this measure. I understand that the Bill was introduced because the lease is to expire early next year; and because of a change in both Commonwealth and State laws, the

lease had to be completely rewritten. I think the agreement tends to accommodate the changes in Commonwealth and State law. The National Party sees nothing wrong with the legislation and therefore supports it.

MR PARKER (Fremantle -- Minister for Minerals and Energy) [12.16 pm]: I thank the Opposition for its support of the measure and its cooperation in assisting its passage through the House. Like the member for Nedlands, I, too, would prefer not to give things away to the Commonwealth.

Certainly where there are matters where the Commonwealth is taking power from the State, I would be among the foremost -- and indeed have been over the last four years -- to take the Commonwealth on. Indeed I have done so and have diverted it on a number of occasions from its intended course. However, the reason I did not take exception -- although I registered an objection -- to this elimination of the Prime Minister-to-Premier special arrangements is that what happens in the normal course of events is that the Minister concerned at each level advises his leader. The leader would be most unlikely to differ from the advice that comes from the Minister, particularly if the Minister's advice is consistent with the departmental advice. It really only gives the opportunity for a little bit of extra bargaining power; in the final analysis the State will not be put in a stronger position. The State is in just as strong a position to argue using the Prime Minister-Premier relationships that inevitably exist or using the ministerial relationships that exist, without that arrangement being in place. I think it was window dressing created at the time to make the position look better from this State's perspective.

I agree with the Deputy Leader of the Opposition that the State is perfectly capable of handling the administrative arrangements for the offshore areas. Indeed the State is doing so very successfully. At the same time, one of the benefits of the settlement was that the State gained clear title to the inland waters; had the Commonwealth pursued the High Court case to which the Deputy Leader of the Opposition referred, it could even be said that those inland waters would have been the property of the Commonwealth. They are now quite clearly the property of the State. It is important not just for the petroleum sector but also for the offshore mineral sector. This State is responsible at the moment for drafting model legislation for offshore minerals, and that draft legislation is currently being circulated to the Commonwealth and among the States. It deals particularly with offshore minerals in those immediate areas just off the coast, which have the potential to be very important. The Barrow Island project is a very important project for the State, and has been for many years. I am pleased to be able to introduce this legislation, which protects the State's rights at Barrow Island.

Mr Court: Could you just explain the bidding system?

Mr PARKER: So far the Commonwealth has not changed the system for the award of tenements in areas adjacent to any of the States to a cash-bonus bidding system. About three years ago the Commonwealth announced its intention to introduce cash-bonus bidding for all offshore areas. After a lot of opposition, particularly by myself, to the introduction of that into Western Australian adjacent waters --

Mr Court: That was for a two-year period?

Mr PARKER: Right. The Commonwealth undertook to introduce that cash-bonus bidding into areas over which it has absolute control for a two-year period; that is, the Ashmore and Cartier Islands area and other Commonwealth areas, including areas adjacent to the Northern Territory, where the Commonwealth obviously has clearer rights than it does over State areas. I am not sure whether it did apply to the Northern Territory but I know that two things were agreed: It would not apply to the adjacent areas off Western Australia, which would continue on the work programme bidding basis, and secondly, even in those areas where it was introduced, it would only apply for a two-year period. The Commonwealth has now removed the two-year period from the areas where it applies and has applied for the last two years, but it has still not moved to introduce cash-bonus bidding into the adjacent offshore areas.

The Commonwealth has given an undertaking that it will consult with us on two matters prior to its introduction into Western Australia or into any other adjacent waters. The first matter it will consult on is the introduction of cash-bonus bidding and the State's perspective

on that, given the experience it has obtained in the Commonwealth area, and whether the State would be prepared to agree to its introduction. While the Commonwealth has not given the State a veto position, it has indicated it will be reluctant to move into offshore areas without the concurrence of the State.

Secondly, and one of the reasons that I think it might be reluctant to move, is that under the rules of the 1979 constitutional settlement, the Commonwealth conceded to the States that fees for tenements would be the property of the States. It is one thing to have fees for Ashmore and Cartier Islands, which belong to the Commonwealth -- it is an incentive for the Commonwealth to introduce cash-bonus bidding -- but it is another thing for the Commonwealth to introduce cash-bonus bidding in areas offshore of Western Australia because it would be of no benefit to the Commonwealth. We claim -- the member for Floreat may be able to back us up -- that the 1979 constitutional settlement clearly stated that any fees for tenements, which cash-bonus bidding would be, would be the property of the State.

The Commonwealth has not conceded that position is right but it knows that it is our very firm position. I believe that is one of the reasons it has not moved unilaterally to put the cash-bonus bidding arrangements into offshore adjacent areas.

Mr Court: Is that for all States?

Mr PARKER: Yes, although it applies principally to Western Australia and Victoria. Victoria is not so much interested in the exploration side of things, so Western Australia has been leading the fight on that matter. It probably affects Western Australia therefore, more than any other State.

I commend the Bill to the House.

Question put and passed.

Bill read a second time.

In Committee, etc

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

Third Reading

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

LOCAL COURTS AMENDMENT BILL (No 2)

Second Reading

Debate resumed from 29 October.

MR MENSAROS (Floreat) [12.25 pm]: According to the 1982 amendments, the local courts have a small debts division to which plaintiffs can opt to take their cases when the amount of the litigation does not exceed $1 000. This division consists of a stipendiary magistrate who is not bound by the rules of evidence and therefore can act very much more informally. He may seek information on any matter because he is looking for the real truth. There is no appeal against his decision or against any settlement reached under the guidance of the magistrate.

The Bill leaves the whole setup entirely unaltered except for changing the name of the small debts division to the small disputes division, presumably to accommodate another jurisdiction under this division -- that is, disputes dealt with under the Residential Tenancies Bill. Not even the $1 000 limit has been altered.

An additional provision empowers the Governor to make rules of court for regulating the court's practice and procedure, for prescribing the fees which are payable, and for specifying the transfer proceedings from the small debts division to any other court.

The result of this Bill, therefore, will be that the small debts division will assume, under a changed name, the additional jurisdiction under the Residential Tenancies Bill if it is enacted.

The Opposition supports the Bill. We have seen nothing in it about which we can complain, particularly as the small debts division was an initiative of the previous Government. I understand it has worked very satisfactorily and there have been very few complaints about it.

It is my view that it is better for tenancy disputes or other small disputes to be heard by a magistrate than to be heard by a consumer-minded arbitration setup such as the Small Claims Tribunal. There could be complaints if the Residential Tenancies Bill is not enacted by the Parliament that this move will be superfluous, but I do not agree. The name does not matter. The small disputes division can be later empowered to deal with other disputes.

The only comment one could make about this Bill is that the Government could have been a little more imaginative and extended the jurisdiction by raising the $1 000 limit to a considerably higher amount. We all agree that normal litigation is very expensive and almost prohibitive to the small businessman. This could have been a good opportunity for the Government to set up an informal forum for people to settle their arguments in a legal manner without having to pay for large-scale litigation.

I suggest that the optional jurisdiction of the small disputes division, or whatever it will be known as, could have been increased to a figure of $25 000 or $30 000. If the litigants agree that they submit themselves to that jurisdiction, the case would be heard there.

The procedures are quicker, much simpler and less formal. The safeguard for the proceedings that it is decided by an experienced lawyer indicates that this could have been a good opportunity. It is the Liberal Party's policy to create such entities rather than the Small Claims Tribunal against which we have a number of complaints because it has brought down decisions lately -- as I have mentioned on other occasions -- which, according to all legal opinions, were against the law. Yet there is absolutely no way to appeal against the decisions, some of which have very badly affected those business people operating in the field in which the decision was made.

With those few remarks, the Opposition welcomes the provisions of this Bill but indicates that it should have gone much further. It is still a good opportunity in future to expand the jurisdiction of this proposed division.

MR COWAN (Merredin -- Leader of the National Party) [12.31 pm]: The Government is putting the cart before the horse by dealing with this legislation before the Residential Tenancies Bill, because one of the major provisions in this Bill allows for a small disputes division within the small debts division of the Local Court. The purpose of that will be to accommodate the provisions of the Residential Tenancies Bill in that disputes between tenants and landlords will be referred to this small disputes division.

Mr Taylor: As mentioned by the member for Floreat, making this change will not make any difference despite what may or may not happen in the Residential Tenancies Bill.

Mr COWAN: I understand what the Minister is saying but I have some doubt about whether that is correct. More than anything else the point must be made that Western Australia already has a Small Claims Tribunal. That tribunal has the power to handle any dispute, up to a value of $2 000, on behalf of the consumers in Western Australia.

Mr Taylor: It has been increased to $3 000.

Mr COWAN: That figure may have been increased to $3 000 to match the value of matters which can be dealt with in the small debts division. The Government is setting up the capacity to establish a body which will merely duplicate the operations of the Small Claims Tribunal. The National Party is strongly opposed to such bureaucratic duplication.

Mr Taylor: This body already exists.

Mr COWAN: The small debts division exists but the small disputes division within the small debts division would have to be expanded. That is why it is not accurate for the Minister to say that what happens to the Residential Tenancies Bill is immaterial. Although this legislation merely sets up a mechanism for the establishment of the small disputes division, if the Residential Tenancies Bill passes through all stages of this Parliament without change, that mechanism will have to be utilised; once it is used, there will be a substantial change to the number of people involved in that section of the Local Court. That is duplication because Western Australia already has Small Claims Tribunal which deals with small disputes.

Mr Taylor: It deals with disputes from consumers. As things stand at the moment this can deal with complaints from consumers and traders. The Small Claims Tribunal at the moment can only deal with matters brought before it by consumers.

Mr COWAN: That is right.

Mr Taylor: They are two quite different bodies.

Mr COWAN: I wonder how many complaints would involve one trader against another. It would be interesting to find out after a 12 month period the amount of work in this area resulting from such complaints.

Apart from that aspect, the Small Claims Tribunal does many things that the small disputes division will be established to do. I repeat, the Government has placed the cart before the horse. If this legislation placed the entire operations of the Small Claims Tribunal under the auspices of the Local Court, I could understand the reason for it; however, it does not. A small disputes division will be established, in addition to the small debts division, and both will be under the auspices of the Local Court, and at the same time the Small Claims Tribunal will operate under the Department of Consumer Affairs.

Mr Mensaros: This is supposed to be in lieu of the small debts division, it will not remain. It will be the same small debts division but with a different name.

Mr COWAN: Will the Small Claims Tribunal disappear?

Mr Taylor: No, I am saying all this does is change the name of the small debts division which now becomes the small disputes division.

Mr COWAN: It makes no difference. The Small Claims Tribunal exists, so why not place it under the auspices of the Local Court?

Mr Taylor: We may do that.

Mr COWAN: Why not do so? Under this legislation the Government is establishing a body with the power to deal with disputes which the Small Claims Tribunal is already well versed in handling. The Government has only to change a very small part of the Small Claims Tribunal Act to allow people other than consumers to complain to the court. That would be a very simple matter. Instead of doing that, the Government proposes to establish a small disputes division within the Local Court to carry out the same function. It is somewhat superfluous.

Mr Taylor: We shall have to agree to disagree.

Mr COWAN: The National Party has no real argument with the principle of the public of Western Australia having access to a facility which will allow them, whether they are consumers or traders, to complain to a body which does not necessarily follow the general procedures of a proper court -- firstly, because of the cost and, secondly, because of the often lengthy time before matters can be brought before the court. We accept the principle of a small disputes division in which people can very quickly have a complaint heard and which, if the complaint is upheld, gives them access to some form of redress. That is very acceptable to the National Party. We do not accept the concept of establishing the small disputes division whilst the Small Claims Tribunal remains. It would be more appropriate if the Government --

Mr Taylor: We are changing the name.

Mr COWAN: You are doing more than changing the name.

The SPEAKER: I point out to the people in the public gallery that we welcome them to this Parliament but it is not appropriate for those who are taking photographs to do so without permission.

Mr COWAN: Even if the Minister is correct in saying that the Government is only changing the name of the small debts division of the local court to the small disputes division, bureaucratic duplication remains in Western Australia. While one of those bodies has a slightly wider operative power, they both tend to service the same parties; that is, to allow for disputes between a consumer and a trader to be resolved without going through the long-winded and sometimes costly operations of a court. At the same time, the senior referee will tell us the Small Claims Tribunal has the full recognition given to a court.

Members on both sides of this House have discovered, sometimes at great cost, on becoming involved in a dispute between a trader and a consumer, on behalf of one side or the other, while the complaint is being heard by the tribunal, that they have been told they are in serious danger of being in contempt of court. I agree with that.

The National Party's difficulty with this legislation relates to bureaucratic duplication. A very proper move by this Government would be to discontinue this legislation. The National Party does not oppose the Bill, and perhaps the Government is considering bringing the operations of the Small Claims Tribunal under the auspices of the Crown Law Department. If this legislation is passed, that would be the next ambition of Government, in order to eliminate this overlapping of services.

The member for Floreat referred to the lack of right of appeal in this provision. My understanding is that if an aggrieved person is not satisfied with a decision of the small debts division of the Local Court, that person has the ability to appeal to the Supreme Court on the basis of denial of natural justice. On that basis no great need exists for a further mechanism by which an aggrieved person can appeal. Although the Small Claims Tribunal is not the subject of this legislation, I offer the comparison of an aggrieved person not satisfied with the referee's decision, because that person can ask for a rehearing by another referee. I could not think of anything fairer. Again, if the person is still dissatisfied he can appeal, on the basis of denial of natural justice, to the Supreme Court; that would be ample provision for any person as a mechanism for appeal.

I have stated that the National Party regards the Bill as being superfluous. If the Government announced an intention to do something about the overlapping of services between the Small Claims Tribunal and the small disputes division, we would be pleased to hear that. Indeed, we would be pleased to hear of any amalgamation of those facilities. The Government is putting the cart before the horse, as this House should have considered the residential tenancy legislation before this legislation.

MR TRENORDEN (Avon) [12.47 pm]: I agree with the Leader of the National Party that this Bill should not have been considered in this House before the residential tenancy legislation. This presumes that the Residential Tenancies Bill will go through. We will be opposing that legislation and putting amendments to the Bill. If our amendments are successful the Bill now under debate will be of no purpose.

The Government should not be setting up another mechanism within the courts to handle very few prosecutions. We have heard that this Bill is a virtual mirror image of the South Australian Act. We have heard of the activities of tenants and landlords. In South Australia last year prosecutions under that State's Act numbered 23. To set up a bureaucracy within Western Australia to handle such a small number of prosecutions is unnecessary. The mechanism of the Small Claims Tribunal is available and if properly managed --

Mr Taylor: The point is we are not setting up a whole new bureaucracy; we are widening the jurisdiction of the provisions.

Mr TRENORDEN: The Government is talking about magistrates and the different methods of handling these cases.

Mr Taylor: No. We are widening the jurisdiction of the court. We will not appoint 10 magistrates.

Mr TRENORDEN: The Minister has already spoken to two people, I am told.

Mr Taylor: I have spoken to no-one.

Mr TRENORDEN: That is not the issue. We would have much preferred to argue the Residential Tenancies Bill in this place before the Bill now before the House, I believe prematurely. When the Residential Tenancies Bill comes before the House we will be opposing the provision providing that the interest on bonds will go to a mechanism for paying them. We will be seeking to limit that interest on bonds to a maximum of 50 per cent, because experience has shown that if there is $2 million or $3 million in interest raised it will be spent.

Mr Taylor: Try talking about the Bill.

Mr TRENORDEN: I am saying to the Minister that this Bill has come to the House prematurely and should have come after the Residential Tenancies Bill.

Mr Taylor: Talk about this Bill.

Mr TRENORDEN: The Minister can get as annoyed as he likes.

Mr Taylor: I am not annoyed. However, we do not want the member to repeat the same speech next week in relation to the Residential Tenancies Bill.

Mr TRENORDEN: So the Minister agrees that this Bill should not be before the House at this time.

Mr Taylor: I did not say that. The member has made his point, so now he should get on with the Bill.

Mr TRENORDEN: The Minister is a little touchy about this matter, and we will be arguing about the other Bill.

Mr Taylor: I look forward to that.

Mr TRENORDEN: That is good. I have consistently received telephone calls during the past week from representatives of bodies such as the Law Society and from solicitors saying that the Residential Tenancies Bill is a mess.

The SPEAKER: Order! I think that four minutes is sufficient time to be spent on something that is not really before the House and that it is time that the member directed his remarks to the Bill before the House. In all cases I think it only fair that the Speaker should allow members to transgress just to set the scene, if you like, but I think that four minutes is sufficient time in which to do that.

Mr TRENORDEN: I accept your ruling, Mr Speaker. I also point out that there was a bit of cross-chatter from the Minister. However, I look forward to the debate next week on the Residential Tenancies Bill. I oppose this Bill even though the leader says that we will support it. However, there will be much debate on it. It is my opinion that, as usual, the Minister is being pig-headed about this matter.

MR WATT (Albany) [12.56 pm]: I indicate my general support for the Bill, and my enthusiastic support for the direction that it takes. Members will recall that about two or three years ago this House moved to appoint a Select Committee to inquire into the operations of the Small Claims Tribunal. I was pleased to be a member of that Select Committee because I had had a few things to say at different times about the operations of the Small Claims Tribunal and some of its decisions because I felt at times -- and said -- that some of its decisions left something to be desired.

This Bill seeks to establish an extension of jurisdiction or operation of the local court by having a small disputes division and does not seek, as some people have said, to establish yet another court. During the time that the Select Committee of which I was a member was inquiring into the Small Claims Tribunal I visited South Australia where I spoke at length with the deputy chief magistrate about the operations of the South Australian local court, which administers and presides over disputes lodged in connection with the Small Claims Tribunal. I was very impressed by the way in which the system operates.

The member for South Perth and I, as members of that Select Committee, debated as strongly as we could in an attempt to persuade the committee to recommend that the Small Claims Tribunal be moved into the area of jurisdiction of the local court, which is what the Leader of the National Party suggested as an alternative a few moments ago. The chairman of that committee, the member for Mitchell -- and I say this at the risk of being seen as critical -- vacillated about the matter. I know that he was attracted in some ways to the argument, but he came down with a different point of view. I do not think that I am stating the case unfairly by saying that he saw the merits of the argument. Having had further time to reflect on the matter, he may now think that it was an even better argument than he first thought, and will be enthusiastic in his support of this Bill.

I spoke once again this week with the deputy chief magistrate in South Australia to refresh my recollection of the situation. There are many benefits that come from having a number of divisions in the local court. This does not have to be seen as a separate building, court or jurisdiction, because it is simply a means of increasing efficiency, as there is a court structure

set up, in utilising the resources of the courts. In fact, at the moment we have a separate jurisdiction with the small claims tribunal. In South Australia they have a number of separate areas to service and it is the job of the deputy chief magistrate to allocate magistrates to hear different sorts of claims one of which, of course, involves small claims. He argues that if his magistrates were required to sit only on small claims work they would become very stale in their job and would have less flexibility in carrying out the work that they have been trained to do. By varying their work from one area to another on a rotation basis they are able to remain competent in all areas of their work. This also provides the deputy chief magistrate with an opportunity when a magistrate's personality is clearly unsuited to a particular type of work to keep that magistrate away from that work. That is one of the real strengths of this Bill. I can understand why members of the National Party feel that this Bill puts the cart before the horse and I have some sympathy with that argument. However, the fact of the matter is that the Government has brought the Bill on, which is of no real consequence to me.

As the member for Floreat has said, it makes no real difference, anyway, because it is proposing a change to the small debts division and we would not argue with that. I have spoken in recent days with a person who told me that the Victorian Premier is also favourably disposed to removing the jurisdiction of the small claims tribunal as a separate tribunal into the local court. The Minister may not be aware of that. I understand that that is his inclination at this stage, although that is probably not formal. It seems that there is a clear direction being taken to establish this provision in the local court. The Bill makes much sense and, if the Residential Tenancies Bill becomes law, it would be appropriate that it should be yet another extension of the local court to hear claims arising under that Bill.

It is not accurate to say that the Small Claims Tribunal has had an opportunity to hear claims relating to residential tenancy matters. There is, in fact, only one small area relating to disputes about the return of bond moneys about which it has been able to hear complaints. Therefore, it is clearly not accurate to say that there has only been a small number of complaints relating to residential matters being heard by the Small Claims Tribunal -- that is really comparing apples and bananas. It is Liberal Party policy to move in the direction this bill is taking and I am on the public record a number of times as supporting that direction, so this Bill certainly has my support.

Sitting suspended from 1.00 to 2.15 pm

MR TAYLOR (Kalgoorlie -- Minister for Consumer Affairs) [2.15 pm]: I thank members opposite for their contribution to the debate on this Bill. It is unfortunate that the National Party members have not returned; therefore it is difficult to respond to the comments from one of their members.

Mr Hassell: He is probably listening intently outside.

Mr TAYLOR: He may be, but I would rather he was here to hear what I have to say.

I appreciate the comments made by the member for Floreat and the member for Albany and the support that has been indicated from both their party and the National Party. I understand that the member for Floreat mentioned the limitation on the amount of money that can be dealt with in this court. I am told that amount is now $3 000. The member for Floreat is right in saying that it requires an amendment to the Act to increase that amount. I think that, given the nature of this court and of the proceedings in this area, the Government should be looking at increasing the amount because we have to give every encouragement to people to take their disputes to these sorts of courts rather than, first, clogging up the higher courts and, secondly, finding themselves having to meet the great expense of going through the higher courts and making use of the services of lawyers.

The Leader of the National Party suggested that we had put the cart before the horse by debating this Bill now -- we should be dealing with it after we deal with the Residential Tenancies Bill. As the member for Floreat mentioned -- and I agree with him -- all we are really doing here is changing the description of the court, without changing in any significant or substantial way what that court actually undertakes. That is the nature of the Bill before the House, and that is why I believe it is worthy of support.

The Leader of the National Party suggested that the Small Claims Tribunal should be part of the small disputes division of this court. I think the member for Albany mentioned the same

matter and referred to his time on the Select Committee which looked into the Small Claims Tribunal. I believe that is the path that the Government should take because it would seem to fit in very neatly with the suggestion that the Small Claims Tribunal should be part of this particular set-up. This decision has not been made by the Government, but it seems to make a lot of sense.

Mr Watt: I hope you get your own way.

Mr TAYLOR: It does seem to make sense, and I will have to hear very strong views to the contrary to change my view that we should not proceed down that path. Nevertheless, it is a matter that in many ways is extraneous to the matter before the House. I am pleased the Bill has the support of the Opposition.

Question put and passed.

Bill read a second time.

In Committee, etc

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

Third Reading

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

HERITAGE PLACES (WESTERN AUSTRALIA) BILL

Second Reading

MR PEARCE (Armadale -- Minister for Planning) [2.24 pm]: I move --

That the Bill be now read a second time.

It is particularly appropriate as we move towards the 200th anniversary of English settlement of Australia that we introduce this Bill because, beneath all the razzamatazz of the Bicentennial, what Governments and organisations throughout Australia are seeking to do is to foster a real Australian national identity. For too long, Australians have exhibited what is commonly described as the cultural cringe. Only now are we beginning to focus on the truly Australian elements of our past and present culture as we move to a proper identification of the real Australian in us all. This Government is certainly conscious of the need to encourage and promote a knowledge and awareness of the State -- its history and its present features -- and has introduced a number of initiatives to do this. For example, we have established the Western Australian History Foundation to research and document the history of the State; this was launched by the Governor in May this year. This Bill is a further example of our commitment in this direction. The object of this Bill is to provide for and encourage the conservation of places of cultural heritage significance throughout the State. It is essentially a Bill to deal with what is loosely termed the built-environment.

Another reason why it is appropriate to bring this Bill before the House today is that it is 11 years almost to the day since the first heritage Bill was introduced into this House. On 25 November 1976 the Heritage Council Bill was introduced into the Legislative Assembly by Hon Bill Grayden. It had its second reading on 30 November, but the Government of the day did not proceed further with the Bill. I mention this not so much because of the coincidence but so as to bring to the attention of members the fact that past conservative Governments have shown some support for the type of measures provided in this Bill. I hope that this present Bill will attract the support of all parties. It does build on the work that was done in the preparation of their 1976 Bill, but I believe it further emphasises the positive aspects of heritage conservation.

Finally, before outlining to the House the provisions of the Bill, I point out that we see this Bill as a major step towards meeting our policy commitments and, more importantly, the obligation to the community as a whole to conserve our cultural heritage. I quote from the 19 December 1960 UNESCO recommendation concerning the protection of cultural property endangered by public or private works --

> Cultural property is the product and witness of the different traditions and of the spiritual achievements of the past and is thus an essential element in the personality of the peoples of the world. It is the duty of Governments to ensure the protection and the preservation of the cultural heritage of mankind as much as to promote social and economic development.

In developing this piece of legislation, we have been conscious of a number of points. First, we have attempted to minimise overlap with and duplication of existing functions. The Bill does not deal with the natural heritage -- these matters are already dealt with through the Conservation and Land Management Act and the Wildlife Conservation Act. It does not deal with Aboriginal heritage matters -- these are covered by the Aboriginal Heritage Act which, in any case, is based on quite a different philosophy. And it does not usurp the powers under the Maritime Archaeology Act. The Bill deals with portable or moveable cultural property such as artifacts and documentary records only in so far as it relates to a place -- therefore it will not interfere with the operations of the Western Australian Museum, the library, and like institutions.

The second point is that we recognise the enormous and very valuable contribution that has been made in this area by the National Trust. While there is little direct reference to that contribution in the Bill, it is certainly the intention that the proposed new statutory authority work closely with the Trust -- that the two bodies should be complementary and supportive of each other. In fact, there is so much work yet to be done in the survey and evaluation of heritage places that it is essential that the two bodies cooperate. I might say in passing that the work that the Trust has done so far in identifying and classifying buildings has been of critical importance in the preparation of this Bill. A number of other voluntary bodies also have been instrumental in conserving aspects of our cultural heritage so far, and we have attempted to recognise those contributions as well as the contributions of the Trust.

The third point is that we recognise that by far the majority of cultural heritage places are in private ownership. Public acquisition of places for their conservation is neither desirable nor financially feasible. The preferred approach is to encourage appropriate use and proper maintenance of places while they remain in private hands; we aim to promote conservation through the use of incentives and other forms of encouragement rather than by compulsion and acquisition.

In developing this legislation we have been able to draw on the experiences of other heritage bodies in Australia and elsewhere. To a large degree this is why this Bill is better than the 1976 Bill -- it reflects the passage of time and the accumulation of wisdom. One important improvement is in the means of protecting places with identified heritage values. In this Bill we draw on the existing planning and development approvals processes as far as possible. We leave the decision-making process unaltered but require that the decision-makers, be they Ministers of the Crown, Government departments including the State Planning Commission, or local municipal councils, take heritage matters into account in making their decisions. This has two other advantages: It means that all the existing time deadlines for decisions on development applications and so on will continue to be met. It also means that existing appeals procedures continue to apply and, therefore, we do not have to establish another set of procedures for dealing with appeals against heritage decisions.

I turn now to consideration of the detailed provisions of the Bill, confining my remarks to the more important provisions and those deserving greater explanation. Part I contains inter alia the definitions adopted by clause 3 of the Bill. Cultural heritage significance is defined in relation to place as the relative value of that place in terms of its aesthetic, historic, scientific or social significance, both for the present community and for future generations. "Place" includes the land and any works on that land and any pertinent moveable property within the described boundaries. Other important definitions to which I direct the attention of honourable members are "Conservation," "Decision-making Authority" and "Public Authority". Note that "Decision-making Authority" is a special case of "Public Authority".

The Crown is bound by this legislation as set out in clause 4 in part II. Thus Government departments and agencies and properties owned by such bodies will come within the ambit of the operations of the Bill. This provision is necessary as our cultural heritage obviously includes many public buildings and other sites of importance that are owned by or vested in the Government. Further, it is reasonable to expect the Government to set the example for the community to follow.

The remainder of part II establishes the Heritage Council of Western Australia as a statutory body. However, the Minister maintains executive powers in respect of the administration of the Act.

Part III sets out the powers and functions of the council. While the principal functions are to provide advice on a range of heritage matters, the council will also be able to undertake a broad range of activities aimed at documenting aspects of the heritage and increasing public interest in and awareness of the heritage.

The Heritage Council will have a membership of 12, of whom four shall be ex officio representing the four Government departments with a direct interest or role in heritage matters. The remaining eight members will be selected on the basis of their having qualifications, interest, and experience relevant to the purposes of the Act. For the guidance of future Ministers in the selection of members, the first schedule lists those non-Government bodies from which nominations will be solicited.

Clause 11 is a referral provision which is directed at Ministers of the Crown and decision-making authorities and is designed to ensure that heritage values are taken into account in evaluating proposals and in approving licences and applications. Because the majority of proposals will be planning matters involving local municipal councils or the State Planning Commission, the requirements under clause 11 are reinforced by those laid out in clause 74 in which direct reference is made to the Metropolitan Region Town Planning Scheme Act, the Town Planning and Development Act, the Local Government Act, and the Strata Titles Act and relevant referral procedures are established. The referral procedures apply to all development applications, subdivision applications, building licence applications, demolition licence applications, and applications for certificates of approval of strata schemes made under those various Acts.

This part also establishes the Heritage Fund, and within that a trust account called the Heritage Conservation Incentive Account. It is intended that there be an annual appropriation for this account and that the moneys be used to provide a range of incentives for private owners of heritage properties which will include low-interest loans and grants for approved works and technical support. Members may well be aware that we have a pilot project along these lines running in the Swan Valley at present; similar approaches to encouraging treatment and maintenance of historic buildings have enjoyed considerable success in South Australia and Victoria where it is found that Governments can achieve a great deal of conservation at relatively little cost.

While no final decision has yet been made, it is likely that this Government will contribute to the incentive account an amount that at least matches the contribution by the Commonwealth Government to the State through the National Estate Grants Programme. In the current financial year that amount is $517 000.

Part IV deals further with the range of financial and other incentives that might be offered to private owners to encourage conservation of heritage places. In addition to the low-interest loans and grants and technical assistance I have already mentioned, there is provision for revaluation of properties where the owner enters into a heritage agreement or covenant. The new valuation should reflect any forgone development rights and may have the consequence of lowering taxes and charges on that place.

A third level of financial incentive is provided for in clause 38, where the Governor may order the partial or complete waiver of land tax, metropolitan region improvement tax, and/or municipal council rates and charges. It is anticipated that such an order would be made as a means of assisting some particular approved conservation work on a place.

The fourth type of incentive or assistance involves the powers of the Minister given under clause 36 to amend other written laws. This power could be applied to such things as the Uniform Building By-laws and town planning schemes to facilitate sympathetic reuse and redevelopment of heritage plans. For example, the Minister could waive fire safety regulations so that the wooden staircase in a historic building would not have to be replaced with a steel and concrete structure, provided that other fire safety measures were installed. At its most extreme application the power under clause 36 could be used to allow the development potential of a site with a heritage building on it to be transferred to another site in other to preserve the heritage building. This is known as transfer of development rights

and is a method widely employed in North America to facilitate conservation while at the same time providing a degree of equity for property owners.

Naturally there are stringent controls on the making of a clause 36 order; these include public advertisement and consultation, appeals, and finally that the order be subject to disallowance in Parliament. Under normal circumstances any special concessionary arrangement made under the provisions of clause 36 would be written into a binding heritage agreement.

The heritage agreements provisions are described in clause 29. These agreements, between the Crown and a private owner, may include a covenant that runs with the title and is enforceable on the successors in title.

Part V of the Bill deals with the development of the Register of State Heritage Places. The register is central to the proper functioning of the Heritage Council and for the consideration of heritage matters in the planning process. The register will contain only places of cultural heritage significance as earlier defined. Entry in and removal from the register will be at the direction of the Minister and will involve a detailed consultation process including discussion with owners and, as far as possible, each occupier and relevant public authorities.

There is a 12-month time limit for the consultation and consideration processes for privately owned places except where the owner consents to an extension of time or where the Governor specifically regulates. Once a place has been considered for the register and rejected, it shall not again be considered within five years. Details of registration will be recorded on title documents to ensure that any subsequent owners are aware of the registration.

This Bill also includes a provisional list as the second schedule. The provisional list includes those places throughout the State that have been both classified by the National Trust and entered in the Commonwealth Register of the National Estate. That is, the list is merely a compilation of existing publicly available information. The places on the list have been evaluated locally and nationally as being significant and they have been through a public consultation process. I have with me copies of the documentation supporting the provisional list if any members are interested.

Dr Gallop: It is in the back of the Bill.

Mr PEARCE: Then members have with them copies of the documentation. What that means is that if anyone wants to know why a place is on the provisional list, the reason supporting that is available for perusal.

There are no implications for a place that is on the provisional list. There is no formal requirement for owners or decision-making bodies to consult with the Heritage Council before undertaking any development. Naturally it would greatly assist in the attainment of the objectives of this Bill if owners did consult, but there is no obligation for them to do so.

The provisional list will run for seven years, during which time it is envisaged that the Heritage Council will work diligently to evaluate each place on that list for entry into the register. An owner may at any time during the seven years apply to have consideration of his place expedited.

Part VI provides for three types of conservation orders --

a consent order -- an urgent order applied with the consent of the owner;

a stop work order -- an urgent order applied by the Minister; and

a normal conservation order which is applied by the Minister following public advertisement and consideration of submissions.

The stop work order can be applied at very short notice and may remain in effect for up to 42 days. This is intended to allow time for reconsideration and negotiation. It is intended that during the 42-day period the Heritage Council would undertake a detailed evaluation of the place and advise the Minister whether the place warrants conservation by some other method. The stop work order is subject to appeal. Further, clause 71 provides for compensation for expenditure thrown away as a result of the application of a stop work order.

The normal conservation order is designed to limit potentially destructive activities such as fossicking and vandalism.

Part VII allows the Minister to compulsorily acquire a place where he believes it is necessary for the conservation of that place. This draws on the provisions of the Public Works Act. It is envisaged that the powers of compulsory acquisition will be used only as a last resort. In the first place, the philosophy of this Bill, as stated earlier, is to keep places in use and in private ownership as far as possible; secondly, the Heritage Council just will not have the resources to acquire property willy-nilly; and thirdly, the Heritage Council is not intended to be a property-owning and managing body -- its role is more in identification, classification, and the provision of advice. In the event that the council did acquire property, it would almost certainly place a covenant on the title and then pass it on to a suitable management body such as the Building Management Authority, the National Trust, or the relevant local municipal council.

I have already discussed the most important aspect of part VIII; that is, the mandatory referral requirements for development applications, subdivision applications, building licence applications, and demolition licence applications in clause 74. Members should note that there is an exemption for alterations of a liturgical nature.

Part IX contains general provisions that include the power of the Governor to make regulations and the fact that the Act would be subject to review after five years.

I have already mentioned that the first schedule is a list of those non-Government organisations which the Minister might invite to nominate people for membership of the Heritage Council.

The second schedule is the provisional list and includes those places that are both classified by the National Trust and entered in the Register of the National Estate.

The package of heritage legislation that I bring before members today is comprehensive. We believe the measures provide a fair balance between incentives and controls. It clearly demonstrates the Government's desire to meet its commitments to conserve the cultural heritage of the State for the benefit of present and future citizens of the State and likewise for present and future visitors. We recognise, of course, the importance of heritage matters for the tourism industry, an industry whose development is an essential element for the economic future of the State.

The Government sincerely hopes that its policies and commitments to the conservation of the heritage will be shared generously by the community at large, for without the active support and encouragement of the interested citizens and groups such as the National Trust the overall achievements in the field of heritage conservation must inevitably be diminished. We are encouraged by the widespread interest and support that has been displayed by individuals and groups so far; we hope this can be reflected in this place.

I commend the Bill to the House.

Debate adjourned, on motion by Mr Hassell.

ACTS AMENDMENT (HERITAGE COUNCIL) BILL

Second Reading

MR PEARCE (Armadale -- Minister for Planning) [2.40 pm]: I move --

That the Bill be now read a second time.

The purpose of this Bill is to carry into effect the intentions of the Heritage Places (Western Australia) Bill by modifying existing Statutes in appropriate ways. Members will recall that the Heritage Places (Western Australia) Bill establishes a referral process for all development, subdivision, building licence, and demolition licence applications by direct reference in section 74 to the relevant Acts. That referral process provides the means for protecting places that are entered in the Register of State Heritage Places. It ensures that heritage values are taken into consideration by the existing decision-making body when issuing the approval or licence.

As I said in the second reading speech for that earlier Bill, the decision to provide protection for heritage places through a referrals process was an important one. It means that existing decision-making bodies will continue to have responsibility for decisions in the same way as they do now but will consider heritage aspects. It means that processing of applications for

development and so on will continue to be done expeditiously, without creating any new bureaucracy. It means that all existing appeals processes will continue to be applicable. I feel sure that members from all parties will agree that the philosophy of this protective mechanism is commendable -- to achieve protection with minimum disruption to the existing procedures and at minimum administrative cost to all parties.

Turning to the provisions of the Bill, the first two amendments are minor machinery matters. Section 374 of the Local Government Act deals with the issuing of a building licence. This amendment reinforces the referral process for heritage places and extends the time period for the local municipal council to give its approval from 35 days to 60 days in the case of applications affecting a registered place. This time extension is to keep the decision-making process in the hands of the local municipal council rather than allowing it to be transferred automatically to the Minister as an appeal. Section 374A of the Local Government Act deals with demolition licences. This amendment enables the local municipal council to refuse to issue a demolition licence for a registered place and requires it to refuse an application for a place that is subject to a conservation order or a moratorium on development. The amendment also reinforces the referral process outlined in section 74 of the Heritage Places (Western Australia) Bill.

Section 10 of the Bill clarifies the existing legal uncertainty about demolition as a form of development by including demolition in the definition of development in the Town Planning and Development Act. It expands the definition of development further in the case of places subject to a conservation order. Section 7B of the Town Planning and Development Act deals with interim development orders. This amendment enables any interim development order to include a condition that any development application that relates to a registered place be referred to the Heritage Council. It reinforces the 60-day time limit for development approvals. It also clarifies the appeal provision in respect of places subject to a conservation order or a moratorium on development.

Section 12 of the Town Planning and Development Act provides the limits to circumstances where compensation might be payable under section 11 of this Act. This amendment removes registration as a possible source of a compensation claim under section 11. Section 14 of the Bill inserts a new section into the Town Planning and Development Act. This is a referral mechanism for development applications that affect a registered place. It identifies the decision-making authority as the local municipal council in the case where there is a town planning scheme, or the State Planning Commission in all other cases. Note that the commission has powers of delegation that would be used as appropriate. Section 20 of the Town Planning and Development Act deals with subdivisions. The amendments here establish the referral process for registered places. Section 20A of the Town Planning and Development Act lists purposes for which land may be vested in the Crown in the making of a subdivision. This amendment enables land to be vested for conservation or protection of the environment.

The Town Planning Appeal Tribunal is given powers under the Heritage Places (Western Australia) Bill through the development to section 37 of the Town Planning and Development Act. The amendment to section 53 of the Act requires the tribunal to refer to the Heritage Council any matter which relates to a registered place. Schedule 1 lists matters that may be dealt with by general provisions. Clause 10 refers specifically to matters that are dealt with in a town planning scheme. Thus schemes can legally include heritage provision. This clause is also referred to in section 12(2)(a) of the principal Act as matters for which compensation is not payable in the making of a scheme. Sections 35B, C and F of the Metropolitan Region Town Planning Scheme Act all deal with aspects of planning control areas. The amendments proposed here are to ensure that referrals are made in respect of heritage places. Section 25 of the Strata Titles Act deals with the giving of certificate of approval for a strata scheme by the State Planning Commission. This amendment establishes the referral procedures.

As members will see from all of this, the amendments proposed in this Bill are necessary parts of the overall heritage conservation package. This is a comprehensive package which I am sure will enjoy widespread community support. Again I hope that support will be reflected here. I commend the Bill to the House.

Debate adjourned, on motion by Mr Blaikie.

EFFLUENT DISPOSAL SELECT COMMITTEE

Report: Extension of Time

On motion by Mr Donovan, resolved --

> That the time for bringing up the report of the Select Committee inquiring into Effluent Disposal be extended to 28 April 1988.

CHATTEL SECURITIES BILL

Cognate Debate

On motion by Mr Taylor (Minister for Consumer Affairs) resolved --

> That leave be granted for the Bill to be debated concurrently with the Bills of Sale Amendment Bill.

Second Reading

Debate resumed from 29 October.

MR WATT (Albany) [2.50 pm]: The object of the Chattel Securities Bill is to establish a register of security interests in relation to motor vehicles, in particular, and also in respect of other goods so that potential purchasers of second-hand goods will be able to purchase them in good faith and in the knowledge that they are unencumbered from any previous purchase. The Opposition not only supports this Bill, but also welcomes it. I thank the Minister for allowing me to be briefed on this Bill by the legal officer from the Department of Consumer Affairs and I also thank the officer for the courtesy he showed me.

On becoming shadow Minister for Consumer Affairs this was one of the problem areas that was identified not only by me, but also by a number of people in the community who have spoken to me about this problem on a number of occasions. I have asked questions in the Parliament of the Minister about the Government's intentions in respect of legislation of this type. I was happy to receive advice that legislation was to be introduced. I am absolutely certain that it will have widespread and popular support, and it certainly is received that way by the Opposition.

I am sure that every member in this House has been approached directly by constituents about problems that arise out of this area or, alternatively, has read in the newspaper and the other media, of problems which have been created where goods have been sold which have subsequently been found to be encumbered in some way, either by a existing hire purchase agreement, a bill of sale or some other financial encumbrance. On hearing of examples of this problem people have been absolutely horrified that a person who has purchased goods in good faith -- it relates mainly to motor vehicles -- has later lost those goods and has absolutely no recourse to any law to protect his interest. Sometimes the vehicle in question might be on its second, third or even fourth owner after the owner who originally had the financial encumbrance. Of course, one of the problems for the finance companies in trying to trace the location and identity of owners is that subsequent sales after the first sale take place under different names. It means that after the first sale the vehicle is lost track of, and the only means of identification is the name of the person in whose name the vehicle is registered if, in fact, it is a vehicle that can be registered. Recently publicity has been given to a case in which a motor vehicle dealer is taking a finance company to court because of what he sees as devious methods used by a representative of that company to obtain access to a vehicle by posing as a purchaser and seeking to test drive the vehicle, but then racing the vehicle to a finance company yard whereupon, and only then, did the dealer find out that there was an encumbrance on the vehicle. That is a most unsatisfactory situation and it is one we hope this Bill will overcome once and for all.

I have mentioned the problem of multiple transfers of vehicles. From time to time the problem arises where the vehicle in question might come from the Eastern States. It is proposed that this legislation will, in the fullness of time, become part of uniform legislation across this nation with cooperation between all States. The information on all vehicles and the registrations of financial interest will be stored in a computer so that each State will be able to obtain information from other States. We are not quite at that stage yet, but I understand that that is the ultimate objective. It is a worthwhile goal and one which the Opposition supports.

This legislation has been modelled on a similar Act which has been introduced in Victoria. I have contacted my shadow ministerial counterpart in Victoria who assures me that the legislation is working well in Victoria and certainly has the support of the Liberal Party in that State. Obviously when introduced this legislation will impact fairly heavily on motor vehicle dealers. It is vital that it should have their support and I understand that such support has been given. Motor vehicle dealers have much to gain from the legislation, especially where they stand to lose if the vehicle is found to be previously encumbered and they are left to pay the bill. The Bill imposes some administrative burden on motor vehicle dealers and I suppose it will only be a matter of time before they adapt to the procedures required. Obviously it will be some time before the Bill is proclaimed, while the regulations are being drawn up and the administrative structure is put in place. However, I hope the department, which is an agency of the Government, will take a reasonably tolerant attitude in the embryonic stage so that there is a phasing-in period. Everybody will have to get used to a lot of new rules and the Opposition would certainly not want to see the heavy hand of bureaucracy coming down on people for what might be perceived to be fairly innocent or unintended misdemeanours.

The method of operation of the Bill will be that the onus will be on the holder of a security to register that interest with the department. I have a concern which we might need to debate in Committee, but the Minister may like to comment on it during his response to the second reading debate. My concern is that the Bill does not appear to be mandatory. The Bill states that a person "may" make application to the commissioner for registration. The Bill is to be a genuine consumer protection measure; that is, it seeks to benefit the consumer. Motor vehicle dealers and perhaps even finance companies will also benefit. If it is optional for a person to make application for registration there will still be opportunities for a consumer to purchase a vehicle where the interest may not be properly recorded and that person might suffer a financial loss. If I have read the clause incorrectly, I will be happy to be corrected by the Minister.

Under the Bill it will be an offence to apply for a registration of interest if an interest is not, in fact, held. That makes good sense. When a security is discharged a person has 14 days in which to apply for the cancellation of the registration. At the other end of the transaction there does not seem to be a time limit within which the person who has the interest must apply to register that interest. I do not know whether that is expected to be done on the same day, or whether it is intended to provide a period within which an interest can be registered. They have 14 days in which to undo the registration, but there does not appear to be any latitude at all at the commencement People conducting a transaction, say at 5.30 pm on a trading day, I hope would not be expected to have that registration recorded on the same day, even though the hours during which that service is available by telephone are reasonably flexible and generous. They fit in fairly well with normal trading hours. The Minister can put me right if I am on the wrong track there.

On the other end of the scale, when sales are being effected, I take it motor vehicle dealers will be able to ring the Department of Consumer Affairs on what I should imagine would be something akin to a hot line in order to inquire whether a vehicle has a registration on it. That confirmation can be obtained by telephone. I should imagine there would be some sort of number to identify the caller, or something like that, which would then appear on a certificate sent to the dealer by mail. He would then have some identifiable fact for his documentation to signify that he had received the necessary clearance.

In answer to a question in the House the other day, the Minister indicated that there would be a fee of $5 for the issue of a certificate. I did not ask whether there would be a fee for registration. I would like clarification regarding the forwarding of accounts. Obviously some of the larger motor vehicle dealers will make many inquiries; others will inquire much less frequently. They would probably like to make inquiries more frequently because that would mean they were making more sales.

What will be the situation with a dealer in perhaps fairly shaky financial circumstances and having a poor credit rating? It would appear fundamental that his business should have access to this sort of information. I hope that, notwithstanding his otherwise poor credit rating, he will not be denied access to this information. It is a delicate situation, but obviously the department is entitled to receive its $5 fee, despite some possible area of conflict.

The Bill applies to things other than motor vehicles. It applies to all registerable motor vehicles, and also to goods up to a value of $20 000, which is a pretty reasonable sum. It applies also to unregisterable commercial or farm vehicles where the value is in excess of $20 000. That covers things which were previously impossible to trace through any other avenue available, such as motor vehicle registration records. This will provide an opportunity for keeping some sort of track of those vehicles which are not able to be registered.

The finance industry, through the Australian Finance Conference, has also indicated its support for the Bill. One of its queries relates to the operation of floor plans. Anybody familiar with the motor vehicle industry would understand that a motor vehicle dealer does not own all the vehicles he holds in stock. He operates under a financing arrangement which is referred to as a floor plan. Under the present wording of the Bill it appears that he would be required to pay-out the floor plan financing arrangement before he could sell. We might deal with that in more detail during the Committee stage, although the Minister has been made aware of the conference's concern over that floor plan problem and he may well address it in his response.

The Bill obviously has the support of the finance industry, of the motor vehicle industry, and I am sure of consumers. It is therefore with a great deal of pleasure that I indicate the Opposition's support of this Bill.

MR HOUSE (Katanning-Roe) [3.07 pm]: I express the National Party's support for this Bill. It is a very important piece of legislation which brings to consumers a great measure of protection which has not been available to them in the past. From that point of view most people involved in purchasing goods to be covered by this Bill will be pleased with it.

Over the years, many people have been caught by unscrupulous dealers and backyard operators who have been involved in selling not only motor cars for which they did not have free title, but also a whole host of other goods. The finance industry cannot agree quickly enough that this Bill will save that industry a great deal of hassle. The people in that industry do not want the trouble of having to chase after a vehicle which may have been sold and resold a couple of times to find who has it in order to get it back.

That statement applies not only to vehicles but also to caravans. I am pleased to touch on the point of caravans being included in the Bill, because I personally made representation to the Minister some months ago about some people in my electorate who have had a problem with a caravan. I am pleased to report that the finance company involved operated in a very honest way and gave those people a way out of that situation, which it need not have done. I appreciate its actions. That strengthens the fact that this Bill is so important, because it will not be necessary in future for insurance companies to do that again, so I am sure that they welcome this too.

This Bill is all about protection for the purchaser of goods. I would like to raise a question about the privacy of the owner of the goods. We have looked at setting up a register of people who owe money so that if they try to sell those goods, anybody can find out if, for example, a particular vehicle has money owing on it. But what about the person who owns those goods. I wonder what right I would have as a citizen to ring up the registrar and, for a $5 fee, find out that Joe Bloggs owes $20 000 on a motor vehicle.

Mr Taylor: That can be followed up.

Mr HOUSE: That may be the case but it probably does not make it any more right that it should happen. I can see some danger, but if I may enlarge on that, I am pleased to see that this legislation will cover farm machinery. In large-scale farming operations these days we have machinery worth upwards of $250 000. A common machine in the wheatbelt is a header which might be bought through a finance company, and the purchaser might owe $200 000 on that machine. That is a substantial amount of money, and it may for one reason or another be of some interest to those who do not want to mind their own business to know that a particular farmer owes $200 000. I do not see any reason why anybody should be able to obtain that information. I have thought about this matter since we were very ably briefed on the Bill and I cannot see an easy way around this; so, having raised the point, I also acknowledge that there is a problem. However, we should not ignore this problem and let this Bill go through its passage in the Chamber without expressing some concern that there

must be privacy for people who owe money, just as we must ensure that people are not "taken" by finance companies or unscrupulous people. The register will be available by simply picking up the telephone and dialling a number. I hope the Minister will address this matter when he replies.

When I read the Bill I was concerned that the amount of $20 000 was mentioned. This has been explained to me very thoroughly and I now understand that amount of money is in reference to chattels only; that is, goods other than motor vehicles. I believe this register should be expanded to include boats. Boats are becoming a more common item, and I presume that a number of the people who buy boats do so on hire purchase. Some of those boats would be worth a great deal of money, and they can change hands regularly. I cannot see any reason why we should not expand the register to include boats.

Mr Watt: I have a note on my Bill to make the same point in Committee, but I would add aircraft as well.

Mr Taylor: They may be covered later on.

Mr Watt: They are probably about the same price as farm machinery.

Mr HOUSE: Yes. It is my understanding, having looked through the Bill and talking to the officers who briefed us on the Bill, that motor cars in particular will be registered by their licence registration number. I pointed out to the briefing officers that the licence registration number can be changed very easily, and in fact those numbers change readily as people shift from one area to another. A person may register a vehicle in Albany and change that registration if they are transferred to Bunbury, so the vehicle would immediately pick up another licence number. There needs to be a logistical way that the problem can be overcome. I suggested to the officers that the chassis number of the vehicle should also be included on the register so that one would have the vehicle registration number, with the chassis number as a double-check.

Mr Taylor: That will be the case.

Mr HOUSE: I understand from the Minister's interjection that will be included, and I am pleased about that because it is a necessary step as a precautionary measure. It is interesting to note that the Bill does not spell out how the register will be kept.

This Bill largely supersedes the Bills of Sale Amendment Bill, except for agricultural bills of sale, which are the bills of sale that affect farmers when they register a debt against their wool clip or a growing crop, to name the two major areas that bills of sale are taken over. It is unfortunate that there are farmers who need to use that sort of security. I believe that one of the worst things that has ever happened to the agricultural industry is to allow stock firms to register bills of sale over stock and crops, because along with that registration goes the commitment to have to sell those goods and products through that company because under the bill the company actually owns those goods up to the value for which the bill of sale is taken. It is probably well known by those within the agricultural industry, and not so well known by others, that stock firms then force the people who are in that unfortunate financial position to do business with them in many other ways. For example, they exert pressure to get insurance business from those people and to have them buy their agricultural and veterinary products through them. I know many farmers object to that type of finance, and there is very little that can be done about it, but it is a matter that angers me a great deal and I hope that one of these days the agricultural industries will be prosperous enough not to need bills of sale over their crops and goods.

One of the good measures in this Bill is that if one buys a car, or whatever it happens to be, one is guaranteed good title. I understand from my reading of clause 7 that the onus is on the lender or the finance company to ensure that the person to whom they sell that product gets good title to the product. That is a very important and necessary part of the Bill.

I express the National Party's support for this Bill. It is a very important piece of legislation and I congratulate the Minister for introducing it into this House.

MR TAYLOR (Kalgoorlie -- Minister for Consumer Affairs) [3.17 pm]: I thank the member for Albany and the member for Katanning-Roe for their contribution to the debate and for their support of this legislation. I also thank the legal officer from the department, Mr Tim James, for his comprehensive notes, which I hope will enable me to make a sensible reply.

Both members indicated in their speeches how important this legislation is from a consumer point of view. I am sure members would be aware as far as their constituency work is concerned of the number of cases that have come to our notice over recent years of people who have been defrauded because they have bought a motor vehicle, in particular, that may have been encumbered to a finance company. That motor vehicle has been repossessed by the finance company, and those people have been out of pocket not only from the point of view of the cost of the motor vehicle but also, if they want to retain that motor vehicle, of actually paying out the loan.

I will now endeavour to answer some of the points raised by both members who spoke in the debate. One of the first points made by the member for Albany related to how we would go about introducing this legislation to the community. It will be very important to undertake a public education programme so that the community is aware that this legislation exists and is working, but more particularly so that all credit providers and motor vehicle dealers will be aware of the consequences of this legislation as far as their responsibilities, rights and duties are concerned in this State. We will ensure that we write to all motor vehicle dealers and credit providers in this State to advise them of the existence of this legislation and of the actual register that we will be establishing.

As far as the register is concerned, I have received Cabinet approval for the establishment of a $400 000 computer system in the Department of Consumer Affairs, which will enable us to run this network very efficiently. I am happy to say that work has already started on setting up that computer system.

Mr Watt: Is it intended that those financiers and dealers who have their own computer facilities will be able to have access to the computer; and if so, will there be any way of registering their contact so that they could be charged the $5 fee for the contact?

Mr TAYLOR: We have not looked at that yet, but it may be possible to have those sorts of computer links. One of the things we are doing is setting up a computer system that is compatible with those which exist in other States so that if necessary we can exchange information. That will be very important as far as this consumer protection aspect of the legislation is concerned and could also prove to be important from the point of view of the Police Force with stolen motor vehicles and vehicles being taken across borders in order to be sold. It could have all sorts of benefits apart from the consumer protection point of view.

The member for Albany also raised the fact -- and he is quite right -- that under the legislation there is no mandatory responsibility to place upon the register a charge relating to a motor vehicle. In fact it will be up to the secured party, which is usually a finance corporation, to ensure that it does that. If it does not do that, it is the only one that stands to lose. It is in the corporation's financial interests to ensure that its security is registered; if it does not, the only person who will not lose is the consumer. So there is a very strong incentive for secured parties to register their interests, but there is no compulsion for them to do so. It is a fairly clever way to overcome that problem.

There will be a period of at least two months in which credit providers can register their interests before this legislation becomes operative. That will give them the opportunity to make certain that their present interests are on the register. It will cost them only about 50c initially to register their interests because it would be most unfair to charge them the full fee. After that period a fee of about $10 will be charged to register each interest, but during that two-month period it will cost only about 50c for each registration.

Mr Watt: Will that fee be prescribed by regulation?

Mr TAYLOR: Yes, and we are determined that this legislation and this measure will be self-supporting; they will not be subsidised by the taxpayer. Most people realise that the days of general subsidies through the taxation system for these sorts of networks are well and truly over, and it will be self-supporting in every way.

Another point raised by the member for Albany related to the account facilities being available. We will endeavour to send out accounts on a monthly basis, for example, to motor vehicle dealers. In fact we may even be able to look at a situation later on where this system is indeed self-supporting and rather than see it as a revenue earner we could look at giving virtually cut-price deals to the industry as a whole if it is running very well and we do not need the excess revenue. We may be able to reduce that $10 fee for each registration, and perhaps even reduce the fee of $5 to get the certificate, as mentioned in the Bill.

The member for Albany also mentioned the problem with floor plans. That matter was drawn to our attention by the Australian Financial Conference. As a result we have included in the Bill a new subsection 30(2) which makes that quite clear. That subsection reads --

> (2) Subsection (1) does not apply in relation to the sale, exchange or disposition of a vehicle as defined in section 5(2) of the *Motor Vehicle Dealers Act 1973* that is subject to an inventory security interest by a licensed motor vehicle dealer as defined in that Act if the sale, exchange or disposition is authorized by and in accordance with the terms of the inventory security interest.

I understand the inclusion of that proposed subsection overcomes the problem raised by the Australian Financial Conference with the member for Albany, with me as Minister, and with the department. I hope that will resolve the problem fairly quickly.

The member for Katanning-Roe, who I think supported this legislation, raised the important point of privacy of the owner so far as borrowings are concerned. I share his concern. We do not want everyone to know how much we have borrowed or how much we owe on a motor vehicle or tractor. I understand that under the Bills of Sale Act that information currently is available if people want to seek it. I think it is available also in regard to buying a house if one takes out a mortgage. People are able to go to the Titles Office and find out the details of that mortgage -- how much one has borrowed and the rate of interest on the loan.

Those sorts of problems already exist in our society but we will endeavour not to give details of the borrower's name or the amount borrowed. We are not particularly interested in saying to someone, "This is how much that person borrowed and this is his name." What we will say is that a registration of interest by a finance company or a credit union exists in relation to that motor vehicle. That is what people will want to know.

Mr House: The difference in this case is that you can pick up the telephone and get that information, as opposed to having to go to the trouble of visiting Dun and Bradstreet or the Titles Office.

Mr TAYLOR: After someone has given a registration number and a chassis number, the only information they will receive is whether an interest is held over that vehicle -- not necessarily what the amount is or who owes it. We probably will not even have that information. I must say also that people will not be able to get any information at all without having the registration number and the chassis number of the vehicle. In relation to that, the member for Katanning-Roe raised with me what he thought was the need to have information other than merely the registration number in order to identify a vehicle. He is quite correct about that and that is why we will be placing chassis numbers of vehicles on the register. That will afford far better protection for the vehicles involved.

I think it was mentioned in the second reading speech that we would look later to extending the register to include other vehicles, especially boats and aeroplanes. However, the first thing we must do is ensure that the register as it stands at the moment works well. One of the problems with boats relates to their actual registration, which I think is done by the Department of Marine and Harbours. We will have to undertake discussions with that department to see what we can do in order to put those registrations of interest in the computer bank.

Mr Watt: Could you set a target date for that?

Mr TAYLOR: No, I honestly could not. First we must get this one operating, and take it from there. I understand that in Victoria now they do cover boats, and if they can do it there I see no reason for us not to extend this chattel securities legislation at a later stage to include boats, and hopefully aeroplanes. Perhaps there are other forms of vehicles that we could include as well.

I have answered most of the points raised by the members for Albany and Katanning-Roe. This is important legislation. I must say, as he has just walked in the door, that the Minister for Lands, and Housing was really the person behind bringing this legislation together and it just so happened that I took over the Consumer Affairs portfolio after he had done all the hard work. I thank him for the work he has done. This legislation is a great thing for consumer interests in Western Australia.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (Dr Lawrence) in the Chair; Mr Taylor (Minister for Consumer Affairs) in charge of the Bill.

Clause 1 put and passed.

Clause 2: Commencement --

Clause put and negatived.

New clause 2 --

Mr TAYLOR: I move --

> Page 2, lines 2 and 3 -- To delete the clause and substitute the following clause --
>
> 2. The provisions of this Act shall come into operation on such day or days as is or are retrospectively fixed by proclamation.

This amendment is necessary as it is intended to have two proclamation dates in relation to this Bill. The first will enable finance companies to lodge their security interests with the Chattel Securities Register. The second date will be that from which the legislation will operate.

New clause put and passed.

Clause 3: Interpretation --

Mr WATT: The first of two matters I wish to comment on was raised by the Australian Finance Conference and relates to the definition of "dealer" on page 2. Its letter reads in part as follows --

> The definition of "dealer" fails to distinguish between a dealer and financier. The proposed definition could embrace financier, whereas the concepts of the two are and should be kept quite distinct, within the scheme of the legislation. This could be done simply by adding after the words "a person" in the definition of "dealer", "other than a financier".

Would the Minister be prepared to consider that?

Mr TAYLOR: I think the point being made by the member is that finance companies are concerned that they do not come within this provision. Is that right?

Mr Watt: They see themselves in a different role from that of the motor vehicle dealers, and they are looking for a distinction to be made in the definition of dealer.

Mr TAYLOR: If finance companies, even though they see themselves as being different, are in the business of dealing in terms of this Bill, there is every reason they should be included in this definition. I gather that most of them are exempt under the Motor Vehicle Dealers' Act from this definition of dealer.

Mr WATT: The other point I wish to raise relates to clause 3(5). I was handed a letter as I was entering the Chamber, which I have not yet had a chance to examine properly, from a finance company. With the Deputy Chairman's approval I will read the appropriate sections of the letter as follows --

> Interpretation for the Purposes of this Act, that a person must have actual notice of the security interest or have been put upon enquiry as to the existence of such an interest.
>
> This poses the question, would a purchaser from another state that does not have similar legislation possibly obtain good title simply because of their ignorance?

I think that question is self-explanatory. Could the Minister respond?

Mr TAYLOR: If one reads the legislation like that, that could be the case, but quite obviously --

Mr Watt: Once you have the uniform legislation it will not apply?

Mr TAYLOR: We have legislation such as exists in other States. At the Consumer Affairs Ministers' Conference in New Zealand last week the other States, including Queensland and Tasmania, indicated they would go down the same path. Such has been the success of this sort of legislation, the pressure will be on them to adopt the same sort of provisions as we will have and what the other States already have. Hopefully that will overcome the problem the finance company is concerned about.

Clause put and passed.

Clauses 4 to 14 put and passed.

Clause 15: Registration of security interest --

Mr WATT: With your indulgence, Madame Deputy Chairman, I think it would be easier if I were to read the letter handed to me earlier rather than attempt to paraphrase such complicated material. The letter reads --

> . . . the legislation is aimed to protect the consumer (purchaser) who purchases from a licensed motor vehicle dealer or licensed car market operator where either of those bodies is compelled to satisfy any registered security interest, i.e. if a vehicle is purchased from one of these bodies the purchaser has clear title notwithstanding the rights of a secured party. The secured party would then have recourse against the licensed motor vehicle dealer or licensed car market operator which, in itself, is no guarantee of any debt secured by the interest, being satisfied.
>
> This presupposes that a financier who takes a registered secured interest over goods is perhaps better able to bear the costs of a fraudulent sale of goods to a licensed motor dealer or licensed car market operator, than a consumer. Of course, if financiers are constantly hurt by fraudulent sales then this cost is ultimately passed to all consumers!
>
> The fraudulent conversion of goods subject to Bills of Sale has, in recent times, increased dramatically. One of the present reasons for the non-detection is that subsequent to the first fraudulent sale, subsequent sales occur in the names of other parties. The present registration system records encumbrances by the debtor.
>
> To be successful, the proposed legislation must identify the unit (as opposed to the provider of security) so that no matter who may be the possessor of the goods, the goods themselves can always be identified. The proposed legislation does not seem to address this point, but leaves it to be established when the mechanics of the law are operable.

I think that relates to the matter the member for Katanning-Roe raised about registering chassis numbers or engine numbers or some other identifiable part, particularly in the case of motor vehicles. Of course when one deals with goods other than motor vehicles, it may well be that there is no identifiable registration. I suppose that is something we will have to learn to live with. The query raised is self-explanatory. I would appreciate the Minister's comment.

Mr TAYLOR: It may be self-explanatory when one is reading a letter. Who wrote that?

Mr Watt: AGC.

Mr TAYLOR: It would be in its interest to draw the matter to my attention personally and so be given reasonable answers. I gather it is saying it is concerned that although the consumers are okay --

Mr Watt: And they see themselves as having to carry the can.

Mr TAYLOR: Yes, even with motor vehicle dealers. We are going to try to achieve in this State, with the cooperation of motor vehicle dealers, the setting up of some sort of fidelity fund. Motor vehicle dealers are interested in pursuing that. If we are able to do that, at a later stage the finance companies will be able to claim against that sort of fund under the circumstances that AGC appears to have raised here. This legislation is operating in Victoria and New South Wales and does not appear to be causing any concern to AGC in those jurisdictions. I cannot see why it should be a cause for concern here. At the moment, and as this matter stands, there is no doubt that they could be left bearing the brunt of anything that goes wrong. However, if we introduced some sort of fidelity or guarantee fund for motor vehicle dealers, it could overcome that problem at a later stage.

Mr Watt: They indicated that, in the event of things going wrong, the consumer would have to pick up the tab.

Mr TAYLOR: There is no doubt that they have to register an interest and those interests will cost money. We all know that the consumer will pay. I think even the consumer recognises that when these sorts of extensions of legislation are required, costs attach to them, and those costs are ultimately borne by the consumers.

Clause put and passed.

Clauses 16 to 26 put and passed.

Clause 27: Commissioner to be nominal respondent --

Mr WATT: Will the appellant be represented by counsel?

Mr Taylor: Yes.

Clause put and passed.

Clauses 28 to 32 put and passed.

Title put and passed.

Report

Bill reported, with an amendment, and the report adopted.

Third Reading

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

BILLS OF SALE AMENDMENT BILL

Second Reading

Order of the Day read for the resumption of debate from 29 October.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (Dr Lawrence) in the Chair; Mr Taylor (Minister for Consumer Affairs) in charge of the Bill.

Clause 1 put and passed.

Clause 2: Commencement --

Mr TAYLOR: I move an amendment --

Page 1, line 8 -- To insert after "that" the following --

section 7 of

It is intended to have dual proclamations for the Chattel Securities Bill. The first proclamation of that Bill will allow registration of all current security interests. Once a reasonable period has elapsed, the remaining part of the Bill will be proclaimed. It is not intended to proclaim the Bills of Sale Amendment Bill until the second proclamation date of the Chattel Securities Bill 1987.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 3 to 7 put and passed.

Clause 8: Transitional --

Mr TAYLOR: I move an amendment --

Page 2, line 31 -- To insert after "day" the following --

but nothing in this section affects the operation of section 7 of the *Chattel Securities Act 1987*

It is necessary to insert these extra words to ensure that the Chattel Securities Bill 1987 will take priority in relation to any potential conflict between existing bills of sale and unregistered or registered security interests.

Amendment put and passed.

Clause, as amended, put and passed.

Title put and passed.

Report

Bill reported, with amendments, and the report adopted.

Third Reading

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

TRUSTEES AMENDMENT BILL

Second Reading

Debate resumed from 24 November.

MR MENSAROS (Floreat) [3.50 pm]: Generally speaking one must find favour with this measure, but one cannot spare the comment that it is not before time. For some years there has been concern about some of the restrictions in relation to the authorised investments under the Trustees Act. The Law Reform Commission report was produced on the request of the previous Liberal Party in January 1984; it has taken more than three and a half years for the present Government to implement any of its regulations, other than the one in favour of the Public Trustee which was implemented in 1984. The 1984 amendment enabled the Public Trustee to invest in real estate. At the time, Hon Ian Medcalf, who was shadow Attorney General, made strong representations that the same power should be given to the private trustee companies and, although the Attorney General, Hon J.M. Berinson, said he would do something about it, he has not acted with any great speed. This is in spite of the fact that, when he was in Opposition, he frequently referred to the delays in implementing Law Reform Commission recommendations and indicated that six to 12 months was a proper and adequate time in which to make the necessary decisions after recommendations had been made. However, I do not want to cry over spilt milk and it is good that the Government has acted at last.

The major amendments to the existing powers of investment are, generally speaking, quite satisfactory with one or two exceptions. Before going into that, I refer to a habit which the Government has apparently developed; that is, although a Bill may have been introduced and sufficient time given to study and discuss it with interested parties, it will suddenly undergo amendments in the last days which make it very difficult to coherently bring together the studies and talk about the changes with the interested people. In this case involving the two trustee companies, interest has also been shown by various large financial institutions which are considering becoming trustee companies or hope to form a trustee company. It was difficult to follow the hastily introduced amendments, for which there would have been plenty of time had the views of the interested parties been taken into consideration some months ago.

I refer now in some detail to the provisions of the Bill. I see little reason to confine the power to lend on mortgage of land in Western Australia. Equally, I see little reason that the trustee should be limited to purchasing land only in this State. If it is good enough for the trustee to be authorised to purchase a dwelling house for a beneficiary anywhere in the Commonwealth, under proposed section 19, why not permit loans on mortgage and purchase of real estate in other parts of the Commonwealth?

The Government has apparently run away from the question of the propriety of investment by trustees of trust funds in credit unions and unit trusts. This may not be a popular subject, particularly with credit unions and credit trusts, and in view of the debacle which took place fairly recently -- mainly due to lax supervision, to say the least, by the Government -- with regard to Teachers Credit Society. Why should one type of investment be mentioned as subject to future regulations? No proper explanation was given for this, certainly not that

one could have expected an explanation from a Government which must go with its tail between its legs as far as credit unions are concerned. The solution put forward is not acceptable to the Opposition.

Parliament shall decide the classes of investment which can properly be the subject of trustee investment. If we accepted the regulation solution -- that is an administrative discretion with credit unions -- why not proceed this way with every other investment? We would not need this complicated Bill but could introduce a one-paragraph Bill stating that henceforth all trustee investments would be determined by regulation. I cannot see the logic in this. I wonder whether the Minister can give a satisfactory explanation. I shall come back to this question.

It is equally not satisfactory to allow regulations to vary the $5 million shareholders' equity in proposed section 16B(5)(a) and in a subsequent section. Here, however, I query even the statutory provision. Clause 5 of the Bill includes a new definition relating to shareholders' equity. Alas, it appears to be out of date already, for shareholders' equity is defined as the total assets of the company less the total liabilities of the same company, as disclosed in the last audited accounts of the company. One may well ask how this definition would apply to Rothwells Ltd. Would not the last audited accounts as laid before the company in general meeting disclose a very healthy shareholders' equity?

Turning to the new provision regarding investment in company shares, contained in the proposed general section 16B, for an investment to qualify there must be a shareholders' equity of not less than $5 million and the company must have paid dividends for at least seven consecutive years. It is true that before making an investment, proper advice has to be obtained but this relates only to ensuring diversification and suitability of the investment in relation to its description. There is nothing about the financial solvency of the company at the time the investment is made and, strictly speaking, attention should be focused on this point. It must be accepted that any financial adviser would inevitably draw attention to the particular financial situation of a trust, but this is outside the scope of the legislation; that is why attention should be focused on that question. Of course, the same definition applies with appropriate changes to "unit holders' equity".

The decision contained in clause 7 to delete reference to investments outside Australia -- the old Act allowed for the United Kingdom, New Zealand and Fiji -- is sensible, particularly under present conditions, bearing in mind the exchange rate problems.

Likewise, there are one or two other redundant provisions that have been excluded, including reference to the Western Australian Fire Brigade board. It is noted that because of the changes affecting building societies, which have been a traditional authorised investment, the Government has provided that regulations may contain savings and transitional provisions where investments have been made under the old Act. My surmise would be that there are very considerable trust funds invested in building societies, particularly where private trustees are involved.

Apart from my comments regarding regulatory provisions, I am not at all happy about the classification of credit unions as authorised trustee investments. This is a departure from the old Act. During our period in Government the then Attorney General received numerous representations from credit unions that they be so classified because this would enable them to attract trust funds and hence expand their clientele. However, he found this a very bad argument and resisted all attempts to have them classified until such time as it could be established that they were all soundly based and worthy of such classification. Such time has not yet arrived. Of course, the recent debacle of the Teachers Credit Union witnesses this.

The Government has obviously responded to pressure to include credit unions, but I doubt that it is a valid move until such time as there are stricter controls, even stricter than the ones now hastily proposed, over the operations of the credit unions. It would have been wiser to have omitted reference to credit unions altogether and to have said that when the Government was satisfied with whatever new proposals it had for credit unions, it would give consideration to an amendment to this Act. I appreciate that making such comments does not create popularity with credit unions, which constitute an important pressure group. However, the interests of the general public and the beneficiaries should be the first consideration when we deal with trustee legislation.

There are quite a few changes made to authorised investments in company securities. New section 16B brings in the new concept of "shareholder's equity" to which I have already referred. I do not object specifically to the new method of gauging a company. There is a good argument for saying that this is a better method than reference to the paid-up share capital, which has been $2 million. I would, however, suggest an amendment to proposed subsection (5)(a). The word "other" in line 27 should be deleted and the word "greater" substituted. This provides the provision that the $5 million maximum can be varied by some other amount.

I am suggesting that, if the Minister wants to make it safe in the interests of beneficiaries, then instead of "by another amount" it should be varied by "a greater amount". I am quite sure that this would be the intention, in any event, of that particular provision. Proposed subsection (6)(b) has a slight ambiguity. Whilst it is no doubt clear to the draftsman, and probably to a court, that shares which are not fully paid up or not required by the terms of the issue to be fully paid up within nine months, are excluded as trustee investments, nevertheless, this would not necessarily be clear to the lay reader who reads that passage. Indeed, a prima facie argument could be mounted that shares required by the terms of issue to be fully paid up within nine months are excluded. The ambiguity could be overcome in a very simple manner by inserting the word "not" before the word "required" in line 6 on page 7.

Mr Peter Dowding: How?

Mr MENSAROS: When we come to the Committee stage I will read out the clause. To my mind, it gives an impression opposite to what it wants to achieve. Indeed, if one looks at old section 16(3)(b) one finds that it has been drafted in a manner which could not have any possible ambiguous interpretation.

Under section 16(7) of the old Act, when dealing with power to invest on deposit in a company which qualifies as a share investment, the term of the deposit must mature within six months. This is a fairly restrictive provision. Many good, sound companies which qualify as trustee investments for shares offer worthwhile deposits for longer periods than six months at better rates of interest than those available for up to six months, thereby enhancing the return which persons, dependent on the income of the trust, may obtain. My suggestion here would be that the period of six months is too short and that a period of 12 to 24 months, say 18 months, should be substituted as more appropriate.

My next consideration relates to the fact that I cannot agree with the Government's treatment of investments in unit trusts. It is true that unit trusts are an existing trust investment under section 16(1)(n) of the 1962 Act. The Minister has stated that the width of the existing provisions causes concern and I can agree with his comment. What has, however, been overlooked entirely is that unit holders do not have limited liability as do shareholders. Most trust deeds purport to limit the liability of unit holders to the amount subscribed for units in the fund. However, the trust deeds do not afford a unit holder limitation of liability in all circumstances and most prospectuses for unit trusts contain under the item "statutory information" a statement that the manager cannot give an absolute assurance that liability is limited in all circumstances as such a decision must ultimately lie with the courts.

This liability is regarded by some as being largely theoretical, and of course, so it is. However, a theoretical liability is quite capable of becoming a real practical liability and it is theoretical liabilities that trustees should be aware of. I am not opposed to investment in unit trusts, but believe that the Government should be taken to task for not having pursued in the past in any realistic manner -- if at all -- the need for legislation on a cooperative basis under the National Companies and Securities Scheme to limit the liability of unit holders.

I see no reason why the State should not have legislated unilaterally pending some cooperative legislation. In any event the threat of unilateral legislation in this State to limit liability of unit holders would not only have brought considerable joy to managers and holders of unit trusts but would also have been a service to the investing public. I believe the right course for the Government to have adopted in this situation was to have restricted investments in unit trusts, as trustee investment for the time being, but subject to a transitional clause in relation to investments already made, and to have pursued the object of bringing in limiting legislation which would have clarified the matter once and for all.

The next part of the clause deals with authorised investment in land. There is a flat statement that trustees may invest in the purchase of land in fee simple in Western Australia. However when one looks at the conditions set out in proposed subsection (2)(c) one sees a reference to buildings and improvements and actual or potential income.

This raises the question whether a trustee may in fact invest in unimproved land. It also raises the question whether a trustee may invest in land which has no actual or potential income. My view is that the intention is that a trustee may invest in unimproved land which is non-income producing. But in view of past experience and the use of phrases such as "improved land" and "income producing real estate" as used in innumerable trust deeds and wills where specific powers to make such investments have been granted, one must ask the question: Has any ambiguity been left in the words of this proposed subsection?

I believe this provision could have been better expressed by using the phrase "if any" in section 16D(2)(c)(i) and (ii). I do not suppose it is worth trying to move an amendment which would be more involved than the amendments I have already indicated I will propose. Perhaps the Minister could draw the Attorney General's attention to this area. In any event I will be happy to hear the Minister's reply about the Government's intention and what this provision intends to achieve -- that is, whether an authority exists to invest in non-profit bearing unimproved land.

Another provision of this proposed section is too restrictive in all practicalities. Subsection (2)(b) says when a trustee invests in the newly-allowed investment of land, the purchase price shall not exceed the value of the report by a licensed land valuer by more than five per cent. We all know that sworn valuers would not be able to give exactly the same amount as a valuation on the same property. The difference between two or more valuers can vary anywhere around 10 per cent; that is to say the purchase price shall not be greater than the stated value plus five per cent is too restrictive. It would be more appropriate to make the difference at least 10 per cent.

Clause 8 amends the section enabling the purchase of a residence for a beneficiary under a trust. It extends the ability of trustees to purchase a residence anywhere in the Commonwealth, not only in the State. The amendment is a very beneficial one and overcomes situations which have caused a lot of concern to trustees in the past where beneficiaries have moved interstate and want to exchange their local house for one in another part of the Commonwealth.

It should be noted that this clause contains a reference to the qualifications of valuers in other States. Such a reference to qualified valuers in other States could easily have been inserted to cover the purchase of real estate as a trust investment under section 16, thereby enabling real estate to be purchased in other States, and likewise to cover the investment on mortgage over land situated in other parts of the Commonwealth outside Western Australia.

The requirement for insurance has been greatly amplified under clause 12. Whilst this is a legitimate and understandable undertaking -- and I would not suggest an amendment -- nevertheless it is likely to place a rather onerous burden on trustees in attempting to secure such comprehensive insurance. Not only may it be difficult to obtain in some circumstances but it is likely to be extremely expensive.

My final point is that there does not appear to be any arrangement for transitional provisions for changes in investment other than for building societies. In the case of investment in any company shares which have been made in good faith by trustees in companies which have a paid-up share capital of $2 million or more, what will be the position of such trustees who now find that the companies are to be tested under a different standard, namely a shareholder's equity of not less than $5 million or such other amount as the Governor may by regulation prescribe? What will happen if, after the new provisions have come into force, the Government then prescribes another amount under a new section? Does this mean that all the old investments will have to be sold immediately and in the meantime there will be a breach of trust?

The Government should be acting to insert transitional provisions or pointing out how the position of trustees who have acted in good faith will be protected. I look forward to the Minister's answers to these queries.

I support the Bill.

MR PETER DOWDING (Maylands -- Minister for Works and Services) [4.19 pm]: I thank the Opposition for its support of the Bill. I will deal with the specific proposals for amendments at the Committee stage. Some of the points made by the member for Floreat were comments on the nature of the established framework rather than comments on the Bill. Those comments will be referred to the Attorney General.

This Bill has been very long in gestation for the reason the member has identified; that is, there are so many complexities and different views on how to achieve a fundamental issue -- the protection of the public.

The Bill seeks to achieve that with this measure. While one can tinker with the edges of the requirements, nevertheless the thrust of the Bill in the Government's view, preserves that protection and enhances it. It would not be our intention to accept alterations as identified by the member but he has made a contribution to the general debate and the Attorney General will have an opportunity to consider very carefully the nature of the points the member raised.

Question put and passed.

Bill read a second time.

In Committee

The Chairman of Committees (Mr Burkett) in the Chair; Mr Peter Dowding (Minister for Works and Services) in charge of the Bill.

Clauses 1 to 4 put and passed.

Clause 5: Section 6 amended --

Mr MENSAROS: As a result of the amendments in another place, the Bill now places all trustee companies throughout Australia on the same footing. This is a departure from the principal Act, which apparently did not quite trust the Legislatures of other States. With this Bill, the other States' trustee companies will be included within the range of trustee investment. The Attorney General said he was satisfied that throughout Australia the rules have been tightened pertaining generally to trustee companies. He also said that he expects other States to allow investments in Western Australian trustee companies' funds. To what extent is the Attorney General justified in expressing this confidence? What guarantee does the Minister have that other States will have reciprocal authorisation for trustees to invest in Western Australia?

Mr PETER DOWDING: I do not have any information as to the undertakings the Attorney General has from other States. I am not in a position to advise the member and I do not see how that is relevant. Here we have a clear position in Western Australia and we are dealing with the law governing Western Australia. It is not appropriate for us to simply wait until everyone else in the rest of Australia has made up their minds.

Mr MENSAROS: That is a very interesting and curious view. In effect that means that the Minister has said, "Irrespective of whether the other States give us the same benefits as we give them, that is our law. We discussed it and we should not be concerned about what other States do." I would have thought that we are giving the other States an opportunity on the basis -- and that is what the Attorney General said as opposed to what this Minister has just said -- that we expect the same benefits from them. Therefore, it is reciprocity. The Minister has now said that is irrelevant and not important and that the main thing is we allow our trustees to invest interstate; what happens to trustee investments here does not matter. I note what the Minister has said although I do not think it is appropriate.

Clause put and passed.

Clause 6 put and passed.

Clause 7: Section 16 repealed and sections substituted --

Mr MENSAROS: I have several amendments to clause 7. I move an amendment --

Page 6, lines 6 to 10 -- To delete proposed subsection (4).

That proposed subclause contains the regulatory power which enables the Attorney General, who is in charge of this legislation, to authorise new trustee companies or delete existing trustee companies within the schedule. This provision gives the Attorney General the

discretional right to alter the schedule, making or cancelling new companies.

For over 80 years in one case and over 60 in another case -- being two trustee companies -- there were two Acts of Parliament, traditionally private members' Acts, which dealt with this. Those Acts were always amended by the member for Perth and the right to deal with these wills was considered tremendously important. In many cases the people who framed the wills are deceased and cannot say anything about who is to deal with the interests of the beneficiaries. There were strict and serious conditions applying as to which companies could do this. According to the two Acts of Parliament, there were only two companies -- the WA Trustees and the Perpetual Trustees -- which were able to do this.

This Bill amalgamates those two Acts and places them on a Government legislation situation, rather than being private members' Acts. I suppose we will have to accept that. However the Bill, after establishing that the two companies are still authorised, says that now the Attorney General can authorise any company. The Bill does not set any conditions which the Attorney General has to follow when exercising his discretional power. We have experienced a lot of things in the last few years which if one brings up the Government gets very edgy about, and calls for points of order and so on but this has to be mentioned: If this provision stays in the Bill, as it will stay because the Government knows no other argument but that of the numbers -- it does not comprehend any other argument.

Mr Peter Dowding: Now you are being uncharitable.

Mr MENSAROS: Yes, because that is my experience. The Minister has not replied to my second reading speeches, probably because he has not comprehended them. I do not say that disrespectfully but I have not heard any reply to my arguments. If this provision stays in the Bill after the Bill is promulgated the Attorney General can say that the WADC from now on is a trustee company; he can say that Exim is from now on a trustee company; he can say that Brush and Company is a trustee company. There are no conditions -- they do not have to have anything such as paid in capital or any qualifications; they do not have to have anything. They can be trustee companies. There are no provisions involved. If I am wrong, I will be glad to be corrected, but I cannot find any provision in the Bill which even says which companies can be authorised by the Attorney General.

No explanation was given in the second reading speech, or any comment made since, as to why that regulation is necessary. If the State considers that there should be fewer regulations and more competition regarding new trustee companies -- which have existed for 80, or 60 years respectively -- we would not argue with that, but it should be considered by Parliament in the same way as present trustee companies have to be considered. That applies to both sides of the Chamber.

The Attorney General should not have the discretionary right to create a trustee company himself. We have had some funny experiences already with this present Government. The consequence would not be just that it is seen as giving jobs for the boys, but we would not be taken seriously by anyone else.

That is my explanation for this amendment which seeks to delete the regulatory power which the Attorney General has.

Mr PETER DOWDING: Despite the words of the member for Floreat, the Government has given careful consideration to the point he has made about this amendment. He may wish to demean the qualities of the Government, particularly those of the Attorney General, but that would put him out on a limb by himself because the Attorney General is universally regarded as a man of great thoughtfulness and capacity. The Attorney General has been made aware of the member for Floreat's intention to move this amendment, and has considered it. He has given me his considered opinion that there is no reason, in the interests of the ordinary people of this State who may wish to take advantage of the status created by the regulations, why the clause should be deleted. Having listened to the member for Floreat's argument I have to say that nothing he has said persuades the Government that the Attorney General's advice on this point is wrong. The amendment is opposed.

Mr MENSAROS: Far be it for me to prolong this debate, but I want to put on record -- and this is where I always say I would rather argue in court than in Parliament -- that I have not received a reply. The argument seems to be that the Attorney General says I am wrong and, therefore, I am wrong. The Attorney General has not said why I am wrong.

I asked several things. I asked why, even if there are regulations, there was no condition as to which company could be created as a trustee company by discretionary regulatory powers of the Attorney General. If the Government thinks there ought to be regulations, it should stipulate which conditions should be fulfilled when the Attorney General --

Mr Peter Dowding: It varies so much from position to position.

Mr MENSAROS: I wanted the Minister to explain why, if the regulations are adhered to, there are no conditions. The question of why regulations have been chosen to be the decisive rule instead of legislation from Parliament, has not been explained either. To set up a proper trustee company like the WA Trustees or the Perpetual Trustees is not --

Mr Peter Dowding: It is not a political issue, although you might wish to make it one; it is a regulatory issue.

Mr MENSAROS: I do not want to enter into that argument. If we talk about politics it is the Government which politicises everything.

Mr Peter Dowding: You mentioned it.

Mr MENSAROS: I did not. May I also say that there is no need for hurry. There will be lengthy preparations involved in making a company a trustee company, and there will be plenty of time, even if Parliament is in recess, to prepare legislation and have it passed by Parliament if it considers the company deserves to be made a trustee company. It is a worrying situation that any company, without any conditions, could be made a trustee company. I will not pursue the argument any further. I simply want to place on record that I have received no proper reply which a court would take as an answer to my question.

Amendment put and negatived.

Mr MENSAROS: I move an amendment --

> Page 6, line 32 -- To delete "other".

The relevant section reads --

> An investment under subsection (1) or (2) shall not be made in any company unless the company --
>
> (a) has shareholder's equity of not less than 5 000 000 dollars or such other amount as the Governor may by regulation prescribe;

The draftsman's intention seems to be to avoid being rigid with this equity of $5 million. We are constantly experiencing inflation and the time might come when that will be a small amount and does not provide enough security. Rather than amending the legislation, should that time come, the Minister in charge -- the Attorney General -- is given the regulatory right to change that amount.

I did not imply anything personal against the Attorney General, contrary to what the Minister has said. I have a great respect for the Attorney General and I wish he was in this Chamber, as I could enjoy debating with him. Nobody can deny, however, that this wording allows the Attorney General not only to increase this $5 million, which most probably is the intention, but also to reduce it to even $1 or $2. It clearly says "not less than $5 million, or such other amount as the Government may prescribe".

Other than loss of face on the part of the Government -- because the Opposition says this, therefore it cannot be right -- it must agree that the more appropriate word to use should be "greater". What would be the disadvantage in that? If one does not have the word "greater" the implication is that the amount may be reduced. One could argue, theoretically, that the situation might arise in the future where there will be deflation rather than inflation, although probably not one person in 10 000 would think that is a serious possibility in today's economic climate. Therefore, in all practicality this amendment should be accepted. If there is an arbitrary $5 million people know where they stand, and they will know that if it is to be varied it will be varied upwards.

Mr PETER DOWDING: This matter has been discussed with the Attorney General. The Attorney General takes the view that the amendment is unnecessary and that the flexibility attached to the clause as it is does not mean that it will be exercised to create a reduction in the amount. Nevertheless, it is inappropriate to fix it as suggested by the member for Floreat.

Quite frankly, what he says has some strength, but it is equally true to say that the important issue is that whatever is done is done in a way that can be challenged in the House, if members want to make a political issue of it, or can be dealt with by a regulatory process with the discretions that this clause, as it stands, provides. In those circumstances the Attorney General's advice is not to accept the member's amendment.

Amendment put and negatived.

Mr MENSAROS: I move an amendment --

Page 7, line 9 -- To insert before "required" the following --

not

I will continue with this futile exercise, but it is important for people in the future to judge the approach of the Government and the Opposition respectively to such a serious matter. I simply detected an ambiguity in subclause 6(b). If one reads the subclause one will see that the ambiguity does exist. I am sure that the Minister will again say that my amendment is not necessary, but at least if there is any doubt about this issue at a later date by returning to the parliamentary debates it will determine what was the intention of the legislator.

Subclause 6(b) states that shares, debentures or debenture stock, which have been mentioned in previous subclauses, are investments in which trustees can invest if they are not fully paid up or required by the terms of the issue to be fully paid up within nine months of the date of issue. Without going any further I will simply refer to the argument I raised during the second reading debate; that is, that if the word "not" is inserted before the word "required" there would be absolutely no doubt that it is intended to exclude or retain those shares, debentures and debenture stock which are not fully paid up and where the terms of issue is within nine months.

Mr PETER DOWDING: This matter has been referred to the Attorney General and to the Parliamentary Counsel. In the view of both the Attorney General and Parliamentary Counsel, the amendment does not add to the plain meaning of the clause and accordingly their advice is accepted by the Government.

Amendment put and negatived.

Mr MENSAROS: I move an amendment --

Page 7, line 34 -- To delete "6 months".

This provision appears to be fairly restrictive. There are some companies which qualify as trustee investments for shares which have a longer than six-month period for interest-bearing deposits. It could be a nine, 12 or 24 month-period deposit and in many cases they have a higher interest. Therefore, should the trustee consider that there is no urgency in liquidating the funds, that he wants to invest and he may want to invest them in something which will provide a higher return. He would be justified in wanting to invest in a 12 or 24-month maturity investment. That is the reason I thought that six months was arbitrary and that it could be extended to 18 months. Given the past experience of dealing with investment debentures it would retain the security and it would be in the interests of the beneficiary.

Mr PETER DOWDING: This amendment has been considered by the Attorney General who regards the comments of the member for Floreat as correct; that is, there is a certain arbitrariness about the choice of date. However, it is not suggested that the six month limit creates any problems and accordingly it is not the Government's intention to accept the amendment.

Amendment put and negatived.

Mr MENSAROS: I move an amendment --

Page 10, line 2 -- To delete "5%".

If my amendment is successful I will move to insert "10%". My final remark in connection with this debate refers to the amount for which land can be purchased in relation to the valuer's given valuation. During the second reading debate I said that anyone who has dealt in property and with sworn land valuers would have used more than one valuer and that invariably is the case if a person is confronted with a resumption. The Valuer General will give an amount which is obviously lower than what one would expect. A sworn valuer will

generally value the property at an amount higher than the Valuer General and another valuer may give a higher value.

Common experience shows that the variations in sworn valuations could be anything but they at least vary around 10 per cent. I do not think anyone would be able to recall a case where three valuations would have been within five per cent of each other, particularly if the amount is fairly large. Therefore, I thought that in order to be practical and not restrictive if a property is on sale and is subject to trustee investment, the trustee should be able to purchase the property which would be beneficial from the point of view of the beneficiaries. This should be able to be done even though one valuation is more than five per cent less than the price asked for the property.

Mr PETER DOWDING: The Attorney General has considered this, and the point must be made that the limit is an arbitrary one. It is fixed with the intention of providing some cautious protection to the relevant members of the community. On that basis the Attorney General does not accept that that limit should be increased. Of course if, from a practical point of view, problems were identified, like all Ministers, I am sure the Attorney would remain open to suggestions. At this stage, however, the five per cent limit is the Government's policy.

Amendment put and negatived.

Clause put and passed.

Clauses 8 to 16 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by Mr Peter Dowding (Minister for Works and Services), and passed.

TRANSPORT CO-ORDINATION AMENDMENT BILL (No 2)

Second Reading

Debate resumed from 12 November.

MR CASH (Mt Lawley) [4.52 pm]: The purpose of this Bill is to enable Australian Airlines to be placed in a position similar to other private operators, and that is to be able to apply for a licence to fly intrastate -- that is, within Western Australia -- under the terms of the Transport Co-ordination Act 1966. The reason Australian Airlines must receive the State's consent before applying for a licence is a constitutional matter to do with the referral of powers from the State to the Commonwealth. As members will be aware, at the moment the general powers of aviation reside with the State in the case of Western Australia. The question must be asked whether the State will refer those powers to the Commonwealth, or whether, under the terms of existing Commonwealth legislation, the State is in a position to refer this power in respect of the licensing of Australian Airlines in the limited period to the Commonwealth. This question was considered in 1964 by the High Court of Australia. Tasmania was then considering the referral of its general powers of aviation to the Commonwealth, and a dispute arose as to whether the State of Tasmania could refer the general power which resided in that State to the Commonwealth for a limited period. There was much argument on the issue, and after much deliberation the court held as follows --

> The Commonwealth powers (Air Transport) Act 1952 (Tas.) contains a valid reference by the Parliament of the State of Tasmania to the Parliament of the Commonwealth of a "matter" under s.51(xxxvii.) of the Constitution.

The words "matters referred" in section 51(xxxvii.) can cover matters referred for a time which is specified or which may depend on a future event, even if that event involves the will of the State Governor-in-Council and consists in the fixing of a date by proclamation. A power referred to the Commonwealth under section 51(xxxvii.) is not limited to a power to enact a law in the form of a Statute which is described and defined as an Act of Parliament would be.

So in 1964 a matter of referral of general aviation powers was considered by the State of Tasmania, and the High Court of Australia held in the terms that I have just read out.

As a result of that case, and having regard to the constitutional questions which always arise when the Commonwealth wants to impose its will on any of the States, and certainly when the States give consideration to allowing the Commonwealth to enter into the powers that they hold, the question had to be considered, and it was considered by the Commonwealth Parliament. As a result of that consideration it was decided that a new section should be placed in the Australian National Airlines Act 1945. As a result, section 19A.(1) reads as follows --

> This section applies in relation to the State of Queensland and the State of Tasmania, being States by whose Parliaments the matter of air transport was referred to the Parliament of the Commonwealth before the commencement of section 10 of the *Australian National Airlines Act* 1959.

Both Tasmania and Queensland decided to refer the whole of their general powers of aviation to the Commonwealth, although it is now accepted that they may refer those powers just for the time being. The question is whether the State of Western Australia wishes to refer part of its general powers to the Commonwealth to allow Australian Airlines to fly within Western Australia. That is an important question, because it is not the intention of the Opposition that the State should be allowed to pass its general powers in respect of aviation to the Commonwealth for ever more. It is only as a result of amendments to this Commonwealth Act that the Opposition will consider supporting the proposition presently before the House, but subject to guarantees on which I will ask the Minister for Transport to comment in due course.

The Australian National Airlines Act 1945 allows the State of Western Australia to reclaim that part of its aviation powers it is prepared to refer to the Commonwealth for a limited period. Unless these words were contained in the Australian National Airlines Act, I doubt if the Opposition would give any support to the question of referring its general aviation powers to the Commonwealth. It has been argued in this place from time to time, and in particular by the Opposition, that the Commonwealth has sufficient powers of its own already. In fact, it tries to use the powers that it has to try to get around other powers which still reside with the State so that the Commonwealth can impose its will against the State as it sees fit. These words are very critical to the Opposition when considering its support of the Bill. Section 19A(2) of the Australian National Airlines Act 1945 refers to the Australian National Airlines Commission, and reads --

> The Commission shall not --
>
> (a) establish any service by virtue of this section unless the Premier of the State in which the service is to be established has notified the Prime Minister in writing that he consents to the establishment and operation of the service; or
>
> (b) continue the operation of any service in respect of which consent has been given under the last preceding paragraph after the Premier has notified the Prime Minister in writing that he withdraws his consent to the operation of that service.
>
> (3) The Commission shall, in respect of any service operated by it in pursuance of consent under the last preceding sub-section by the Premier of a State, pay to the State from time to time amounts equivalent to the licence fees (if any) which would be payable under the law of the State if the service were operated by a person other than the Commission.

Those words are very important because they allow the Premier, by writing to the Prime Minister and advising him, to withdraw the State's consent for Australian Airlines to fly intrastate in Western Australia if the Government so decides. Those very important words and actions may have to be used if Australian Airlines, by its introduction of an air service into Western Australia, were to diminish the existing service that is currently provided by private operators. It is important that in considering this Bill we give due recognition to the possible effects of Australian Airlines flying within Western Australia.

We must also have regard for the recent acquisition by TNT/News of the East West and Skywest networks. It is now common knowledge that when TNT/News purchased East West

and Skywest, the Trade Practices Commission decided that it should have a look at the acquisition of those companies to decide whether the TNT/News group should divest itself of all or any part of the operation of those particular airlines. The Trade Practices Commission came down with a finding that TNT/News should divest itself of the operations in both Western Australia and New South Wales of East West and Skywest Airlines. In bringing down that decision, the Trade Practices Commission also made some general reference to what the commission hoped would happen to the activities of those airline companies in Western Australia and New South Wales. The Trade Practices Commission stated on page five --

> Recognising the discretion of the licensing authorities of New South Wales and Western Australia, the TNT/News interests have agreed to cooperate where necessary, and as far as possible, to ensure that the relevant State Governments support the above arrangements.

The arrangements that were being referred to by the commission were the legislation that would be required to be introduced by both New South Wales and Western Australia to allow Australian Airlines to fly intrastate in both of those States. The commission went on to say --

> It is the expectation of the Commission that fulfilment of the above will ensure that Ansett will face effective competition in New South Wales and Western Australia, and the TNT/News interests will cooperate with the provision of RPT market information to the Commission in the interests of satisfying the Commission that this will be the case.
>
> It is the hope of the Trade Practices Commission that Australian Airlines will be the purchaser of the Western Australian and New South Wales businesses and assets referred to above, and will assume the routes to be vacated by the Eastwest Airlines (TNT/News) interests. Whether or not Australian Airlines is the purchaser, of course, is a matter for commercial negotiation between it and the TNT/News interests, and also for the relevant Governments. Australian Airlines is now permitted to operate within New South Wales, and it is anticipated that it will shortly be granted permission to service Western Australia intra-State routes.

The findings of the Trade Practices Commission were released in Canberra on 10 November 1987. The commission is saying that it believes it is in the interests of the nation generally that TNT/News should divest itself of certain airline routes in New South Wales and Western Australia.

As a result of that recommendation, and certainly as a result of the Bill before the House, it is necessary to look at the effect of the likely entry of Australian Airlines into the air routes in this State. I make the point that this matter has been considered on many occasions before. In 1974 there was a Royal Commission in this State -- known as the Scholl Royal Commission -- that considered an application by the then Trans Australian Airlines to fly intrastate in Western Australia. The Royal Commission considered a number of points that were placed before it but in general terms came down with the finding that there was an insufficient market in Western Australia at that time to warrant TAA flying intrastate. Prior to that 1974 Royal Commission, TAA had made applications to fly within Western Australia on 3 July 1963, 11 January 1965, 15 January 1968, 18 December 1968, 7 August 1969, 26 January 1971 and 17 August 1971. The least that can be said for the then TAA is that it was a very persistent company and it had a desire to fly within Western Australia. As I have said before, the Royal Commission had the responsibility of deciding whether it was in the interests of the people of Western Australia to have that airline fly the routes within our State.

A number of matters were considered by the Royal Commission which are relevant to the debate. I say to the Minister for Transport that the Opposition's support for Australian Airlines flying within Western Australia is really conditional upon the Minister making certain undertakings to the Parliament in respect of the extension of the routes that Australian Airlines might fly in the future. I say that because the Minister will recall that in the evidence put before the Scholl Royal Commission, much was said about the unprofitability of certain routes within Western Australia and about the fact that Ansett was prepared to fly unprofitable routes so long as the State recognised that Ansett was providing what they

termed at the time "a total service concept" in respect of the routes that airline chose to fly. What that meant is that Ansett Airlines was prepared to fly the unprofitable routes by using cross-subsidisation from the profitable routes that it was flying, to be able to call at ports that it certainly would not call at unless it was able to use some cross-subsidisation from the profitable air routes.

It is pretty important, when considering this Bill, to recognise that the Minister should give some guarantees that Australian Airlines -- should it apply for a licence -- will not be granted any routes other than those currently flown by East West and Skywest within Western Australia. Members must have some regard to what could happen to our northern ports, especially if Australian Airlines were given a licence to fly within Western Australia. The Opposition has been advised that the current operator, Ansett Airlines, would have to drop certain routes within Western Australia, in particular in the north west, if Australian Airlines is given the right to fly those routes. I notice the member for Pilbara is taking some interest in the points I am making. I suggest that this will impact on the member's electorate.

Mrs Buchanan interjected.

Mr CASH: I take the point that the member for Pilbara has just made. However, so long as we can get a guarantee in the meantime that Australian Airlines will not be licensed to fly routes other than those currently flown by East West and Skywest, the Ansett group would have to accept the situation. After all, Ansett Airlines accepted the situation in the past when the airline was owned by East West-Skywest. If we license Australian Airlines to fly other routes currently flown by Ansett, it is my understanding that the Ansett organisation will have to look very carefully at those routes it is presently maintaining and servicing, particularly in the north west where it is maintaining unprofitable routes by cross-subsidising from some of its more profitable routes within the State.

There is no question that the people of the north west enjoy a very regular jet service. The support the Opposition is giving to the Bill today is subject to there being no diminution whatsoever of any of the routes currently flown by the existing airline companies. We certainly will not accept a situation where Australian Airlines is licensed to fly within Western Australia and then one or the other of the commercial operators, including Australian Airlines -- and I use the word "commercial" in respect of Australian Airlines with some trepidation -- had to accept any diminution whatsoever to the existing routes. It is incumbent upon the Minister, if he expects the Opposition to support this proposal, to give a clear undertaking on this matter.

Mr Grill: What has happened to the free market philosophy espoused by the member for Cottesloe the other day?

Mr CASH: I would think it is alive and well, as the Minister for Agriculture would see if he read the second reading speech given by the Minister for Transport.

Mr Grill: I think I may have read it.

Mr CASH: Perhaps the Minister misinterpreted what I am saying. My argument is that there is a need for continued competition. Ansett Airlines believes that and I understand that both East West and Skywest also believe that. I expect that Australian Airlines itself also recognises the need for competition. It would be grossly unreasonable for this Parliament to license Australian Airlines and in doing so find that several routes that today are currently flown by Ansett, East West or Skywest in fact were no longer serviced because it was argued that the licensing of a new operator on a new route caused the existing routes to become unprofitable. It is fine for the Minister for Agriculture in Kalgoorlie because that is a very profitable route.

Mr Grill: That philosophy is one that I have always espoused. There needs to be a mix of regulation and free market in Western Australia where routes are fairly thin; but the other day the member for Cottesloe seemed to put forward a free market philosophy which is closer to the long-term philosophy of the Liberal Party, and you seem to be slightly at odds with that.

Mr CASH: I do not believe I am at odds with that. I am making the point in respect of the Bill that is currently before the House, having regard to the current situation in Western Australia and recognising that the Trade Practices Commission has made certain determinations in respect of the purchase by TNT/News of East West-Skywest. Whether that

fits with the Minister's philosophy does not interest me. I am more interested in protecting the rights and interests of people currently serviced by air transport within Western Australia and making sure that the Government's action does not diminish the existing services. I would have thought, in respect of some of the south west areas that Skywest flies, that the Minister would support that proposition. Surely it is not the intention of the Minister for Agriculture to suggest that Australian Airlines should be licensed to fly within Western Australia and that that licensing should cause Ansett or East West or Skywest to reduce their existing services?

Mr Grill: Your philosophy at the moment seems to be more than slightly at odds with what was espoused by the member for Cottesloe the other day. I was trying to find the difference between you both.

Mr CASH: I do not think I can be any clearer about where I stand on this matter.

It is fair, having spoken to people in the north west and people within the Minister's own electorate within the last few days, to say that they support the proposition I have put to the Parliament. They do not want to see any diminution of their current airline schedules as a result of the licensing of Australian Airlines. I happen to agree with that proposition. I must say that some people said to me that they believed that was the proposition the Minister supports.

Mr Grill: It is, in fact.

Mr CASH: Fine, we have no argument whatsoever as to the comments I have made in respect of this Bill. If a Minister wants to ask another member about where he stands on any matter -- whether it be related to this Bill or any other matter -- the Minister should ask that member himself. The Minister should not expect me to answer for him. I have spoken to people within the Minister's electorate this week and they put it to me that he shared the very views I am expressing. The Minister has confirmed that today. Having said that, I am sure the Minister will agree there is a need for the current Minister for Transport to let the Parliament know very clearly that the licensing of Australian Airlines to fly within Western Australia, having regard to the determination of the Trade Practices Commission -- and he should give some guarantees about this to the Parliament -- will not result in a reduction in services.

Mr Grill: I don't know about guarantees. He will certainly indicate his intentions.

Mr CASH: I would think his intentions would form part of a guarantee. We both agree that we are striving for the same things. We do not want a lesser service than exists at present. I want the Minister to agree to that proposition and to have it recorded so that the people who will be affected understand quite clearly where both the Opposition and the Government stand on this particular matter.

The Opposition makes the point very clearly that we do not expect the existing quality of air services within Western Australia to be reduced if Australian Airlines is granted a licence in the future to fly within Western Australia. If there is to be a situation where, because of the licensing of Australian Airlines, the Ansett organisation finds it is placed in a position, as a consequence of some unprofitable routes, where it has to reconsider flying those routes, I believe it is incumbent on the Minister to give an undertaking to the Parliament that Australian Airlines will pick up any routes that Ansett Airlines may have to drop because of the licensing of Australian Airlines.

Mr Troy: What has been the outcome of the encouragement by this Government in respect of competition on certain routes? I think you are not facing the changes made since 1984.

Mr CASH: I think the Minister for Transport is referring to comments he made in his second reading speech about the alleged benefits that have occurred since East West and Skywest were allowed to fly within Western Australia. I have had a pretty good look at some of the matters the Minister raised and I will deal with some of them now.

He suggested in his second reading speech there had been a reduction in fares within Western Australia as a result of the additional competition. I have talked to East-West, Skywest, and Ansett Airlines and I have had discussions with someone from Australian Airlines, and they told me there has been very little reduction in fares as a result of the alleged competition.

Mr Troy: There has been some.

Mr CASH: I believe there has been some but I understand from the operators that it has not been significant. I acknowledge that had the competition not been on the routes the situation might be quite different. There certainly has not been a great general reduction, but I recognise that the competition may have prevented any significant rise had there been a single operator. It would be wrong for anyone to argue that recent competition on routes within Western Australia has caused a significant reduction in fares. That is patently not the case, and it is not supported by any of the four operators currently flying into Western Australia, whether they fly intrastate or not.

The other point the Minister made was that there has been a general improvement in the services offered within Western Australia. There probably has been a change in the type of aircraft that are currently flown, and while I do not think that is necessarily due to the competition, there may be some element of truth in what the Minister said. My understanding is that choice of aircraft is determined in the main by the airports those aircraft are flying to. When I put the proposition the Minister advanced in his second reading speech to various operators they said that the airport was a prime consideration, but because other people were flying routes in Western Australia they needed to be conscious of the type of aircraft they were using.

Mr Troy: What about the seating configuration?

Mr CASH: There have been some improvements. I am all for competition, and I am glad to see the Government recognises there is some value in competition in all things. I remind the Minister that only the other night we were debating the need to allow private operators to perform the same duties in the Port of Fremantle as the existing painters and dockers. I said at the time I believed it would lead to competition and to a better service being provided by both the painters and dockers and a private organisation. The Minister did not agree with me.

Mr Troy: There are no Government employees on the Fremantle wharf.

Mr CASH: The Minister did not think competition was such a good thing on the Fremantle wharf. I acknowledge competition is important and it generally leads to some sort of price control. It can improve an existing service. However, when I put that to the Minister when we were discussing the painters and dockers he was not prepared to accept that argument. Yet when it suits him with respect to the introduction of Australian Airlines into the State system he is prepared to say competition is a good thing.

Improved cabin comfort is another matter I raised with existing operators. They all said the greater cabin comfort was as a result of internal decisions within their various companies and it had not been influenced by competition. I cannot say whether the changes in cabin configuration were a result of competition. I do not believe competition has given any greater service. They are not serving four-course meals on the plane from Perth to Kalgoorlie.

Mr Troy: The meals overall are better.

Mr CASH: That is a matter of opinion. I flew to Kalgoorlie the other day on a particular airline, and I would argue that better meals were served a few years ago than today. I guess some of our country members who fly regularly would be in a better position to comment on that.

If the Minister is to enjoy the Opposition's support for this Bill it is absolutely critical that he makes a very clear statement regarding the existing routes being flown in Western Australia and gives an undertaking that there will be no changes to those routes where there are a number of operators. I am thinking of Perth-Kalgoorlie, Perth-Port Hedland and the Karratha and Geraldton routes. There are multiple operators on those routes, and I hope no additional licences will be granted outside those routes without some sort of full-scale public inquiry. Certainly fare-paying passengers throughout Western Australia are entitled to some commitment from the Minister in that regard.

There is no question that the various shires in the north west and in the Minister for Agriculture's electorate at Esperance are very concerned that the Minister for Transport should give some indication in this regard. They want to know that if there is an application

by Australian Airlines to fly on any route other than those currently flown by East-West and Skywest there will be a full-scale inquiry and they will be invited to comment. The reason for that is they do not want to see any reduction in the existing quality of services which their populations enjoy.

In the Transport Co-ordination Act 1966 certain conditions are laid down which the Minister may require to be considered should an airline operator make an application for a licence under the Act. I point out that the Act says "may be considered"; they do not have to be considered, the Minister has a discretion. I refer to section 45 of that Act. Some of the things the Minister may take into account before granting or refusing a licence for an aircraft to fly particular routes in Western Australia are the necessity for the service proposed to be provided and the convenience that would be afforded to the public by provision of that service. They are exercising the minds of people in the south west and other remote areas of this State.

The Minister may also take into account the existing service for the conveyance of passengers or goods on the routes or the area proposed to be served, in relation to its present adequacy and possibilities for improvement to meet all reasonable public demands, and the effect on the existing services of the proposed service. The Act goes on to say the following may be considered --

(c) the condition of the airports and landing grounds to be included in any proposed route or area;

(d) the character, qualifications and financial stability of the applicant; and

(e) the interests of persons requiring transport to be provided, and of the community generally.

There is a qualification within section 45 that the Minister shall not be obliged in relation to any of the licence applications to take into account all those matters I just read from the Act. The Minister has a discretion, but I believe there is an obligation on him to make it very clear that any application by Australian Airlines for a licence to fly in Western Australia will lead to those matters being considered and there will be a proper public inquiry and interested people will be invited to comment. He should make it clear there will be no lessening of the present quality of service enjoyed by passengers in this State.

I turn now to the question of possible redundancies which may occur if Australian Airlines is granted a licence to fly in Western Australia.

[Leave granted for the member to continue his speech at a later stage of the sitting.]

Debate thus adjourned.

[Questions taken.]

Sitting suspended from 6.00 to 7.15 pm

BILLS (2): RETURNED

1. The Rural and Industries Bank of Western Australia Bill.

   Bill returned from the Council without amendment.

2. Acts Amendment (Grain Marketing) Bill

   Bill returned from the Council with amendments.

TRANSPORT CO-ORDINATION AMENDMENT BILL (No 2)

Second Reading

Debate resumed from an earlier stage of the sitting.

MR CASH (Mt Lawley) [7.17 pm]: One of the reasons it was necessary to bring this Bill before the House is that Australian Airlines is an organisation owned by the Commonwealth. Under Commonwealth legislation the State has to grant its approval if that airline is to be able to fly intrastate routes. It could be argued that if Australian Airlines were privatised, there would be no need for this legislation. In view of the fact that the Minister has spoken

of the benefits of competition, he should convey to his Federal counterpart that there is a feeling among most people in this State that Australian Airlines should be privatised. It is an argument which is growing in momentum across Australia generally. Indeed some members of the Labor Party are now prepared to embrace the idea. In recent weeks we have seen a situation where the Labor Party has done an about-face in respect of privatisation. We have seen members of the Labor Party support the concept of the privatisation of Commonwealth-owned assets. I hope the Labor Party is dinkum in wanting to privatise some of the industries it has spoken about in recent weeks, one of them being Australian Airlines. I know that the left wing of the Labor Party is now trying to roll the Prime Minister to prevent his privatising some of the country's assets. However, given the current economic situation of Australia and some of the pessimistic outlooks we have been given by the Federal Government in respect of this country's future, privatisation is something that will come about, whether or not the left wing, or any other wing, of the Labor Party is prepared to accept that. Had Australian Airlines been privatised, as so many people in this State wanted, there would be no need for this legislation.

There are only one or two clauses in this Bill, so there will not be much opportunity to go back over issues if one misses out during the Committee stage of the debate. In good faith I ask the Minister to give the commitments I talked about tonight to the people of Western Australia. These commitments have been talked about by this Government and other Governments in the past, and they were raised in good faith during the Sholl Royal Commission in 1974. They concern issues raised only a few years ago when the Western Australian Department of Transport had the opportunity to review the need for additional airline operators within Western Australia. I will support this Bill, subject to those conditions. I earnestly ask the Minister to take those conditions into account during his response to the second reading stage.

MR SCHELL (Mt Marshall) [7.25 pm]: The National Party supports this Bill. It recognises the need for competition on several airline routes within Western Australia and the possibility of Australian Airlines commencing operations here in the near future. This Bill clears the way for Australian Airlines to fly airline routes within Western Australia without our surrendering the State's sovereignty over aviation to the Commonwealth, as has been the case with Queensland and Tasmania. The National Party supports the member for Mt Lawley in requesting that a licence to operate air routes in Western Australia be granted to Australian Airlines only after a full inquiry has been conducted into the viability of each route. We are all aware of the small number of people who travel vast distances on the airlines in this State. There needs to be only a certain amount of transport to carry these people.

The National Party realises that there are certain areas, particularly in the north of the State, where air traffic is growing rapidly. By removing this barrier, the Bill allows Australian Airlines the opportunity to put a competitive element into the Western Australian internal airline routes after the takeover of East West-Skywest by the owners of Ansett Airlines. This in time will encourage further competition on other routes. As the passenger load increases and as different areas of the State develop, access to the Pilbara and the Kimberley regions of this State at reasonable cost is very important. With competition and lower air fares, the passenger seats sold to this region must increase and that in turn will help development and encourage people to move to those regions.

It is unfortunate for the residents of the north west and the tourism industry in that area that return air fares from Perth to most points of South East Asia can be purchased more cheaply than air fares to the Kimberley and to the Pilbara, in some cases. Until this situation is rectified, intrastate air routes will miss out on a lot of valuable tourist trade. I was in Malaysia recently and I noted the vast number of Japanese and American tourists in that area. I am sure many of those tourists could be encouraged to come down and visit Western Australia because we have something unique to offer people from overseas. If we are going to open up this tourist trade, we need cheaper air fares.

I have had quite a bit of experience in the north of this State through my involvement in flying as a commercial pilot and also in my involvement with Apex, when I was zone president for that area. I received great pleasure from touring the north west and seeing the vast potential that is there for tourism and development, particularly in the Pilbara and in the Kimberley. In fact, the last trip I made up there was with the Leader of the National Party

and the member for Avon, and I am sure that, as a consequence of that trip, they both share my enthusiasm about that region of the State. I assure the House that with the aggressive expansion of the National Party in future years it will be looking at taking over a few seats in that area.

Mr Thomas: Don't forget about the National Alliance.

Mr SCHELL: That is history.

Mr Brian Burke: Not very memorable history.

Mr SCHELL: Don't you worry about that.

There may have been a time when the one airline policy was in the best interests of the north because of the small number of people travelling there, but today's competition could do much to improve the lot of north west passengers, particularly with the development of the iron ore industry and other developments in the Kimberley, and the increasing tourism to the area. An application by Australian Airlines for a licence to serve some routes in this area in the near future would be a great step forward for this region, and the development of competition on further routes as traffic increases will be a great asset. The National Party supports the Bill.

MR LIGHTFOOT (Murchison-Eyre) [7.31 pm]: The advent of another competing airline in Western Australia probably affects the outback more than the Perth metropolitan area. I recall that in the 1970s the then MacRobertson Miller Airlines used to fly to a few stations and do a milk run, as it was called, and drop off mail. In those days the pastoralists and many families employed on stations enjoyed a relatively close contact with the outside urban and metropolitan areas. Whether the advent of Australian Airlines into the intrastate service will lift the lifestyle or the standard of living in outback areas I represent has yet to be proved.

When TAA, the forerunner of Australian Airlines, was granted access to Western Australia through Darwin, Port Hedland, and Perth it closed the facility in Port Hedland. Although circumstances are slightly different today in so far as there is a resurgence and increase in the number of air travellers going to the Pilbara, and certainly to the goldfields, because we do not have a clear indication of where the airline is to compete with Ansett Airlines it is difficult to say what impact it will have and whether there will be a long-term advantage both to the airline and to residents of outback areas and those who travel there.

I will report briefly on the history of aviation in Western Australia as outlined by the Sholl Royal Commission in 1974 into intrastate airline services. I believe the first civil aviation organisation became party to what was then called the Paris Air Convention of 1919 in March the following year. In 1920 the Commonwealth announced the appointment of the first Controller of Civil Aviation, a former Army man, the then Colonel H.C. Brinsmead. The first Federal Air Navigation Act was proclaimed on 28 March 1921. It gave effect to the obligations undertaken by the Commonwealth with respect to the Paris Air Convention. Western Australia has the distinction of having had the first commercial airline operations in the Commonwealth. It was begun by a famous and revered figure, Major Norman Brearley, DSO MC. He started with a British Bristol three-passenger biplane on 15 September 1921 and provided a weekly mail and passenger service from the rural town of Geraldton to Derby via Carnarvon, Onslow, Roebourne, Port Hedland, and Broome. This journey in 1921 --

The SPEAKER: Order! I must admit I am fascinated by what the member is saying, but I am not really sure what it has to do with the Bill we are talking about. It is an interesting history lesson, and I am sure it has something to do with the Bill and that the member is about to tell us, but I hope it will be fairly soon.

Mr LIGHTFOOT: It is interesting, and I am pleased you acknowledge that, Mr Speaker. I am a very keen student of Western Australian history.

The SPEAKER: Perhaps on that basis you had better continue.

Mr LIGHTFOOT: I am talking about an airline and the Bill concerns the advent of another airline. The then Major Brearley initiated a weekly service to Derby and pioneered commercial airlines in Western Australia. He flew a total of 1 200 miles each way. Sir Norman, as he later became, was granted a contract with the Commonwealth under which his company received a 25 000 pounds annual subsidy. The company was called Western

Australian Airways Limited, and it is amply described in Sir Norman's book *Australian Aviator* which was published in 1971. I have a copy of it, and I am sure there is a copy in the Parliamentary Library.

In 1928 the first contract for a regular interstate service between Perth and Adelaide began using a 14-passenger De Havilland 86, I think it was called, and subsequently the north west service was lost to Mr Horrie Miller, already a famous Western Australian aviator, in 1934. That began the story of the MacRobertson Miller organisation which was to flourish here before eventually being captured by Sir Reg Ansett. During those years when the stations were served by airlines, and I recall them and perhaps the member for --

Point of Order

Mr BRIAN BURKE: Without wanting to be unkind to the member I want to place on record that it is the Government's view that he is not addressing himself to the Bill before the Parliament, and that although he is relating to us the history of the airline industry in this State it is not directly relevant to the proposal that Australian Airlines be licensed to fly within the State.

Mr LIGHTFOOT: We were only recently directed that we could generalise on Bills before the House. I want to give a preamble to this Bill, and my task is fairly onerous.

The SPEAKER: This is a bit unfortunate because I like the member and I was interested in what he was saying. As a consequence of that I am reluctant to have to rule on the point of order. Nonetheless, the point of order is valid. It has been an awfully long preamble. I do not want to seem unfair but I think the member should come to the meat of what he is saying as quickly as possible.

Debate Resumed

Mr LIGHTFOOT: I will drift into what I wish to say very quickly. Mr Speaker, while I appreciate your comments about your liking me, I do not know whether that will raise the esteem in which some of my colleagues hold me.

The airline industry in Western Australia flourished for some years as a result of a single major airline. Although this side of the House intends to endorse this Bill, the comments made prior to the dinner suspension by the Premier with respect to corporatism and our endorsing a socialist enterprise such as I guess Australian Airlines is, indicates the endorsement of this legislation by all colours of Government. I support the Bill, notwithstanding that Canberra and this State have Governments not of my political leanings.

As I said, the Bill is only one page long, but it will have substantial ramifications for this State of one million square miles, one of the most underpopulated areas in the world, if not the most underpopulated area in the world. I endorse the legislation, the ramifications of which are much larger than the Bill is, subject to the advent of a competing airline -- competing in the true sense. I will not support collusion between the two airlines, with that collusion being endorsed by legislation, and I will not support Australian Airlines, a wholly owned entity of the Federal Government, and, as a result, by the Australian people, doing anything to diminish the airports that are currently served by Skywest and Ansett Airlines of Western Australia. In saying that, I am thinking not of the major routes to Geraldton, Carnarvon, the Pilbara and Kalgoorlie-Boulder, but of those with which I have an affinity including the townships of Mt Magnet, Meekatharra, Wiluna, Leinster, Leonora, and Laverton, although Laverton, in the last couple of years, has been served by a commuter airline under contract to Skywest.

I believe that one of the great advantages of introducing competition to this State is that we have the possibility to decentralise. Some contra arrangement could be made whereby the interstate airlines, that is, Australian Airlines or Ansett, could be cajoled or otherwise induced into flying into Kalgoorlie-Boulder from interstate. Certain parliamentarians who serve this State in Canberra have to make rather onerous travel arrangements to travel to Canberra. They travel west from Kalgoorlie-Boulder to Perth, east to Adelaide or Melbourne, north to Sydney and then west again to Canberra.

Mr Thomas: There are not too many of those. It would be pretty hard to base an airline on Graham Campbell.

Mr LIGHTFOOT: I do not know whether I would call Graham Campbell a friend of mine.

Mr Cash: You used to employ him, didn't you?

Mr LIGHTFOOT: I did, and he left a disgruntled employee.

Mr Read: You did not show very good judgment in employing him.

Mr LIGHTFOOT: No, I did not.

Mr Troy interjected.

Mr LIGHTFOOT: I am glad to see that the Minister for Transport is in the House and not asleep in his office.

Let us face it, airlines quite clearly say that they load up the profitable routes to Kalgoorlie-Boulder, Geraldton and the Pilbara to help them subsidise the non-profitable routes. Let them load up some of the interstate routes and take a plane from the east into Kalgoorlie-Boulder and then on to Perth. I believe that would have great benefits for this State and, as a result, for the people of Kalgoorlie-Boulder. I do not believe we should look at this as a single issue of granting a licence for this Government-owned airline which, apparently, has plenty of fat to trim. We should trim off some of the excess capacity in its profits and make it run into Kalgoorlie-Boulder, even at a loss. Although I am anti-federalist, as every member knows, that may have a binding effect on this State. I believe there would be great benefits in running an interstate airline from Sydney to Kalgoorlie-Boulder and then on to Perth.

Mr Thomas: Do you reckon the Kalgoorlie route is profitable?

Mr LIGHTFOOT: Intrastate it is very profitable. Sometimes one has to book up to 10 days in advance to get on it. However, we need competition on that route.

Mr Thomas: Which routes will subsidise the route to Kalgoorlie?

Mr LIGHTFOOT: When one runs a company one looks at the profits dribbling out at the end of the year. Each leg of an airline need not necessarily make a profit. The profit one makes on the total capitalisation of one's investment at the end of the year is what is important.

Mr Cash: And the total service for the State.

Mr LIGHTFOOT: Yes, that is what we should look for. I realise that 70 per cent of the people of Western Australia reside within a few square miles of Perth. However, I do not believe the decision should be based on that with benefits only for those people. I understand the political ramifications of that. At some stage, Governments of all colours have to look at giving some benefits to people in the bush, notwithstanding that the votes do not necessarily come from there.

Mr Taylor: Do you say that the Kalgoorlie route has sufficient competition at the moment?

Mr LIGHTFOOT: No, it has not. I want to see that competition increased. However, it should not have a deleterious effect on the present route to Kalgoorlie-Boulder. That means that no smaller planes should be used on that leg and there should be no lessening of the schedules to Kalgoorlie-Boulder. At the moment one has to catch a plane to Kalgoorlie-Boulder at the most ungodly hour of 6.00 am.

Mr Taylor: That is not too bad.

Mr LIGHTFOOT: I do not think it is either because I believe that what one does not get done before midday is not worth doing. I am thinking of the urbanised people like the member for Welshpool who, perhaps one day, may go north of Midland and find out what life in the bush is really like.

Mr Taylor: We need F28s to fly into Kalgoorlie in competition with Ansett.

Mr LIGHTFOOT: I do at times have common ground with the member for Kalgoorlie, but I do not believe there should be fewer planes. There should be, as the member said Fokker F28s or the equivalent, flown into Kalgoorlie-Boulder. The flights should be at much more civilised hours than six o'clock in the morning. Of course the time is dictated by other routes that the same planes use and the engines are barely cold. It is about time the people of the goldfields who earn $2 billion from gold alone -- and that does not include the massive amount contributed from wool industry, beef industry and the tourist industry which is burgeoning -- received a better service.

Several members interjected.

Mr LIGHTFOOT: The goldfields contributes big money and it is time that airlines serviced these places and not necessarily looked at what is most convenient for the airlines, as they have in the past with their six o'clock, full planes and 10 days in advance bookings. Maybe that will happen as a result of this Bill. The Bill does not appear to have any teeth in it, although its ramifications --

Mr Taylor: It is just what we need.

Mr LIGHTFOOT: Like the member for Kalgoorlie I believe it is a great chance for us as a State, not as a split Parliament, to incorporate into legislation something that can benefit the State and the people of the goldfields.

One of the things the Federal Government should do -- I certainly would -- is to privatise Australian Airlines and float off to the people of Australia shares in the airline in a similar fashion to that which Mrs Thatcher has done in the United Kingdom.

Mr Cash: I wonder if the member for Kalgoorlie would agree with that.

Mr LIGHTFOOT: I do not know about that because he has gone quiet. Perhaps if I were to talk with him on one of the hour-long flights to Kalgoorlie-Boulder I could probably induce him to agree.

Mr Cash: What does the member for Kalgoorlie think about privatisation?

Mr Taylor: I would not mind seeing half of Australian Airlines being sold off.

Mr LIGHTFOOT: That is a good start. This is not just an opportune time, but perhaps one chance in a decade, to exploit a situation that will redress some of the sufferings of the people in the bush, particularly people in the goldfields who have suffered over the years through irregular, high cost, and inconvenient services. I refer again to the six o'clock fly-out schedule. It means that a person often has to get up at 4.30 am if he is to be at the airport at the regulated 30 minutes before the aircraft is due to take off. It would give us a chance to compete properly. We do not want two airlines in this State that will take off within 10 minutes of each other as used to occur. We want them to fly at more convenient times to the business people and we do not want that to be at the expense of what is already happening. There is nothing wrong with the aircraft and there is nothing wrong with the service. I do not believe that there has been a great change. In the 1960s I used to fly in the propjets and probably as a schoolboy the member for Kalgoorlie may remember that one would spend a long time in the air. As a result of that one received a much more substantial meal.

Mr Taylor: I could not afford to fly and I used to thumb a ride to Kalgoorlie.

Mr LIGHTFOOT: He used to thumb a ride to Kalgoorlie-Boulder. As long as the service does not deteriorate we definitely would endorse this proposal.

I would like to add, in my brief speech, that there is another aspect which the Bill could address, perhaps by amendment. I can see no reason why the defence facilities, particularly the RAAF, should not open its airfields to private airlines and private pilot use. Pearce is a multi-million dollar facility on the northern outskirts of the metropolitan area and because of its training of young Australian pilots and endorsement of older Australian pilots on different aircraft, it should be used for the benefit of this State. It is part of Western Australia although it is a Commonwealth facility. I wonder why we cannot copy some of the good things of the United States. There are many good things in that country. I remember flying into a small airport at Wichita Falls in Texas last year and F18s and Hornets were landing alongside on a parallel strip. There appeared to be no problem with using the US Air Force control tower to safeguard the landings, takeoffs and positioning of the civil aircraft.

Mr Peter Dowding: The Government has indicated that that is possible with Derby.

Mr LIGHTFOOT: It certainly has not been given any publicity.

Mr Peter Dowding: It has been in the newspaper and it has been on the boil for two or three years.

Mr LIGHTFOOT: It is about time it was implemented.

Mr Troy: Aren't you going to allow the people of Derby some say in that?

Mr LIGHTFOOT: I am saying, without any conditions, that all airfields in Western Australia -- they are part of the Western Australian subcontinent -- should be used, provided there is no detriment to the defence of the nation, by civil and private airlines. It is a great impost on pilots, particularly private pilots, who have to fly from the north and by-pass that air corridor which is set up north and south of the RAAF facility at Pearce by either flying out to sea or taking a circuitous route over the Darling Range to land at Jandakot. A lot of the pilots are once a week or once a fortnight pilots and it is an added impost on them. They should be able to fly into the Pearce facility because if there was a need, God forbid, for this nation to seek recourse to defending itself, those pilots who are currently private pilots would be the first men in the front line as, indeed, they were during that awful period of 1939-45. I believe that if they became used to the airport at Pearce it could only be to the great advantage of this State.

I conclude by saying that even though this is a short Bill -- it is one page involving a couple of clauses -- its ramifications could be enormous. I am a little suspicious that the only airline of any substance that is operating in this State is in full agreement with the Federal Government-owned Australian Airlines flying within this State. There could be collusion between the two airlines. Nonetheless, I welcome the Bill subject to the very stringent conditions that I have spoken about tonight; that is, that the services to the people in the bush should not be diminished. The aircraft that are being used should not be downgraded as a result of the entrée into intrastate flights by Australian Airlines. I thank the House for the opportunity of speaking on this Bill tonight.

MR MASLEN (Gascoyne) [7.59 pm]: I congratulate the member for Murchison-Eyre on the history lesson and the interesting speech he has just delivered.

I support the Bill and endorse the comments of the member for Mt Lawley and the member for Murchison-Eyre. Like them, I support the philosophy of free enterprise and competition and consequently the freeing-up of the airline market. However, it is not unreasonable to require an undertaking from any competitor to existing services that the services are maintained at the present standard. That has been reiterated by the previous speakers. Because of the vastness of this State and the large number of small communities in outlying areas it may not always be possible to maintain a competitive and economic service. To maintain the existing services the Government may have to look at introducing franchise services. This would maintain a competitive situation and it would also maintain the chance of making those services viable to the airlines that take them on. With those few remarks, I endorse the Bill.

MR TROY (Mundaring -- Minister for Transport) [8.00 pm]: I will be very brief in my reply because there seems to be a general consensus of support for the Bill. However, it is appropriate to underline some of the key points of the Bill, which appear to have been distorted. Firstly, the Bill is to enable Australian Airlines to apply for a licence; it does not necessarily automatically grant that licence. It further promotes and secures the gains associated with this Government's introduction of competitive forces in Western Australian air services since 1983-84.

It is important to understand that this amendment imposes no obligation on the State to allow Australian Airlines entry to the Western Australian air services; it simply allows Australian Airlines to apply for a licence, along with any other companies which may seek to take over this service which Ansett Airlines must divest itself of as a result of its purchase of the East-West and Skywest services. In other words, Australian Airlines will be free to apply on an equal footing with any other company wishing to make such an application.

The Government is continuing its programme of encouraging a healthy competitive position; this position can emerge on the basis of the ability to apply and it is not necessary to go as far as submitting an application to develop the competitive scheme. There is an implied aspect in that position that will ensure that competition exists in some form. At all times it will be subject to the Western Australian Transport Co-ordination Act and, unlike Queensland and Tasmania, this State will not surrender its rights to the Commonwealth in terms of air services in Western Australia.

A couple of the points raised by the member for Mt Lawley require a reply. He referred to section 51 of the Constitution in terms of allowing the airline competition intrastate and that in turn has been covered by the provisions of section 19A of the Australian National Airlines

Act of 1945. He referred specifically to subsections (2) and (3) of section 19A. I point out to the member that those subsections were deleted when the Act was amended in 1984, and the following subsection was inserted in their place --

> The Commission shall not, pursuant to the powers conferred on it by sub-section (ID), transport passengers or goods for reward by air between a place in a State and another place in that State otherwise than in accordance with any law of that State applicable to that transport.

That clearly underlines that no powers have been lost with regard to this State's autonomy on intrastate services. In essence section 19A applies to the State which adopts this section only. It ceases to apply to that State immediately the relevant State laws are repealed. We have every necessary control over this aspect.

The Opposition sought a guarantee from me to maintain the existing route structure. I find that quite surprising and I will go through this matter carefully. As part of this exercise and our concern at the possible loss of competition in intrastate services in Western Australia, the Government spoke with a number of people in the airline industry, including key figures in the companies operating, or wishing to operate, in that area. I wonder where the member for Mt Lawley got his information, because Ansett was extremely keen to ensure that a competitive service operated in Western Australia. It openly welcomed that type of competition and said it would not enter into a great price war. The company expects to perform in a competitive environment and it seeks no special considerations of the sort the member for Mt Lawley suggested, such as the Government's providing a guarantee.

I noted that the comments of the member for Murchison-Eyre appeared to be in complete contrast to those of the member for Mt Lawley. Kalgoorlie is an excellent illustration; it is a fast growing route and has significant capacity for a competitive service. It does not enjoy that facility at the moment but the people in Kalgoorlie have put to me quite strongly that it is one of the logical improvements of this Government's policy that should be seen in the near future. I ask the member for Mt Lawley whether he thinks the people of Port Hedland and Karratha, who have enjoyed the benefits of this Government's initiative in introducing competitive air services in 1983-84, would want to lose that competitive edge. I will outline some of the benefits which have been previously enjoyed. Geraldton and Esperance could be considered routes of significant growth and, of course, the Murchison area is unique because of the enormous activity in that area and the demand for airline services. It is certainly fast approaching the position where this Government will need to consider expanding all services in that area.

I refer to one other point which cuts completely across the member for Mt Lawley's seeking absolute guarantees on intrastate routes. For some years now, the Government and the Minister for Tourism have been actively encouraging tourism in this State. It emerges in a very short period and certainly we would like to retain the flexibility of moving into and expanding any intrastate service that could affect tourism growth. The Opposition's request would remove one of the implied benefits at this stage. The Government is keeping the operational groups in the airline industry on their toes by saying openly and clearly that it is encouraging competition. The Government's policy is quite simple and specific: It wishes to introduce competition wherever possible with due consideration for the thinness of the market on some routes in Western Australia.

In fact, the Transport Co-ordination Act ensures that the public interest is a dominant feature in this matter. I think it is appropriate that the Executive Government be responsible for these decisions after due consultative processes, and I draw members' attention to section 45 of the Act, referred to by the member for Mt Lawley, which states quite clearly that --

> The Minister may, before granting or refusing a licence for an aircraft, take into account any one or more of the following matters --
>
> (a) the necessity for the service proposed to be provided and the convenience that would be afforded to the public by the provision of the proposed service;
>
> (b) the existing service for the conveyance of passengers or goods upon the routes or within the area proposed to be served, in relation to --
>
> (i) its present adequacy and possibilities for improvement to meet all reasonable public demands; and

(ii) the effect upon the existing service of the service proposed to be provided;

(c) the condition of the airports and landing ground to be included in any proposed route or area;

(d) the character, qualifications and financial stability of the applicant; and

(e) the interests of persons requiring transport to be provided and of the community generally,

but shall not be obliged, in relation to any particular licence application, to take into account all of these matters.

Quite clearly, that gives more than adequate power to the State to pursue this matter. I point out to members opposite that we have other examples of the effective utilisation of this Act through transport strategy committees. There is a provision that more than adequately provides for that. In summary, the purpose of this Bill is to retain competition and not to destroy it. This Bill will not change the Government's attitude to intrastate aviation. We will not support diminished services, and public interest has certainly been indicated there. We have a very proud record of following that public interest in the argument that we put forward on interstate services with the interline argument and our arguments in relation to the May inquiry when we supported a further deregulation of the airline industry.

The necessary public inquiry sought by members opposite is more than adequately provided for in a very effective Act. I was delighted to see the general support for this legislation from the other side of the House and particularly from the National Party spokesman and the member for Murchison-Eyre in recognising what the Government is attempting to do with this Bill. I commend the Bill to the House.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (Mr Thomas) in the Chair; Mr Troy (Minister for Transport) in charge of the Bill.

Clauses 1 and 2 put and passed.

Clause 3: Section 43AA inserted --

Mr CASH: This is the operative clause of the Bill and provides the right for the State to issue a licence to Australian Airlines should it make application for that licence. During the second reading debate I asked the Minister to comment on the Government's intention in relation to this Bill. He has given his reply, but the people of the north west, and certainly those fare-paying members of the public in other remote areas of Western Australia who are currently served by what is undoubtedly an efficient airline service in that it relies on a fair amount of cross-subsidisation on a number of routes would have gained little comfort from the Minister's comments. The Minister has not addressed the issue put to me that, if Australian Airlines is granted anything more than a licence to fly the routes already flown by East West-Skywest, there is a good chance that Ansett will suggest to the Government that it drop some of its unprofitable routes. That is the very matter the Minister refused to address. I wonder what the people of Learmonth and Carnarvon would think if Ansett approached the Government and told it that it was not making any money from those routes and was not prepared to fly them while they remain unprofitable. I put a proposition to the Minister that if Australian Airlines made application for a licence in Western Australia the Government should say right now that it would impose on it the burden of picking up any of the unprofitable routes that Ansett had to drop as a result of its entry on the intrastate run. The Minister is not prepared to give that guarantee. I am disappointed about this, as I know are many people in remote areas of Western Australia.

I turn to the proposition that the Minister put in respect of the Perth-Kalgoorlie route. Most people who have flown that route would recognise that it is a profitable one and would understand that it presents an opportunity for various companies to upgrade their service on that route. Let us not forget that the only reason we have an efficient and effective airline service in Western Australia is because of cross-subsidisation and because Ansett Airlines

has been presenting its total service concept for many years. It has provided that service because it has been able to use the profitable routes to subsidise some of the less profitable ones.

The Minister has on a number of occasions talked about competition and suggested that the Government is keen to see that competition. I am keen to see competition, and the Minister would be aware that on a turnover of $600 million Australian Airlines manages to make a profit of only about $10 million. When one compares that with the private organisation, Ansett Airlines, one sees that on an equivalent turnover of $600 million it manages to make a profit of about $40 million. Everyone recognises that at the moment Australian Airlines is in the invidious position of having to give consideration to spending a huge amount of its capital resources to upgrade its existing fleet, so when one talks about competition --

Mr Troy: What is the difference in their capital repayment programme?

Mr CASH: The Minister should not introduce irrelevancies. I am saying that when one compares the financial reports of Ansett and Australian Airlines one sees that without question Ansett is a more efficient and effective operation.

Mr Troy: No.

Mr CASH: The Minister disagrees. I was afraid he would say that. I wonder whether Mr Peter Abeles, in his discussion with the Prime Minister, would recount what the Minister for Transport in this State has said -- that Ansett Airlines is less profitable and efficient than is Australian Airlines. I am surprised that the Minister says that; on one hand he talked about competition between airlines, yet when he is challenged about being competitive in other industries he adopts a different point of view. I challenge the Minister for Transport to say whether he is interested in competition. He should be doing exactly what the member for Kalgoorlie suggests; that is, make a recommendation from this State Government to the Federal Government that the Federal Government should sell 50 per cent of Australian Airlines. If the left wing member for Kalgoorlie is suggesting that, surely the Premier or the Minister for Transport would like to take him up on that and to make that recommendation. There is no doubt in my mind that there are a lot of members of the public in this State who would support this proposition.

Mr Brian Burke: Do you know that the same left wing member, I have just been told, wrote an article for the Fabian Society publication published by the centre left.

Mr CASH: I do not make excuses for the member for Kalgoorlie. I suppose the Premier, in his position, has to make excuses. When the big split comes and the Premier and Deputy Premier make their way out of this place, it is my tip that the member for Kalgoorlie will probably end up as the Deputy Leader.

The DEPUTY CHAIRMAN (Mr Thomas): The member for Mt Lawley might like to address clause 3 of the Bill.

Mr CASH: I support the member for Kalgoorlie in his proposition that Australian Airlines be sold; that it be privatised. I am prepared to support him in respect of that matter and I am also prepared to support him as the future Deputy Leader of the Labor Party; and he can count on that.

Mr TROY: I want to once again clarify the Government's position, which is found under section 45 of the Transport Co-ordination Act --

> (b) the existing service for the conveyance of passengers or goods upon the routes, or within the area, proposed to be served, in relation to --
>
> (i) its present adequacy and possibilities for improvement to meet all reasonable public demands; and
>
> (ii) the effect upon the existing service of the service proposed to be provided;

I will give the public a guarantee here and now that we will pursue that Act in full. That is what the Opposition is seeking, and we will give that guarantee.

Clause put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

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

PAY-ROLL TAX ASSESSMENT AMENDMENT BILL

Cognate Debate

On motion by Mr Brian Burke (Treasurer), resolved --

> That leave be granted for the Bill to be debated concurrently with the Pay-roll Tax Amendment Bill.

Second Reading

Debate resumed from 12 November.

MR MacKINNON (Murdoch -- Leader of the Opposition) [8.25 pm]: The Pay-roll Tax Amendment Bill -- as announced in the 1987 Budget -- seeks to increase the payroll tax threshold levels by 10 per cent from 1 January 1988. The Opposition does not want to oppose legislation that gives relief in the area of payroll tax, so this Bill has our support.

The Pay-roll Tax Assessment Amendment Bill seeks to raise the basic tax exemption level by 10 per cent from $250 000 to $275 000. The existing taper arrangements apply above $275 000; that is, the allowable deduction is proportionately reduced by $1 for every $3 by which the employer's annual payroll exceeds $275 000. This Bill also provides for a 10 per cent increase in the level of wages paid in any one week, which determines whether an employer must register for payroll tax purposes. The Bill also updates the list of Government bodies exempt from payroll tax. This Bill, as it is again extending payroll tax relief, has the Opposition's support.

I want to make a few brief comments about payroll tax in general and these Bills in particular. First, these measures provide only paltry relief in terms of taxation measures. The two Bills combined provide relief of a mere $2.6 million in a full year. If one looks at that in terms of the State's taxation collections, that is just over half of one per cent of the predicted level of all payroll tax receipts in 1987- 88. In fact, it will be even less than that because a recent article in *The West Australian* indicated that payroll tax receipts were ahead of expectation. If one looks at the relief given in terms of the total Budget revenue, this so-called benefit that is being extended is less than one hundredth of one per cent. So while the benefit is welcome, it is a mere pittance compared with what could have been extended by the Government had it been serious in wanting to address the question of payroll tax, which undoubtedly is the worst of all State Government taxes, being a tax on employment.

Secondly, this measure of taxation relief provides no relief whatsoever to the State's major employers, employers with payrolls above $1.98 million. As members know, those employers pay the highest level of payroll tax in Australia on their payrolls, with the surcharge added on, and they will receive no benefit whatsoever from this legislation. The Government should be trying to encourage those major employers to come to this State in order to provide employment for people, yet they receive no benefit at all and in fact are no better off in comparison with employers in other States of Australia.

My next point relates to the implementation of the legislation, which gives a interesting guide to the type of Government we have. The Bill legislates to apply as from 1 January 1988. One might ask whether that is fair and reasonable. Well, it might be fair, but in 1986, when this Government significantly increased payroll tax, particularly for large employers, the increase was applied as from 1 August. It is surprising that the Government, when it provides relief in terms of payroll tax, does so from 1 January, yet when it imposes the increase, it is from 1 August. I think that action by the Government should be condemned.

The Treasurer will say, "How can we announce in the Budget a measure that will apply from 1 August?" I put it to you, Madam Acting Speaker, that if the Government wanted it could do it from 1 July if it made the decisions early enough. The Government should know on a day-to-day basis the amount of tax revenue it receives and it should not have to wait until

September or October each year to make up its mind that it will be able to give relief, particularly in the area of payroll tax which is the Opposition's major concern with respect to the taxation imposts on the people of Western Australia.

As I said earlier, the benefit of taxation revenue forgone by the Government under these measures is $2.6 million. However, when we look again at the increase in payroll tax this year we see that it is budgeted to be $39.8 million, which is a 12 per cent increase on last year. There are two points to be made about that: Firstly, an article in *The West Australian* on Wednesday, 18 November reported on the quarterly figures produced by the Government of its receipts and payments, which show that payroll tax revenue is four per cent ahead of its budgeted figure. One would therefore assume that payroll tax receipts this year will be 16 per cent above the collections made last year, or double the rate of inflation. We all recall the Treasurer's comments in this Parliament that he would keep taxation levels down to the rate of inflation.

That comment can be interpreted in many ways, one being that payroll tax is only four or five per cent, or whatever the respective rate is for the employer, but because of the growth of our economy and the community in general, the taxation revenue collections amount to much more. We have experienced not only economic growth but also the natural growth of our community, which we would expect under any Government in this State. The Government therefore collects much more than the rate of inflation -- about $17 million, or double the rate of inflation.

That presents a tremendous opportunity to the Government to provide some real relief to the community in terms of taxation relief in this most important area of payroll tax, but the Government has forgone that opportunity because it wants to grab the tax and run, and not provide the relief I believe is so necessary and important.

Whatever happened to the pre-1983 promises made so loudly by the Treasurer? I can recall his reportedly trotting off to Canberra and his Federal colleagues in Opposition before the 1983 elections, indicating that on his coming to Government he would abolish payroll tax. I am sure every member on this side of the House remembers that. He was beating a drum; he made Press statements before and after the event to the effect that "Burke will abolish payroll tax". But since then we have seen the inexorable growth of payroll tax and in fact an increase in the rate of taxation for the larger employers -- the people in this State with the potential to make a massive contribution to employment if incentives were provided. It seems the Treasurer's commitment in Opposition has not been carried through.

It is also interesting to see that the Confederation of Western Australian Industry continues to call on the Government to provide some real relief from payroll tax, as it did when we were in Government. It made that call in its Budget submission to the Government this year but received very little support from the Government.

The Opposition does not oppose the legislation because of the relief measures it contains, but those measures are far less than could have been achieved had the Government honoured but one of its commitments; that is, to keep taxation increases to the rate of inflation. The Government should have done much more. It should have made a real attack on payroll tax in principle -- an attack that would lead to its eventual abolition, nothing more and nothing less. While the Treasurer might say that is an impossible dream, I do not believe that is the case. Members should just think of the enormous benefits in terms of competitive advantage that the abolition of payroll tax would bring to this State, if we could achieve that in a planned period of, say, five or 10 years.

We should bear in mind what was said to Sir Joh Bjelke-Petersen. It is very sad to see what is happening to Sir Joh at this stage of his career. He has provided great leadership to Australia for many years and I for one am very sad to see his demise, which is almost upon us, happening in the way it is to a man who has contributed so much to the anti-socialist cause in Australia. It is very disappointing for me to see his political demise in this manner.

Dr Gallop: Your Liberal colleagues in Queensland would not mind hearing this.

Mr MacKINNON: The Treasurer said virtually the same thing today in the newspaper. Most thinking Australians -- and obviously the member for Victoria Park is not one -- would agree with my comment.

Mr Hodge: You are just agreeing with the Treasurer's comment, aren't you?

Mr MacKINNON: No. I read the Treasurer's comment in the *Daily News* this afternoon and it was a most appropriate one. I agreed with him, for once.

Mr Brian Burke: I did not say anything about fighting the anti-socialist cause.

Mr MacKINNON: No, but the Treasurer said it is disappointing to see a man who has contributed such a lot to Australia meeting his demise in such a way, and I think most Australians would agree – except the member for Victoria Park, who is out on a limb. I think he has been talking to the member for Perth.

Mr Cash: He was sitting up the back in the member for Perth's seat earlier on. I thought he had been demoted.

Mr MacKINNON: He could not get much further back. Referring back to Sir Joh Bjelke-Petersen, about 10 or 12 years ago he made a commitment to abolish death duties in Queensland. People said it could not be done, that nobody could do it. But what happened once Sir Joh Bjelke-Petersen took the lead? Death duties were abolished across Australia because people flocked to Queensland. It was the beginning of the stampede north, especially from New South Wales and Victoria. For all his faults Sir Joh Bjelke-Petersen was a bold leader who made bold decisions in that area and achieved his goals. He showed leadership to the rest of Australia.

It is time a State Government in Australia took the lead on payroll tax by making a commitment to get rid of it and taking steps to do so, rather than continuing to increase it at a greater rate than inflation year after year, as this Government has done, thereby condemning to unemployment hundreds of young Western Australians who should and would be given the opportunity of employment if the employers were but given the encouragement to create jobs by the abolition of this tax.

While the Opposition is very unhappy with the extent of the relief provided, it nevertheless supports the legislation.

MR WIESE (Narrogin) [8.38 pm]: I wish to speak to this Bill, following my original comments about payroll tax made in my Budget speech some time ago.

The Bill seeks to implement the changes announced by the Treasurer in the Budget he brought down in early September. The changes to be implemented will become operative on 1 January 1988; hence the Bill must pass through this House during this session of Parliament.

In introducing the Bill the Deputy Premier noted that threshold rates would be increased by 10 per cent on 1 January and he quoted figures which purported to show the reduced tax liabilities of various employers who are liable to pay this payroll tax. In doing so, what the Treasurer, through the Deputy Premier, neglected to tell the House and the people of Western Australia was that since 1986, when the previous threshold levels were last changed, wage levels have risen considerably.

The employers' payroll tax liability has similarly increased. That is reflected in the Budget figures included in the papers the Treasurer put forward. Those figures show quite clearly that although the exemption levels have been raised by 10 per cent, which the Government is trying to intimate will lessen the Government's bite from employers, what will actually happen is that the Government's take from payroll tax will increase in this financial year by 12.25 per cent, as the Leader of the Opposition so ably noted.

Another item reveals something which was not evident in the Budget, for obvious reasons. Last year the Government budgeted for $306 million; it actually received $325 million. That is, it was $19 million over-budget. According to what the Leader of the Opposition said, we are already running ahead of budget this year. No doubt we will be looking at a similar situation at the end of this financial year. We are looking at an increase of at least 19.3 per cent over last year on the Budget figures. If we are running at four per cent over-budget, we could be looking at something like a 23 per cent or 24 per cent increase in payroll tax over last year's Budget figures to this year's actual achieved figure.

I do not see that as a lessening of the payroll tax burden on the employers of this State. We are really seeing a massive increase in the Government's bite from employers. Unless the threshold levels are increased again this time next year in the way they are being increased now, we will see an even greater rise in the payroll tax taken from employers over and above

what we saw this year. Wage levels are continuing to go up, despite the economic circumstances which exist, and this means the Government's take from payroll tax will also increase. In view of the enormous increase of 19.3 per cent over last year's Budget to this year's Budget -- and up to something like 24 per cent if the current performance by the Government in respect of payroll tax continues -- the Government should not only be looking at these exemption levels but should also be looking to decrease the rate at which payroll tax is applied.

If this State is doing as well as we are being told it is doing, it is now an appropriate time to ease the pressure on business and particularly on small business. During my contribution to the Budget debate, I referred to the manner in which amendments to the Pay-roll Tax Assessment Act are made. Amendments to that Act have been made over the period of 16 years since that Act was introduced. I refer specifically to an anomaly which has come to light -- that is, although Parliament had indicated on several occasions how it wished the matter to be handled, employers who have wages bills which are seasonal and who were completely unaware of their payroll tax liability were receiving enormous accounts from the Taxation Department for back-payroll tax. On several occasions this Parliament specifically spelt out that it did not believe this situation should be allowed to occur. Although I brought this matter to the attention of the Government in my speech on the Budget, and to the attention of the Attorney General by way of letter, absolutely nothing was done to remove that anomaly and to ensure that the will of Parliament, which has so often been expressed, is actually carried out. I believe this matter should be addressed by the Government as a matter of urgency. I am disappointed that the Government has not seen fit to act on this matter.

However, I am pleased that one of my suggestions was noted and acted upon. I mentioned the fact that in the 16 years since the principal Act was introduced, when introducing new exemption levels or alterations, no Treasurer, of any Government, ever mentioned that payroll tax was based on the weekly wages paid by the employer. Not once did any Treasurer mention the weekly level below which an exemption was granted. The only level ever mentioned during the 16 years was the annual level of the exemption. That is basically why many employers were completely unaware that they had a liability to pay payroll tax. This year, for the first time in 16 years, the Deputy Premier mentioned in his second reading speech introducing the Pay-roll Tax Assessment Amendment Bill the requirement for employers to register for payroll tax when their weekly level of wages in one week exceeds a specified amount. He announced that the annual wage level was being raised this year from $4 800 to $5 280. I thank the Government for taking on board my suggestion and for implementing it. I trust that from now on at least employers will not be placed in a position where, because of complete ignorance of the weekly wage level, they fail to register for payroll tax purposes and are caught, somewhere down the line, in this back-payroll tax situation. Having introduced this precedent, I trust that the Treasurer will continue that practice when future amendments are made to the Act. It is a move which is long overdue and is to be commended.

The proposed amendment to schedule 2 lists some organisations which are to be removed from that schedule and three other organisations placed on it. I am disappointed that an organisation which is very important to country people and crucial to the education of rural children in years 11 and 12 has not been included in the schedule that grants exemption to departments and other organisations. I refer to the Country High Schools Hostels Authority. That authority oversees the operations of nine or 10 high school hostels. It is a very large employer of staff because of the nature of its operations. It provides a service to country people, which is an absolutely essential part of the education system and the Education Department's operations in the country.

In this schedule the Education Department itself is mentioned, and I fail to see why the Country High School Hostels Authority is not included as one of the organisations exempt from payroll tax. I do not believe that in the country a high school organisation such as the hostels authority can be separated from the education system. It is an integral part of the education of our country children. If it is good enough to exempt the Education Department it is essential that the hostels authority be exempted, and I will attempt to rectify that situation in the Committee stage.

I make the point very strongly that although this Bill represents a very small help to business in this State it is a token effort at providing relief from payroll tax to employers. I say that

because it is battling to keep pace with the inflation of wages. With the amount of money going to the Government in receipts for payroll tax we have reached the stage where it should be looking seriously at implementing its promise to gradually abolish payroll tax completely. The way to do it is not just by raising the exemption levels, but by biting the bullet and taking positive steps to reduce the rate of payroll tax. I am very disappointed that this Bill does not take a step down that road.

MR BRIAN BURKE (Balga -- Treasurer) [8.52 pm]: I thank Opposition members for their general support of the Bill. As far as the comments of a general nature are concerned I suppose it will always be the case that Oppositions, and to an extent Governments, will want to do more to provide relief from payroll tax but it is not always possible. The Government is quietly proud of what it has achieved to date in respect of payroll tax. It may be termed tokenism by some Opposition members, but the Government thinks it has done a reasonable job of trying to ameliorate the burden, which we acknowledge is a considerable one, on employers within this State.

In respect of the specific matters referred to by the member for Narrogin, I am afraid I do not have any knowledge of the first matter which he said he had taken up with the Attorney General. I do not recall receiving advice about it myself, but I am sure the Attorney General would have told the member that in line with normal policy any changes of the nature he suggests will be made in the preparations for the next Budget. So if in one Budget speech the member makes a suggestion about a change to a particular aspect of budgeting, or of the payroll tax component of the Budget process, and it always appears to be a component, the normal course of events is that it will be considered as the next Budget is framed. I have no doubt the Attorney General will do that in his capacity as Minister for Budget Management. I will take the matter up with him and hopefully will be able to guarantee that we will consider the matter raised concerning seasonal workers.

In respect of the Country High School Hostels Authority, the question of a payroll tax exemption has never been raised previously!

Mr Cowan: It has so! You promised to look into it.

Mr BRIAN BURKE: Now that the Leader of the National Party jogs my memory, I recall it has been mentioned in each of the five Budgets I have brought down. On this occasion we are prepared to say we will look into it.

Mr Cowan: I have a feeling of deja vu.

Mr BRIAN BURKE: We will do our best to accommodate the Leader of the National Party.

Mr Cowan: What about the member for Narrogin?

Mr BRIAN BURKE: And him too. It is hard to make exemptions of the nature that is involved in this particular case.

Mr Cowan: I do not agree because the Country High School Hostels Authority is a very specific body. There is a like situation with the public school secondary schools which have boarding houses and are exempt from payroll tax.

Mr BRIAN BURKE: I know.

Mr Cowan: I am sure you could write the hostels authority into that exemption list and add Swanleigh.

Mr BRIAN BURKE: That has cast a new light on it, and I will refer it to the Minister for Budget Management. I would not be surprised to see a quantum leap forward in this matter in time for the next Budget. We will see what we can do.

I am grateful for the general support of the legislation. It provides concessions and we would expect, apart from the fact that it is a Budget Bill, that the Opposition parties would support the measure. At the same time we gently disagree with them about the scope or degree of assistance, and when they return to Government I am sure they will find themselves in a similar situation explaining why the exemptions or relief being provided --

Mr Cowan: Is this an admission that it will not be done?

Mr BRIAN BURKE: No, I am sure the difficulties we face will be faced by the Opposition when it returns to Government, and we will be able then to raise with it the question of the

Country High School Hostels Authority if we do not proceed to alter that situation in the next Budget. There is a strong chance that we will, but only a strong chance because we have yet to look into it.

Question put and passed.

Bill read a second time.

In Committee

The Chairman of Committees (Mr Burkett) in the Chair; Mr Brian Burke (Treasurer) in charge of the Bill.

Clauses 1 to 5 put and passed.

Clause 6: Schedule 2 repealed and a schedule substituted --

Mr WIESE: I move an amendment --

Page 4, after line 19 -- Add the following after Item 13 --

14. Country High Schools Hostels Authority and Swanleigh.

Mr BRIAN BURKE: As I said, we are comfortable with the assurance that we will look at this matter and make a firm decision before the next Budget, but we cannot accept an amendment to this Budget Bill.

Mr COWAN: We want the Government to understand that while it has looked at this matter for a long time, the fact is that there are public schools which have attached to them boarding houses which do not pay payroll tax, country high schools authority managed hostels which pay payroll tax, and the Swanleigh hostel, an independent hostel, which pays payroll tax.

The Government has placed several impositions on these hostels and has told them to absorb the charges. One of those impositions is the fringe benefits tax. I do not know why they have to pay that tax, but I think it is because hostels are required to supply wardens and other staff members with accommodation. That cost had to be absorbed by the hostels.

The National Party suggests that those hostels are non-profitable organisations and must pass on these costs to the community. As a member for a metropolitan electorate, Mr Chairman, you have sent your children to school in the metropolitan area and paid no more than a voluntary fee to that high school. That was the only cost associated with an alleged free education system. However, people who send their children to country hostels are required to find an additional sum which, in most instances, is well in excess of $3 500 over and above that voluntary fee which people have to pay for the privilege of sending their children to a secondary high school in the metropolitan area.

We are asking for an exemption from payroll tax for these bodies. We are not satisfied to hear the response that the matter is being looked and that something might be done in the future. It is time something was done now.

Amendment put and negatived.

Clause put and passed.

Clause 7 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by Mr Brian Burke (Treasurer), and transmitted to the Council.

PAY-ROLL TAX AMENDMENT BILL

Second Reading

Order of the Day read for the resumption of debate from 12 November.

Question put and passed.

Bill read a second time.

In Committee, etc

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

Third Reading

Bill read a third time, on motion by Mr Brian Burke (Treasurer), and transmitted to the Council.

STAMP AMENDMENT BILL (No 2)

Second Reading

Debate resumed from 18 November.

MR MacKINNON (Murdoch -- Leader of the Opposition) [9.08 pm]: The Stamp Amendment Bill is another Budget measure announced by the Treasurer when introducing his 1987-88 Budget. It provides for three new exemptions from stamp duty. In the case of the family home, the Government has extended the stamp duty exemption to a husband or wife transferring a property to the joint names of the married couple. That is commendable and the Opposition supports it.

The second exemption applies to rental businesses with further exemptions applying to the income level upon which stamp duty is levied. It extends those exemptions from $20 000 to $50 000 and provides for some other adjustments. Again that has our support.

The third exemption applies to residential leases which currently attract stamp duty if the weekly rental for those leases is $80 a week. The exemption has now been extended to apply to rents of $125 a week. That also has our support.

In a similar way to the payroll tax Bill we have just debated it can be said that the exemptions provided by the Government are minimal to say the least. For example, this year's Budget estimates show that approximately $302 million will be gained from stamp duty. Yet, the figures released by the State Government to the end of September 1987 indicate that the stamp duty receipts for the first three months of this year were 65 per cent higher than for the same period last year. It is quite a significant increase, to say the least. According to the Treasurer's second reading speech the exemptions approved by this legislation will cost the Government less than $1 million, which is hardly what one would call a significant exemption.

The Treasurer has stated that the stamp duty revenue increases this year have been brought about by increased business activity. It could be argued that it is the reason for part of the increase, particularly as a result of the share market activity. The bulk of the revenue increases would have been brought about by stamp duty rate increases. For example, after the State Government elections in 1983 the Government increased stamp duty quite significantly at levels of 67 per cent and, for example, 100 per cent on the transfer of motor vehicle ownership. In recent times stamp duty rates have increased significantly.

Despite the concessions provided in this legislation the rate of increase in revenue has increased dramatically. In 1984-85 the revenue was $199 million and in 1986-87 it increased to $272 million. In two years there was an 18 per cent annual increase and, of course, this year it will increase to $302 million, although I predict that it is likely to be $320 million. An increase from $200 million to $320 million in two years is a considerable increase by any stretch of the imagination. In terms of an opportunity to the Government it is an opportunity foregone.

When the Government receives revenue gains of that order one would have thought that it would have been possible for the Government to extend, as the member for Narrogin indicated earlier, substantial benefits to the community, particularly the small business community. Instead, as has been the case in the last few years, the Government has taken the increases upon itself and, at the same time, has provided no relief, but has increased taxation in all areas. The inexorable growth of Government continues, rather than the opposite being the case. Despite our reservations about the Government's activities in this area we hope that, when in Government, we will be able to do better than the present incumbents. We would not oppose the legislation because it provides some relief, be it ever so limited to the hard-pressed taxpayers of this State.

MR TRENORDEN (Avon) [9.14 pm]: The National Party will not oppose this Bill. On occasions it is good to have legislation before the House which provides a reduction in taxes to taxpayers. Not only does this Bill reduce taxation, but also it provides for people to fill in a single return if their income is not above $60 000. The importance of that should not be lost. The paper warfare in which small business is engaged is horrendous. In many cases small business operators in this State fill in nil tax returns and under this legislation they will be able to submit one return each year instead of monthly returns. It will save taxpayers around $1 million a year. It is proposed to lift the exemption level for residential leases to $125 a week and it is definitely a plus. We commend the Government for the Bill.

MR BRIAN BURKE (Balga -- Treasurer) [9.15 pm]: I thank the Opposition parties for their support of the Bill.

Question put and passed.

Bill read a second time.

In Committee, etc

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

Third Reading

Bill read a third time, on motion by Mr Brian Burke (Treasurer), and transmitted to the Council.

DOOR TO DOOR TRADING AMENDMENT BILL

Second Reading

Debate resumed from 12 November.

MR WATT (Albany) [9.18 pm]: This is a fairly simple and straighforward Bill which the Opposition supports. As a matter of fact, when this Act was originally introduced I expressed some sentiments along the lines that the course outlined in this Bill should be adopted -- it was not precisely the same but it was in the general direction. Without actually saying, "I told you so" --

Mr Taylor: I read your speech and it is not quite the same.

Mr WATT: I said that it was in the general direction and perhaps I cannot say, "I told you so."

The Bill proposes to alter times that door-to-door salespersons may call at private residences. Previously, they were not able to call at any time on a public holiday. That exception has been extended to Sundays as well as public holidays. If there was ever any merit in giving people privacy in their own homes on a public holiday it should also be extended to Sundays and the Opposition supports that part of the Bill.

The hours that door-to-door salespersons can call at private residences has been changed. Previously salesmen could call between 8.00 am and 9.00 pm on any day except a public holiday. The hours have now been changed and salesmen may now call on Saturdays between the hours of 9.00 am and 5.00 pm and on Mondays to Fridays from 8.00 am to 9.00 pm. All in all the Opposition thinks it is a sensible move. It still provides those people who trade door-to-door a reasonable time to call.

The Bill has received publicity and while I did not seek opinions from the community, neither did anyone contact me to say they objected violently to it. On the basis that the Opposition supports this Bill and that I have not received any adverse reaction to it, I am more than happy to support the Bill.

MR TAYLOR (Kalgoorlie -- Minister for Consumer Affairs) [9.20 pm]: I thank the Opposition for its support of this legislation.

Question put and passed.

Bill read a second time.

In Committee, etc

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

Third Reading

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

FAIR TRADING BILL

Second Reading

Debate resumed from 10 November.

MR WATT (Albany) [9.24 pm]: The purpose of this Bill is to bring a measure of uniformity to the States in legislation relating to certain consumer laws. The very mention of words such as "fair trading" is like motherhood; everyone agrees with the implied sentiment without knowing what it is about. I am pleased to say that the Opposition supports this Bill. According to the Minister's introductory speech, it brings together, as a result of an agreement reached as far back as June 1983, a measure of uniformity between the States in certain provisions of the Trade Practices Act. In particular I refer to part V which deals with consumer protection and provides as far as possible mirror legislation for this State of the provisions of the Trade Practices Act in that area. A fairly valid reason has been given: People in the corporate business world -- the larger business enterprises -- have become used to dealing under the provisions of the Trade Practices Act and probably have a reasonably good understanding of the provisions in broad terms, if not in specific detail. Conversely, the courts, lawyers and everybody else involved in consumer affairs have also probably developed a good understanding of it. A reasonable body of case law has been developed and a number of precedents established and, of course, the courts rely on those when interpreting matters brought before the court. It makes good sense that the Bill before the House should follow the provisions of that Act. However, I have one or two reservations to which I will refer.

It is also proposed that the main offences under the Bill shall be dealt with by courts of Petty Sessions summarily. The Bill provides for maximum penalties of no more than $6 000 for any offence if dealt with in those courts but in certain circumstances the cases can be heard in a higher court. This would apply in two ways: Firstly, if the defendant elected to do so and, secondly, if the magistrate agreed that it was appropriate. Obviously, if a case is taken to a higher court some rules will change. The District Court would provide for much higher penalties in some cases but would provide some protection for the defendant by having the case heard by a jury. I guess the downside is that the defendant may face substantially higher costs. That decision must be made at the time and obviously there would be an incentive to have the matter heard in the lower court, as probably the majority of them will be.

The Bill provides a number of worthwhile and positive features, including provision for a programme of education for business. Again the Opposition obviously supports this. When the rules are changed it is important for people in the business world to be made aware of those changes. As mentioned in debate on an earlier Bill, the Department of Consumer Affairs will have special responsibility for disseminating information in that area. I digress to say that the Department of Consumer Affairs has played a very responsible role, not only with regard to this legislation but also in the many other areas of consumer law in which concerns have been raised. It is to the credit of the director of that department that a constant stream of information and pamphlets is available whenever a consumer problem arises. That is one of the many good things that has happened during his occupancy of that position.

Although the provisions in this Bill will mirror many of the provisions of the Trade Practices Act, many other sections of the Bill are not related to that Act and I shall refer to them. The Bill provides an opportunity to repeal a number of other Acts or sections of Acts. That is a desirable thing, although it could be argued that the Bill does not go far enough because it does not repeal some other Acts. It is also difficult when Commonwealth and State laws are operating in the same area, and although we will have mirror legislation imposing conditions of the Trade Practices Act in respect of consumer protection, that Act will continue to operate. Will the Minister advise me when he replies where one starts and stops and the other takes over?

This Bill repeals the Trade Descriptions and False Advertisements Act, the Unsolicited Goods and Services Act, the Clothes and Fabrics (Labelling and Sales) Act, the Pyramid Sales Schemes Act, part VIII of the Factories and Shops Act, which deals with markings on

products, and parts of the Consumer Affairs Act. To remove those sections of other Acts and place them in one easily understood and compact Bill is a positive and worthwhile move and certainly one that has Opposition support.

The Minister said that several States already have similar legislation in place; Queensland and Tasmania have approved similar legislation and are in the process of introducing it. When that is done, and the legislation is in place here, there will be similar legislation in place across Australia. I support the concept of uniform legislation across the nation, especially in relation to consumer law. The fact is that many companies and firms operate nationally and having different legislation from State to State makes life difficult for them and for other people trading across State boundaries even though those differences may be small ones. In such cases it is easy for them to commit offences unintentionally; therefore, businesses, and especially those trading across State boundaries, will be happy to see this legislation implemented.

Part II of the Bill deals with unfair practices. This is again an area where uniform legislation provides special benefits. We have seen a number of dubious practices arise in this State from time to time. It is a shame that consumer and other legislation is required at all, but the truth of the matter is that in most cases we are making laws because of the actions of a few people. The vast majority of people who operate businesses and corporations do so responsibly, fairly and in good conscience. It is unfortunate, in a sense, that this sort of legislation must exist -- to some people it must seem as though we are using a sledgehammer to crack a peanut; however, when you have a few peanuts around they have to be cracked and this is the sort of legislation that must exist for that to happen. The Minister spoke of prohibitive, deceptive, misleading or unconscionable business conduct. I support him in doing anything that will contribute to removing unscrupulous operators from the marketplace.

Part III of the Bill deals with conditions and warranties. There are a number of laws already operating in Western Australia which deal with these matters. The Department of Consumer Affairs concerns itself with conditions and warranties.

There is also Federal law including the Trade Practices Act and the Sale of Goods Act which seem to override all other legislation. The Small Claims Tribunals Act gets into the picture in some areas as does the Motor Vehicle Dealers Act, which relates to the sale of vehicles, and probably many other Acts all of which impact to some extent on the conditions and warranties covered by this part of the Bill.

It is easy to become confused about some of these matters. I recall as a member of a Select Committee inquiring into the Small Claims Tribunal that one of the people who gave evidence complained bitterly about a decision of the referee on that tribunal who heard his case. The person involved wanted to buy a car for his daughter, so he went to a friend who ran a car yard and asked him to find him a cheapie. The dealer said, "If I find something, I will give you a phone call." The dealer rang later saying that he had a car that was cheap and that the person could have it on the basis that he bought it as traded, the dealer saying that the buyer would get it for what the dealer paid for it but there would be no warranty. The fellow said that that was fair enough and took the car away. A little later he took the car to a repairer who said that he had been conned, that it was a dreadful car, and proceeded to get in for his chop doing work on the car that cost more than the man had paid for it. The purchaser took a claim to the Small Claims Tribunal where it was upheld. The dealer had to then pay that fellow more than he had been paid for the car.

That is the sort of dreadful anomaly that can occur with conditions and warranties. It is an important part of the education process that is needed as part of this legislation to ensure that everybody knows that they have a responsibility in such matters and especially under the Sale of Goods Act to provide goods that will do what they purport to do and are sold to do. If everybody understands that, we hopefully can avoid some of the problems that have occurred in the past.

One of the difficulties with warranties on motor vehicles that I ask the Minister to clarify relates to a number of complaints that I have received related to the purchase of commercial or goods-carrying vehicles intended for private use. As an example, it is not uncommon in the country for young fellows to buy a utility instead of a car. This does not happen as much nowadays, but many people bought car-type utilities to use as personal transport. Motor cars

are covered by the Motor Vehicles Act and a warranty is required in relation to them. However, that is not the case with commercial vehicles. That anomaly is worth considering to ascertain whether there are circumstances under which those sorts of vehicles, when bought for personal transport use, could be covered in the same manner as motor cars.

The provisions in part III of the Bill will only apply to consumer transactions where the value of the goods involved is less than $40 000, where they are intended for personal, domestic or household use, or where the goods consist of a commercial vehicle. I think that this probably covers the areas that really needed to be covered.

Part IV of the Bill deals with codes of practice and is especially relevant in light of recent events. It is a conflict area. My initial reaction to this part of the Bill was, "Here we go again, more regulations." I looked at this part with a feeling of uneasiness as I think that members on both sides of the House are concerned about the growing number of regulations being imposed on the community generally and not just on the business world. The more I thought about the matter the less I was able to see an alternative, and that is one of the problems.

The Minister will recall -- using the recent experiences of the health club industry as a very good example -- that some time ago a representative of that industry went to the former Minister for Consumer Affairs, seeking to have a code of conduct agreed to amongst the industry, and asking the Government to make it mandatory for all the people in that industry to abide by that code of practice. Nothing happened with that.

Mr Taylor: It was not possible to make it mandatory; there is no law to cover that.

Mr WATT: I accept that. I said that nothing happened, and the Minister has explained why.

Mr Taylor: The interesting thing in that situation was that the group that refused to be part of any code of conduct was the Laurie Potter group, which comprised over half of the industry at that stage.

Mr WATT: Yes, and that is the point I was going to make. We are obviously talking about the failed Laurie Potter Health Club group, and it was other members of the industry who actually spent a lot of time and money on legal advice in preparing a code of conduct, which was submitted to the department for its consideration. However, there was no provision available to the department to impose that code, other than with legislation on all sections of the industry. Although that code of conduct was prepared by the bulk of the industry as a voluntary measure, it only takes one operator who chooses not to abide by it to render the whole thing useless and ineffective. That is what happened in the health industry.

I believe that the path taken in this Bill, by having a group in an industry combine to draft the code of conduct, and then to require that code to be mandatory over all the operators in that industry, is about the best way that we could go. There are a couple of industries where that will be of some value. The health club industry is an obvious example, and I think some concern has also been expressed about the retirement village industry. They are two of the areas that demonstrate where the need will be well met.

It is also intended in applying these codes of conduct that the application of the law should not be too heavy-handed, at least initially. Non-compliance with the code is not to be a criminal offence at first but can be dealt with through the Commissioner for Consumer Affairs. This means that there can be a negotiation process in which anyone who is breaking one of the elements of that code of conduct can have that brought to his attention and can be leaned on a bit, and that person will realise that if he does not play the game, the next step will be the imposition of a harsher penalty; and at the end of the day that person can be prosecuted and face a maximum fine of $10 000. I am happy that this provision is not too heavy-handed at first and that those people who operate in any particular business where there is a code of conduct will have adequate opportunity to do the decent thing, with a little bit of friendly persuasion, before somebody lowers the boom gate.

There will also be a right of appeal to the Supreme Court from a decision of the commercial tribunal on a question of law. I assume that situation relates only to the usual things like denial of natural justice and wrong jurisdiction. I want to query with the Minister the question of costs where there is an appeal to the Supreme Court. One of the things we learnt when inquiring into the Small Claims Tribunal -- to our dismay -- was that in circumstances where people decided to take a decision of the tribunal to the Supreme Court where they felt

they had been denied natural justice, and won, there was no provision in that particular Act for costs to be awarded. It cost them on most occasions in the order of $5 000 to win their case, and it was a fairly costly exercise because all they had was the moral satisfaction of knowing that they were right. Such persons had to pay all their own expenses because the Supreme Court did not have any capacity to award costs to them. I suggest to the Minister that if he is not able to answer that question now, he might give an undertaking that he will check that position, and if there is not a provision for costs to be awarded, then possibly that can be addressed. This is an important point because we are dealing with the Fair Trading Bill, and this is a matter of fundamental fairness.

The fifth part of the Bill deals with consumer product safety and really only reproduces some of the provisions that are already in the Consumer Affairs Act. I would again complement the Department of Consumer Affairs on the job that it has done on improving product safety. Its identification from time to time of a number of dangerous and hazardous items has been well publicised. I believe the department does a good job in that area, and I do not believe that section of the Bill requires any further comment.

Another initiative is the scheme for recall of unsafe products. This provides that suppliers who voluntarily recall consumer products for safety reasons must notify Government authorities when they do so. I think that will have obvious benefits and that before long the public who get involved in that recall area will come to understand what the ground rules are.

Proceedings for offences may only be taken by the commissioner, but the Bill specifies a ranges of penalties. I mentioned before that in the lower court the maximum penalty is $6 000. The Minister said in his second reading speech that serious offences may be prosecuted in the District and Supreme Courts and attract a maximum of $20 000 for an individual and $100 000 for a corporation. I would be interested to know whether these penalties mirror the provisions of the Trade Practices Act.

Mr Taylor: They complement the provisions of the Trade Practices Act; and that is the nature of this legislation.

Mr WATT: I am perfectly happy that the nature of offences should mirror those in the Trade Practices Act, but given that the Trade Practices Act is a Commonwealth Act that is probably intended more for larger corporations and businesses -- and I know that under the Interpretation Act, the penalties which are provided are always maximum penalties --- these penalties do seem very large, especially as this mirror legislation will be required to apply to small businesses, to small partnerships, and to sole traders. It seems to me to be a bit out of balance that these people should be liable under this mirror legislation to the same penalties that some of these larger corporations might be liable for in the event of an offence against this Act.

The Minister may wish to comment on that. I suppose when these things are left to the discretion of the courts, as all maximum penalties are, it is always a bit hard to convey to them what really is intended in the way of application of the legislation. But I would hope -- and this is the point I really want to make -- that the punishment not only will fit the crime but also will be appropriate to the offender; in other words, that in the imposition of fines large corporations with a greater capacity to pay might have higher fines imposed upon them.

The Bill also provides for on-the-spot fines. I am not quite sure, but I assume that would mean the commissioner can impose on-the-spot fines. I am always a little nervous about this type of provision. Obviously the commissioner would not be the person imposing them. He has the ultimate responsibility -- that is, apart from the Minister -- and it is always the case with these situations that that power is delegated to certain officers. On-the-spot fines means just that -- on the spot. Just as I said recently when we were debating the Rottnest Island Authority Bill, there is sometimes a tendency for people to get a little heavy-handed. Knowing the commissioner as I do, if complaints were made about people being unreasonable in their application of on-the-spot fines, I am sure he would take action to rectify the matter quickly.

Mr Taylor: Proposed section 73(10) of the Act mentions that the commissioner is the person we are talking about.

Mr WATT: Yes, but under the Act would he not have powers of delegation?

Mr Taylor: Yes.

Mr WATT: That is the point I was making. I have every confidence in the Commissioner of the Department of Consumer Affairs but he cannot do all this by himself and those powers must be delegated. I just wanted to get that point on the record.

The bottom line in this type of legislation is, as its name implies, fair trade. It must be fair. There is a need for responsibility and accountability. I recall a situation a few years ago where a firm in Albany was put to great expense and inconvenience because of an action taken against it under the Trade Practices Act. All that was required -- and I would like the Minister to note this -- was for somebody to make a telephone call. They rang the Trade Practices Commission and made a complaint about this firm, which was then required to justify its actions. It took the principal of that firm six weeks in Perth, staying at a hotel and spending an enormous amount of money on legal costs and all sorts of things. It is absolutely vital that somehow or other the commissioner makes certain that people are not put to inconvenience where relatively frivolous or unjustified claims are made against a company. In that particular instance it is my belief that the person who made that telephone call -- and who no doubt identified himself -- probably had an axe to grind.

Mr Taylor: The Department of Consumer Affairs always tries to sort things out over the phone in the first instance.

Mr WATT: I certainly hope that would be the case; however it is important to bring these things out in debate so that the intention of the legislation can be made clear.

I believe this Bill has been modelled on the Victorian Fair Trading Act. I contacted my counterpart in Victoria who advised me that the Act is working well over there. I have sought opinions from the Chamber of Commerce and Industry, the Confederation of Western Australian Industry, and the Retail Traders Association, all of whom tell me the Bill has their support.

For all those reasons, the Opposition supports the Bill.

MR SCHELL (Mt Marshall) [9.55 pm]: This Bill stems from an agreement between the Federal and State Consumer Affairs Ministers that there should be uniform consumer protection legislation in Australia. It is based on the Commonwealth Trade Practices Act 1974.

The Bill seeks to incorporate provisions of the Trade Descriptions and False Advertisements Act, the Pyramid Sales Schemes Act, and the Unsolicited Goods and Services Act. To the extent that the provisions of those Acts are now incorporated within the one Bill, that would not be objectionable in our view.

Mr Taylor: Also the Clothes and Fabric Labelling Act and part VIII of the Factories and Shops Act.

Mr SCHELL: The Bill also provides in part IV provisions which enable codes of practice to be promulgated by way of regulations. The procedures necessary would appear to provide a reasonable level of protection for the interests of the business sector, except in interim codes of practice which can remain in force for a period not exceeding six months, in so far as all other codes of practice that are promulgated require the consultation and agreement of associated persons in the field of trade or commerce. The difficulties, if they are to arise, may well be more in the way in which these provisions are administered than in the provisions themselves. For example, it would be undesirable for codes of practice to be developed for all industry sectors regardless of whether or not individual sectors were experiencing difficulties in self-regulating that sector.

The provision of the Bill that gives grounds for some concern is clause 81. This provision attaches quasi-criminal liability to directors, employers, and principals where a corporation, an employee, or an agent is convicted of an offence against this proposed Act. It may be arguable that civil liability may be appropriate in certain cases. However, it is quite objectionable that there should be a quasi-criminal liability attaching to a person who is not directly or indirectly engaged in the commission of the offence. In other words, clause 81 creates a quasi-criminal liability in an offence which is essentially a civil matter and places the onus of proof on the allegedly offending directors, employers, and principals to prove their innocence.

I call upon the Minister to comment on clause 81 in his reply. Apart from that, the National Party supports the Bill.

MR TAYLOR (Kalgoorlie -- Minister for Consumer Affairs) [9.58 pm]: I thank both the member for Mt Marshall and the member for Albany for their support of this legislation. I will endeavour to deal with the matters raised by them.

First, I thank the member for Albany for his complimentary remarks in relation to the Department of Consumer Affairs, and especially in the area of education. I should mention that it is my intention as Minister to upgrade the role of the education side of the Department of Consumer Affairs to try to ensure that we make an even greater effort in that area.

The member for Albany mentioned the trade practices legislation and the uniformity situation as it applies to this legislation. The Trade Practices Act applies to corporations only, whereas this legislation will apply to all other aspects of business rather than just to corporations. The member for Albany also mentioned warranties, especially in regard to older utilities and, I gather, four-wheel drive vehicles. Is that right?

Mr Watt: No, car-type utilities.

Mr TAYLOR: Commercial vehicles? One of the problems with those is that more often that not they are subject to far greater wear and tear than are normal vehicles and therefore people are reluctant to impose on those vehicles the warranty conditions that apply to normal vehicles. In fact it could be unfair to dealers in those circumstances. However, I should say also that in regard to four-wheel drive vehicles and farm machinery the Sale of Goods Act and the warranty provisions of that Act apply to those vehicles. As to second-hand vehicles, it would be unfair to require the dealers to give the same warranty as for new vehicles.

Mr Watt: I have the feeling that many people do not know their rights under the Sale of Goods Act, and that many people do not tell them.

Mr TAYLOR: The member is quite right. In relation to the matter raised by the member for Albany about Firestone tyres, I wrote a letter to a lady at Midland only today saying that she should be quite clear that in relation to those tyres she has a warranty provision which is established under the Sale of Goods Act. That applies to all of those things so they cannot actually say to people, "There are no warranties applying to those goods." Under the Sale of Goods Act they are required to give a warranty.

Another matter raised by the member for Albany was in relation to penalties. There is no doubt that the penalties in the legislation seem to be quite harsh, but they are meant to mirror the penalty provisions of the Trade Practices Act. It is the nature of this legislation to mirror the consumer protection provisions of the Trade Practices Act. As under the Trade Practices Act, maximum penalties would apply only under the most extraordinary circumstances; for example, when a particular company decided to sell a very dangerous or unsafe product despite warnings and orders given by the courts. I have no problem with the nature of the penalties, knowing that they are maximum penalties and that it is unusual to see those maximum penalties imposed. Under the Bill, the greatest percentage of cases will be dealt with summarily -- that is, before a magistrate in a Court of Petty Sessions where the magistrate can apply a maximum fine of only $6 000.

The member for Mt Marshall wanted me to deal with clause 81, which relates to offences by directors and employers in relation to their liability. This matter was raised by the Western Australian Chamber of Commerce. My very strong view is that clause 81 has to remain because in relation to legislation the Government will repeal as a result of this legislation going through both Chambers of Parliament, in section 14 of the Pyramid Sales Scheme Act, section 23Y of the Consumer Affairs Act and section 14A of the Trade Descriptions and False Advertisements Act, this same provision applies. As the Government will be repealing those provisions in that legislation, it is appropriate that the same provision applies as far as this Bill is concerned.

Another point I should make is that under common law, aiding and abetting provisions or causing or committing provisions would allow directors or officers of companies to be charged. Such liability would occur only where the acts of the corporation were committed with the direct involvement of such officers of the company. There are clear defences open to any person so charged to show the court that such offences were committed without his knowledge, authorisation or permission and he was not in position to influence the conduct of the corporation and could not, by the exercise of reasonable diligence, have prevented the commission of the offence. Therefore, it was not unusual under previous Governments; for

example, section 34 of the General Insurance Brokers and Agents Act includes the same provision. Members of the National Party will be interested to learn that section 23 of the Seeds Act includes the same provision. It is not an unusual provision and for those reasons, I believe it should be included in the Fair Trading Bill.

Once again I thank the Opposition for its support of this very important consumer protection legislation.

Question put and passed.

Bill read a second time.

In Committee

The Chairman of Committees (Mr Burkett) in the Chair; Mr Taylor (Minister for Consumer Affairs) in charge of the Bill.

Clauses 1 to 4 put and passed.

Clause 5: Interpretation (TPA s. 4) --

Mr WATT: With the Premier sitting over there wielding his flick-knife, I assure the Committee that I have very little more to contribute, but I do have a few short queries I would like to raise.

The CHAIRMAN: Order! As a point of clarification, the Premier has a small penknife which he uses in his stamp collection. I would hate the Press to report that our esteemed Premier had such a lethal weapon as a flick-knife in Parliament, particularly in view of what has taken place here over the last three days.

Mr WATT: I assure the Chamber that my comment was intended in jest.

The CHAIRMAN: I realise that. You are such a fine member that I know it was intended in no other way.

Mr WATT: I wish to comment on the definition of "dangerous", which reads as follows --

> "dangerous", in relation to goods, means likely to cause death or to cause injury to the body or health of a person, --

I really think it should stop there but it goes on --

> whether the death or injury is likely to be caused directly or indirectly and whether or not because of --

Then it lists a number of circumstances. I believe that the onus of proof ought to be on the person claiming that the goods were dangerous to prove the danger. Obviously if it went to the department or a court or a tribunal, people would adjudicate but it seems to me that including so many specific items which are interpreted as contributing to danger, it becomes a case of only the things specified being regarded as dangerous. In so doing, that tends to detract from the definition of dangerous goods rather than leaving the clause fairly open-ended.

Mr TAYLOR: I believe that the responsibility, as outlined in this definition, is one which fits in very well indeed with "dangerous." It is an important aspect of the Fair Trading Bill. If people are going to sell products, they should make sure these products are not dangerous. Therefore, they should have the responsibility to ensure that is the case.

Mr Watt: I said I was not arguing against the principle but if you stopped just by saying dangerous "in relation to the goods means likely to cause death or cause injury to the health or body of a person" that is really all-embracing.

Mr TAYLOR: It is all-embracing, but, as I said before, it mirrors the Trade Practices Act.

Mr Watt: It mirrors the definition in the Trade Practices Act?

Mr TAYLOR: Yes. The provision is quite a strong one and it is appropriate, given the nature of the circumstances. It is only when we are dealing with dangerous goods and people who are not prepared to do the right thing. The courts would frown on that situation and impose high fines.

Clause put and passed.

Clauses 6 to 27 put and passed.

Clause 28: Unsolicited credit and debit cards (TPA s. 63A) --

Mr WATT: Can the Minister tell me what is the difference between a credit card and a debit card? Even when I read the definitions in the Bill they seemed to do very much the same thing.

Mr TAYLOR: There is not really a lot of difference. The only difference I see is that a credit card refers to obtaining cash or goods on credit whereas a debit card is usually a debit against one's account. The cards people use in the automatic teller machines are debit cards whereas a credit card is more like Bankcard.

Clause put and passed.

Clauses 29 to 41 put and passed.

Clause 42: Preparation of draft code of practice --

Mr WATT: Under this clause the commissioner may with the approval of the Minister, and shall if the Minister so directs, prepare for the Minister's consideration a draft code of practice for fair dealing in certain circumstances. It appears to me there is not an opportunity for an industry to initiate a code of practice. It seems only the commissioner can do it, or if the Minister directs. I did not prepare an amendment but it would be appropriate to provide means for an industry to prepare a code. I suppose if an industry came to the Minister that situation might be covered. Perhaps where there was conflict in an industry and a clear division, such as with the Laurie Potter health clubs, the Minister might decide that was the way to go. This could easily be dealt with by including at the end of the first line the words "the commissioner may with the approval of the Minister or at the request of a particular class of industry" etc.

Mr TAYLOR: The clause is a direct copy of the New South Wales provision and is adequate from the point of view of what the member is seeking. If an industry group seeks a code of practice it will undoubtedly come to the Minister in the first place and put the matter before him, and he will make a decision. I can see some difficulties if an industry group had a right to go to the commissioner and ask for a particular code of practice to be drawn up because in some circumstances the group could be seen to be protecting themselves, in a small industry, for example. These provisions are quite adequate given that Ministers in this Government make themselves available to industry at all times.

Clause put and passed.

Clauses 43 to 53 put and passed.

Clause 54: Recall etc., of defective goods --

Mr WATT: This provides for the commissioner to require a supplier of defective goods to recall them in certain circumstances. My only query is why the supplier should do the recalling and why some responsibility should not be imposed on manufacturers as well. In many ways one can make a case for a manufacturer being more responsible for goods to be recalled if they are dangerous, faulty, or defective. I assume that if a supplier recalls goods he is obliged to refund the cost to the customer. I would think that where goods were demonstrably faulty to the point of needing to be recalled the manufacturer should have the responsibility of doing that and refunding the cost to the supplier to whom he sold the goods.

Mr TAYLOR: I think the definition of supplier could be extended by a court to include a manufacturer. Suppliers are usually those people best placed in recall circumstances, and they are the ones people go to because they are in the business of making the goods available to the public. It is most important that the suppliers be the ones who are attacked in the first instance. There is no doubt from what I have been told that the definition of supplier can be considered to include manufacturers should that be necessary.

Clause put and passed.

Clauses 55 to 84 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

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

House adjourned at 10.20 pm

QUESTIONS ON NOTICE

LOCKE ESTATE
Erosion Control Programme

2387. Mr BLAIKIE, to the Minister for Transport:

(1) Will the Government give consideration to funding an erosion control programme to protect the leases of properties on the Locke Estate, near Busselton?

(2) What would be the nature of an erosion control programme, and when would it commence?

(3) If no to (1) and (2), why not?

Mr TROY replied:

(1) No.

(2) Not applicable.

(3) The cost of coastal protection works far outweighs the value of the buildings constructed on the Locke Estate leases. It has therefore been Government policy to assist with the cost of relocating buildings threatened by erosion. Such assistance, by way of a 50 per cent contribution towards the cost of relocation, has been provided to several organisations since 1983.

HOME AND COMMUNITY CARE PROGRAMME
Financial Assistance

2667. Mr BRADSHAW, to the Minister for Health:

(1) How much money was offered by the Federal Government this financial year towards the home and community care programme?

(2) Was this matched dollar for dollar by the State Government?

(3) How much in total has been allocated for the home and community care programme in Western Australia this financial year?

(4) If no to (2), why not?

Mr TAYLOR replied:

(1) There is a complex formula for determining Commonwealth and State commitments to the HACC programme. In this financial year, that formula has resulted in a Commonwealth commitment of $17 148 600.

(2) The State Government has fulfilled its matching requirements under the formula.

(3) $30 173 250.

(4) Not applicable.

SPORT AND RECREATION: INDOOR SOCCER
Perth Cougars: Sponsorship

2678. Mr CASH, to the Minister representing the Minister for Sport and Recreation:

(1) Is the Minister aware that the successful national indoor soccer team, the Perth Cougars, is unlikely to be able to represent Western Australia in the national indoor soccer league finals which will be held in Sydney during December 1987, due to a lack of adequate financial support?

(2) Is the Minister aware that the Perth Cougars have this season expended in excess of $75 000 which has been privately funded to represent Western Australia in the national indoor soccer league?

(3) Is the current Minister for Sport and Recreation patron of the Perth Cougars?

(4) Is the Government able to financially assist this successful sporting team to ensure that it is able to represent Western Australia in the national indoor soccer league finals to be held in Sydney during December 1987?

Mr WILSON replied:

(1) The Minister is aware that the Cougars are experiencing a financial difficulty due to lack of private sector sponsorship.

(2) Yes.

(3) Yes.

(4) The Department of Sport and Recreation provides assistance to State amateur teams competing in national competitions. The Perth Cougars are a professional team competing in a professional league. They may be eligible to seek sponsorship from other Government or private sector agencies.

COMMUNITY WELFARE REVIEW
Recommendations

2692. Mr HASSELL, to the Minister representing the Minister for Community Services:

(1) What recommendations of the welfare and community services review, "The Wellbeing of People", have been implemented?

(2) What recommendations have not been implemented?

(3) Why is the Government undertaking a major new review of community welfare services when the 1984 recommendations have not been fully processed or implemented?

Mr WILSON replied:

(1) The welfare and community services review made 59 recommendations, of which 54 are within the Minister for Community Services' jurisdiction. 45 of the 54 recommendations have been or are in the process of being implemented,

(2) The recommendations that have not been implemented are numbers 6, 7, 13, 18, 23(d), 34, 39, 47, and 49.

(3) The Government is not undertaking a major new review of community welfare services but is reviewing the current legislation consistent with the recommendations of the welfare and community services review. Legislative changes are required to implement a number of the review recommendations.

PORTS AND HARBOURS
Conservancy Dues

2701. Mr CASH, to the Minister for Transport:

(1) How much did the State raise from conservancy dues during the period --

(a) 1985-86;

(b) 1986-87?

(2) What was the estimated capital expenditure and maintenance cost associated with the beacons and lights from which conservancy dues were obtained for the period --

(a) 1985-86;

(b) 1986-87?

(3) What proportion of the conservancy dues received by the State was paid to port authorities for the period --

(a) 1985-86;

(b) 1986-87?

(4) Have port authorities requested a greater proportion of these dues, and if so, what is the Government's future intention on this matter?

Mr TROY replied:

(1) (a) $3 669 504;

(b) $3 830 592.

(2) (a) $1 214 000;

(b) $1 313 000.

(3) The State is responsible for navigation aids within ports. However, a State contribution of $110 000 was paid to a port authority in 1985-86 and 1986-87 to assist with maintenance undertaken by it.

(4) Yes. The Fremantle Port Authority has requested additional funding for maintenance of navigation aids, and the matter is still under consideration. In general, the State is prepared to reimburse port authorities for maintenance expenditure.

TRANSPORT: ROAD TRAINS
Interdepartmental Committee

2706. Mr CASH, to the Minister for Transport:

(1) Would he be prepared to reconstitute the interdepartmental committee which makes recommendations on road train policy to broaden its representation to include the private sector road freight industry?

(2) If not, why not?

Mr TROY replied:

(1)-(2) No, because of commercial confidentiality of proposals by private transport operators.

EDUCATION: HIGH SCHOOL
Northampton District: Upgrading

2711. Mr TUBBY, to the Minister for Education:

(1) Could he please give some indication when work on the Northampton District High School will be completed?

(2) Has the report on this experiment for construction of new schools been completed?

(3) If yes, is this method of planning and construction to be considered for future schools?

(4) Is it his intention to officially open this school in the near future?

Mr PEARCE replied:

(1) The final works on the project are approaching completion.

(2) No.

(3) Not applicable.

(4) It is the prerogative of the school to ask for an official opening. To date, no such request has been made.

PREMIER
Canberra Trip: Purpose

2725. Mr HASSELL, to the Premier:

(1) What was the purpose of his trip to Canberra last week?

(2) What Ministers of the Federal Government were involved?

(3) What was the objective of each meeting?

(4) What was achieved?

Mr BRIAN BURKE replied:

(1)-(4)

The principal purpose of the trip was to participate, at the request of GoldCorp Australia, in the international launch of the 1987 proof series of the Australian Nugget. I also attended a meeting of the Australian Labor Party's national economics committee. The federal Treasurer launched the proof coins and was also present at the committee meeting.

STATE ENERGY COMMISSION
Annual Report: Tabling

2727. Mr HASSELL, to the Minister for Minerals and Energy:

(1) Why does the tabling of the State Energy Commission report continue to be delayed?

(2) What difficulties are being experienced by the auditors in completing their work?

(3) Will the report be tabled before the rising of Parliament?

Mr PARKER replied:

(1) The commission's annual report for the financial year 1986-87 was submitted to me, and the commission's financial statements were submitted to the Auditor General by 31 August 1987 in accordance with the provisions of the Financial Administration and Audit Act 1985.

(2) I understand the commission is not aware of any difficulties being experienced by the auditors in completing their work, which is due for completion on 30 November 1987.

(3) I will table the commission's annual report for the financial year 1986-87 in Parliament after I have received and reviewed the Auditor General's opinion on the commission's financial statements.

PLANNING: CANAL DEVELOPMENT
Dawesville Cut

2728. Mr HASSELL, to the Minister for Conservation and Land Management:

(1) What studies have been completed in relation to the proposal for a cutting between the Mandurah Estuary and the ocean?

(2) What is the progress of the Government's commitment to this proposal?

(3) If the cutting is not to go ahead, what is proposed as an alternative course of action by the Government?

Mr HODGE replied:

(1) An environmental review and management programme stage 2 for the Peel-Harvey estuarine system is in the latter stage of preparation by the consultant group, Kinhill Stearns, on behalf of the Department of Marine and Harbours and the Department of Agriculture. The ERMP, it is understood, will detail studies into the environmental effects of the Dawesville Cut, among other investigations.

(2)-(3)

The Government will make no commitment towards proceeding with the cut until the ERMP has been assessed by the Environmental Protection Authority, and the authority has reported.

EDUCATION: SCHOOL TERMS
1989

2729. Mr BERTRAM, to the Minister for Education:

In 1989, for staff and students respectively, on what date will schools resume after the Christmas 1988 holidays --

(a) State schools;

(b) independent schools?

Mr PEARCE replied:

(a) Tuesday, 31 January 1989 for teaching staff; Wednesday, 1 February 1989 for students.

(b) Independent schools set their own term dates, which conform generally to those established for Government schools.

CONSERVATION AND LAND MANAGEMENT DEPARTMENT
Offices: Location

2730. Mr TRENORDEN, to the Minister for Conservation and Land Management:

(1) Further to question 2588 of 1987, where are all the Department of Conservation and Land Management offices?

(2) Do people seeking licences need to apply in person?

Mr HODGE replied:

(1)

Albany	Geraldton	Moore
Broome	Harvey	Mundaring
Bunbury	Jarrahdale	Nannup
Busselton	Kalgoorlie	Narrogin
Carnarvon	Karratha	Pemberton
Collie	Katanning	Pingelly
Como	Kelmscott	Walpole
Dwellingup	Kirup	Wanneroo
Esperance	Kununurra	Wongan Hills
Exmouth	Manjimup	

(2) No.

FORESTS: HAMEL NURSERY
Future

2731. Mr BRADSHAW, to the Minister for Conservation and Land Management:

(1) Has the decision been taken with regard to the Hamel nursery and its future?

(2) How many tendered for the nursery?

(3) Has the nursery been let?

Mr HODGE replied:

(1) Yes.

(2) Two.

(3) The tenderers will be advised of the outcome of the tender in the near future.

CRIME: DANGEROUS DRIVING OFFENCE
Sentence

2732. Mr HASSELL, to the Minister representing the Minister for Community Services:

(1) With reference to the article "6 months custody for 'homicidal driver'" -- *The West Australian* 17 November -- did the magistrate's sentence bind the Department for Community Services?

(2) Will the girl be kept in custody as sentenced?

(3) Has she been in custody since the court hearing?

Mr WILSON replied:

(1) No, it was a recommendation for six months' custody rather than a sentence. In practice, however, the Department for Community Services follows all court recommendations for custody unless there are exceptional circumstances. Legislative changes planned for the autumn session will give the court direct custodial sentencing powers.

(2) Yes, with normal remission provisions applying.

(3) Yes.

MINERAL: IRON ORE
Redundancies: Mt Tom Price

2733. Mr HASSELL, to the Minister for Minerals and Energy:

(1) Is he aware --

(a) of redundancies to take effect at Mt Tom Price on 24 December;

(b) that they affect some longstanding employees?

(2) How many in all are affected?

(3) Can the Government inquire if any arrangement can be made to avoid redundancies pending the Channar development?

Mr PARKER replied:

(1) (a) I am aware of the reductions which are occurring in Hamersley Iron's work force, including Tom Price;

(b) yes.

(2) I understand that 104 wages employees at Tom Price have accepted a retrenchment offer made to them on 1 October 1987.

(3) The company has continually liaised with the Government of Western Australia regarding the company's redundancy programme, and the Government will continue to inquire as to developments. The programme is necessary to maintain competitiveness in what has become a difficult trading environment. However, the Channar project is not scheduled to commence operation until early 1990.

HEALTH: MEDICAL PRACTITIONERS
Tom Price

2734. Mr HASSELL, to the Minister for Health:

(1) Is he aware that from early December, Tom Price will have only one doctor?

(2) Is this an acceptable level of medical servicing for the town?

(3) What is his view of appropriate action on this matter?

Mr TAYLOR replied:

(1) Yes. Private negotiations anticipate a replacement doctor being in Tom Price in February.

(2) With assistance provided by the two doctors at Paraburdoo, medical services will be maintained.

(3) See (1).

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
Submission

2736. Mr HASSELL, to the Premier:

(1) Further to question 2486 of 1987 concerning the Senate Standing Committee on Legal and Constitutional Affairs, who is considering the issue on behalf of the Government?

(2) When will it be completed?

(3) Will he --

(a) advise the House;

(b) seek the approval of the Parliament for the submission?

(4) If so, in either case, when?

Mr BRIAN BURKE replied:

(1) Officers of the Ministry of the Premier and Cabinet.

(2) By the closing date, 11 December 1987.

(3) It is not the standard practice of this Government, or its predecessors, to seek parliamentary approval for submissions it makes to Commonwealth inquiries. However, if the member has any specific concerns and draws these to my attention, they will be considered in the preparation of the submission.

EXPO 88
Participation

2738. Mr MacKINNON, to the Premier:

(1) Has the State decided to participate in Expo 88 to be conducted in Queensland?

(2) If so, what amount will the State spend on that participation?

(3) What will be the nature of the representation?

(4) What companies or Government agencies will be represented in the State's display?

Mr BRIAN BURKE replied:

(1) Yes.

(2) A budget of $3.5 million has been approved to underwrite participation costs.

(3)-(4) EventsCorp Australia, which is managing and coordinating the State's participation in World Expo 88, is currently finalising the nature of the exhibition. A public statement on the concept, representation, etc, will be made shortly

PRICE MONITORING UNIT
Price Checks

2740. Mr WATT, to the Minister for Consumer Affairs:

(1) Is the Price Monitoring Unit in the Department of Consumer Affairs still conducting its Price Check operation?

(2) Are checks still taken fortnightly and results published?

(3) How many calls have been received on the Price Check access line for each month since its inception?

Mr TAYLOR replied:

(1) Yes.

(2) No. Surveys are now done on a random basis and published after each survey.

(3)

March	681
April	193
May	118
June	138
July	139
August	66
September	62
October	89

FUNDSCORP
Government Investments

2745. Mr COURT, to the Treasurer:

(1) When will FundsCorp take over --

(a) the investment of the Treasury's short-term cash surpluses;

(b) the management of the property, equity, and fixed interest portfolios of the Government Employees' Superannuation Board and the State Government Insurance Commission?

(2) Does he see it as a prudent decision to have the asset management of these three large operations centralised and under the control of the Western Australian Development Corporation?

Mr BRIAN BURKE replied:

(1)-(2)
No final decision has been made on this matter.

QUESTIONS WITHOUT NOTICE

STATUTORY AUTHORITY BOARDS
Public Servants: Remuneration

453. Mr MENSAROS, to the Minister for Public Sector Management:

(1) Will the Minister advise whether the longstanding rules still prevail relating to public servants on the boards of statutory authorities not receiving remuneration as do non-public servant members of those boards?

(2) If the rule does not prevail any more, what is the new rule?

Mr BRIAN BURKE replied:

(1)-(2)
To provide a considered answer to the member, I ask him to place the question on the Notice Paper.

STATE GOVERNMENT INSURANCE COMMISSION
Statutory Requirements

454. Dr LAWRENCE, to the Treasurer:

(1) Has the Treasurer been able to check the accuracy of allegations made by the Leader of the Opposition concerning statutory requirements and property investments of the State Government Insurance Commission?

(2) If so, will he provide the details?

Mr BRIAN BURKE replied:

(1)-(2)

I suppose, in a good-natured way, I do not bother too much to try to point out to the Leader of the Opposition some of the instances when he has been less than forthright in presenting questions in this Chamber. There are differences among us all. I suppose the member for Cottesloe is well known for driving people absolutely batty with questions of detail and with his fastidious attention to the accuracy of that detail. However, I do not know of another member in this Chamber who would have presented a series of questions as dishonestly as I will illustrate the Leader of the Opposition has presented a series of questions during the last two weeks.

Firstly, I draw the attention of the House to the question without notice that the Leader of the Opposition asked yesterday when he drew the attention of the Chamber to section 33 of the State Government Insurance Commission Act and to comments by the Federal Insurance Commissioner. In that question, the Leader of the Opposition quoted the Federal Commissioner as saying --

> My examiners do, however, look for something less than 20 per cent of assets in real property.

The Leader of the Opposition went on quite deliberately to imply that the State Government Insurance Commission is breaching section 33 of its own Act. The quote upon which he attempted to make that charge was a very selective and misleading quote, and I will detail that to the Chamber in a moment.

The facts are that the heading of section 33 of the Act is "Corporation to comply." Quite simply, the corporation does comply. What the Leader of the Opposition either failed to observe or deliberately decided not to observe was that he was accusing the commission of failing to comply. So we are faced with the question with which we are often confronted when we look at this Leader of the Opposition. Did he deliberately attempt to mislead the situation he referred to or did he do it out of an ignorant lack of knowledge. Perhaps we will never know the answer. What we can say is that he is very selective in his quotations because he hung the whole charge upon that quote of the Insurance Commissioner which I have given the House. I will read to the House the whole quote from which that selective paragraph was taken. It states --

> I have not found it necessary to attempt to lay down any specific administrative guidelines dealing with the nature and spread of assets. My examiners do, however, look for something less than 20 per cent of assets in real property and for levels of liquid or readily realisable assets consistent with the nature of the particular insurer's portfolio and levels of risk and event retentions. They are also currently looking closely at the level of individual insurer's reliance upon stock market investments and in particular at the solvency implications of a decline in the value of listed shares, both generally and in particular sections of the market, to levels rather more consistent with historical trends.

I think it is worth emphasising that the Leader of the Opposition deliberately lifted out that part of the quote to suit his purpose. He misquoted, as a deliberate deception, that part of the Act that refers to the corporation and then said it was an obligation on the commission, not the corporation. He selectively lifted out a quote to try to support his charge and then, not only did he selectively quote, but he also failed to refer to another section that is very relevant to the observations made by the Federal commissioner, who said --

there are a number of public sector insurers such as the various State Government insurance offices. These latter organisations are not subject to my supervision.

So in at least one deliberate deception and two quite deliberate attempts, the Leader of the Opposition, either through ignorance or through a deliberate attempt to deceive, made an effort to misrepresent a position.

There is worse than that. In question without notice 452, the Leader of the Opposition sought to embarrass me and the Government by suggesting that there was some sort of conflict between the answer I gave to the question about when I was informed of the decision of the SGIC and the statement made by the Minister for Minerals and Energy. Members heard the Leader of the Opposition say that the Minister for Minerals and Energy said he was talking to Mr Holmes a Court on Wednesday. The Leader of the Opposition answered the question that I asked him by saying that I was advised on Friday.

Mr MacKinnon: Exactly.

Mr BRIAN BURKE: That is not exactly true because the Leader of the Opposition again selectively quoted the answer. The correct quote is "I was formally advised . . ."

Mr Cash: Who is being selective now.

Mr MacKinnon: The question was, "When were you first advised?"

Mr BRIAN BURKE: If the Leader of the Opposition cannot honestly state his question he must expect people to point out to him his deliberate decision not to say that the question was answered with the phrase "I was formally advised". Once again, the Leader of the Opposition quite deliberately said that I had, in answer to him, said I was advised on Friday. I did not say that, and the most inexperienced member of the Opposition would know that, to say that I was formally advised, is not to say that I first learnt through that formal advice of a certain decision or of a certain negotiation.

But there is more --

Opposition members interjected.

Mr BRIAN BURKE: The Opposition may not like this, but it is a tatty deportment for which the Leader of the Opposition is responsible. Question without notice 449 asked me to inform him of the values that were placed on each property purchased by the State Government Insurance Commission.

No matter how the Leader of the Opposition tries to retrieve the situation, that is the question taken from *Hansard*. The Leader of the Opposition then sought to embarrass me and the Government by saying that I had refused to provide information which in due course would become available. The truth is somewhat different because the Leader of the Opposition did not ask what price the State Government Insurance Commission paid for the properties, he asked what values had been placed on them.

Apart from the fact that there is a wealth of difference to those who can read, the next point to encounter is that when the Leader of the Opposition went on to say as a matter of course that it may be --

Opposition members: Boring! Boring!

Mr BRIAN BURKE: It may be boring, but it will be recorded in *Hansard*, and in quieter moments members opposite will be able to look at the substance of the question asked by the Leader of the Opposition. He tried to say that in due course the values would become available. Not even the price paid for the properties will necessarily become a matter of public record. That will depend upon whether they are registered as one transaction or

individually, so even that basic assumption by the Leader of the Opposition is incorrect.

That is a long and a detailed answer. I do not normally go into that sort of detail, and after question time last evening one of my advisers suggested that we may be making a fundamental mistake. He said that we were assuming that the Leader of the Opposition was being smart in phrasing the questions. When we read through the series of questions, we reached the almost inescapable conclusion that the Leader of the Opposition does not know what he is talking about. We have heard him try to retrieve his ground by asking whether the commission complies with section 33 of the Act or whether the question deserved the answer that the formal advice was received. That is the give and take of politics; the Opposition gets the answers to the questions that the Government thinks are appropriate. I do not know of another member opposite who has so consistently and deliberately misstated and misrepresented positions and then used the misrepresentation as the basis of a question.

INSURANCE COMPANIES
Shareholding Investments: Ruling

455. Mr MacKINNON, to the Treasurer:

(1) Is the Treasurer aware that the Federal Insurance Commissioner's office today advised my office of its rule in relation to shareholding investments by insurance companies that any insurance company registered with the Federal Insurance Commissioner's office that has five per cent or more in any one share as an investment is investigated by that office?

(2) Is it correct that the State Government Insurance Commission investment in Bell Group Ltd shares represents four times that amount -- that is, 20 per cent in any one share?

(3) How does the Treasurer explain such a blatant disregard by the State Government Insurance Commission, with his approval, of a Federal Insurance Commission guideline?

Mr BRIAN BURKE replied:

(1) How would I know what the Federal Insurance Commissioner has advised the Leader of the Opposition's office? I do not sit in the Leader of the Opposition's office; and the way he is going, I am never likely to.

(2)-(3) I have gone to great lengths to explain to the Leader of the Opposition that the State Government Insurance Commission is not within the ambit of the commissioner. He should be referring to the corporation when he makes that challenge. I stood for five minutes being convicted of being boring, of being told that I, like Sir Joh Bjelke-Petersen, was crumbling, and being interjected upon by the Leader of the Opposition, only now to learn that he has not listened for one minute of those five. The commission is the holding company for the corporation.

Mr MacKinnon: Does it comply with that regulation?

Mr BRIAN BURKE: The corporation is required to comply; and I am sure, as the trading arm, it complies with all the requirements it is legally obliged to. I have tried to explain that the commission and not the corporation is the purchaser of these assets and, therefore, the Leader of the Opposition's question about whether the commission complies is absolutely irrelevant. I will say again that if the Leader of the Opposition fails to understand or decides to deliberately misrepresent the position, he cannot expect to be taken seriously by the Government or by his own members.

SITTINGS OF THE HOUSE
Member's Comments

456. Mr D.L. SMITH, to the Premier:

(1) Has the Premier seen the latest edition of "Parliament--This Week" containing a four-page summary of the member for Cottesloe's impressions of Parliament for the week ending 20 November?

(2) Is this an accurate description of parliamentary events for that week?

Mr BRIAN BURKE replied:

(1)-(2)

While the Leader of the Opposition attempts to misrepresent irrelevancies, the ideological vanguard of the Opposition publishes what is called "Parliament--This Week". The headline in this publication that grabs the attention of the reader most thoroughly is "The Thudding March of Socialist Corporatism".

Not for the member for Cottesloe any preoccupation with the SGIC; not for him any concern about the Federal Insurance Commissioner; not for him any celebration of his leader's success in the first 12 months of office; and not for him any of this inconsequential flotsam and jetsam. This article makes the point that the world stock market crash has brought undoubted joy for Labor -- presumably for Labor Governments. It points out that subsequent to the stock market crash, the Government has been engaging in extending its ownership, power, and control. Presumably, the member for Cottesloe sees the stock market crash and the subsequent problems faced by some private sector organisations as part of some enormous socialist conspiracy.

The article goes on in practical terms to talk about the reflection of that conspiracy. I could not believe the member for Mt Lawley tonight; I think he will support the move to allow TAA to fly intrastate. That is my firm impression, although I do not like to ask him.

The member for Cottesloe listed among his examples of socialist corporatism Government legislation to allow Australian Airlines to operate in Western Australia. Apart from worrying about whether to support competition, I am concerned about the lack of coordination on that side. Either that or the member for Mt Lawley has joined the corporate socialists, in which case, if we are them, we shall change sides.

Not only that, but, puffed up and self-important, absolutely confident of his ideological purity, the member for Cottesloe listed the next stunning expansion of socialist corporatism as being the extension of the Egg Marketing Board's control to the control of duck eggs. Socialist corporatism appears to extend from aeroplanes to duck eggs.

Mr Hassell: I am glad you are enjoying it so much.

Mr BRIAN BURKE: Not only am I enjoying it but also I have ordered 50 000 reprints which I am sending to everybody.

The member for Cottesloe stated in his article that the Liberal Party does not see itself as having a role in Parliament to question lawful private sector activities. That is the same member who asked a question without notice about the personal financial details of Western Continental Corporation and Mr Yosse Goldberg. The member for Cottesloe might be asked when are a man's private financial dealings private sector dealings and activities, and why has he asked questions about matters which he does not believe it is the role of Parliament to question.

The member for Cottesloe explains in his publication that it is not just a record of events or a summary of impressions, and perhaps that explains references such as "Down to Business. Parliament in full form this week; all government business, late sittings and rising tension; tempers frayed". I

do not know whether Mr Holmes a Court and News Limited will be able to match wits and headlines with this racy exposé but we are looking forward with unbridled enthusiasm to the next issue.

STATE GOVERNMENT INSURANCE CORPORATION
Property Portfolio

457. Mr MacKINNON, to the Treasurer:

(1) Given the Treasurer's lecture about the difference between the corporation and the commission, does he recall question 2698 that I asked him yesterday, as follows --

> Will he confirm that it is the State Government Insurance Corporation's intention to maintain a property portfolio equal to about 30 per cent of its total investments?

(2) Also, does he recall his answer, as follows --

> The State Government Insurance Commission advises that it is likely to retain a property portfolio of some 30 per cent in line with advice it has received from investment portfolio consultants . . .

(3) When the Treasurer said that the State Government Insurance Commission advised that it is likely to retain a property portfolio of some 30 per cent, and bearing in mind that the question related to the corporation, does his answer mean that the corporation has a 30 per cent portfolio investment, or the commission has that investment? Which is it?

(4) Do the corporation and the commission comply with the Federal commissioner's requirement of 20 per cent?

Mr BRIAN BURKE replied:

(1)-(4)

> The Leader of the Opposition has asked me whether my answer stated that the corporation was maintaining a portfolio of 30 per cent.

Mr MacKinnon: The question clearly was "the corporation", and the Treasurer's answer stated, "the commission"; it is the Treasurer who is confused, not me.

Mr BRIAN BURKE: The Leader of the Opposition does not have to repeat the question. What he is saying is that his question asked about the corporation's portfolio, and what he is asking me now is whether my answer told him --

Mr MacKinnon: Whether it relates to the corporation or the commission.

Mr BRIAN BURKE: That was the question, and my answer was that the State Government Insurance Commission advises that it is likely to retain a property portfolio --

Mr MacKinnon: It says "it" -- is "it" the "commission" or the "corporation"?

Mr BRIAN BURKE: I will read the answer again --

> The State Government Insurance Commission advises that it is likely to retain --

Mr MacKinnon: My question related to the corporation.

Mr BRIAN BURKE: Does the Leader of the Opposition want to ask his question and have me answer it, or does he want to ask it, and answer it?

The SPEAKER: Order! I take this opportunity to point out to the Leader of the Opposition once again that he does seem to have a habit of asking a question and then constantly interjecting during the answer. I think that it would be more appropriate if he asked his question, waited for the answer and then, if he does not like the answer, asks another question rather than continually interjecting.

Mr BRIAN BURKE: Let me recap -- and I take the Leader of the Opposition seriously. Yesterday he asked me a question about the proportion of the

portfolio held by the corporation, and I answered his question. Tonight he asked, after reading me the answer from yesterday, whether that answer referred to the corporation's portfolio.

Mr MacKinnon: Or the commission's portfolio.

Mr BRIAN BURKE: That is right. I can clear that up immediately. My answer was --

> The State Government Insurance Commission advises that it is likely to retain a property portfolio of some 30 per cent in line with advice it has received from investment portfolio consultants to ensure appropriate long-term balance.

Is the Leader of the Opposition in any doubt as to what that means?

Mr MacKinnon: Yes, I am. Does it mean the "corporation" or the "commission"?

Mr BRIAN BURKE: Let me read the answer to the Leader of the Opposition again --

> The State Government Insurance Commission --

Mr MacKinnon: Is it the corporation or the commission, or are you not prepared to say?

Mr BRIAN BURKE: I have said, and will say it again --

> The State Government Insurance Commission advises that it is likely to retain a property portfolio of some 30 per cent in line with advice it has received from investment portfolio consultants to ensure appropriate long-term balance.

Mr MacKinnon: My question asked about the corporation, and the Treasurer is saying "the commission".

Mr BRIAN BURKE: I repeat --

> The State Government Insurance Commission advises that it is likely to retain a property portfolio of some 30 per cent in line with advice it has received from investment portfolio consultants to ensure appropriate long-term balance.

Mr MacKinnon: That is the commission. What about the corporation. I asked a question about the corporation.

Mr BRIAN BURKE: I know that the Leader of the Opposition did; and when he asked the question I knew that.

Mr Clarko: You have evaded the answer all the way through.

Mr BRIAN BURKE: Evaded the answer; is that what I have done? I thought that I had stated it very clearly.

Mr MacKinnon: You are making a complete farce of question time.

Mr BRIAN BURKE: I will tell the Leader of the Opposition what the problem is; he has yet to understand that the commission acts --

Mr MacKinnon: You have yet to answer the question.

Mr BRIAN BURKE: That is true, too, but I do not know how much more clearly it can be written.

Mr Cowan: Sit down and let me ask another question.

Mr BRIAN BURKE: Okay.

The SPEAKER: As the member for Merredin achieved that so capably, he will get the call after the member for Joondalup asks her question.

PUBLIC SERVANTS
Appointments: Opposition Attacks

458. Mrs WATKINS, to the Minister for Labour, Productivity and Employment:

Have concerns been expressed to the Minister by public servants about attacks by the Opposition in relation to appointments to senior positions and, if so, will he give details to the House?

Mr PETER DOWDING replied:

A great number of expressions of concern have been received by my office since two members of the Opposition made it quite clear that in the unlikely event of the Opposition regaining power in future they would conduct a witch-hunt throughout the Public Service. Now groups of people have expressed concern to me about that.

Mr Clarko: All members of Labor Party branches.

Mr PETER DOWDING: The member might listen to what I have to say.

The groups that expressed concern to me included heads of departments who have been appointed under the Burke Labor Government and who are concerned that the mere fact of their appointment puts them at risk politically. That certainly flowed from the comments of the member for Nedlands and the Leader of the Opposition.

Public servants who have devoted their energies to tasks at the request or direction of a Minister to serve in his ministerial office in order to advise and assist have expressed grave concern that the fact that they have been asked or directed to serve in a Minister's office in that capacity has put them at risk and that they will be affected by this witch-hunt to be conducted by the Opposition.

There is another group of people in the Public Service who have expressed their political beliefs in a private way in which individuals in our society are permitted to express their beliefs, and in some cases by joining political parties. I assume that the Liberal Party has a few such members, and I have no doubt that some of those members are public servants. The Labor Party has many members, and I have no doubt that those members include public servants.

The people involved have expressed concern that just as the member for Cottesloe, when Minister, conducted a vendetta against members of the Public Service who had expressed their political beliefs, in the event of the Liberal Party ever being returned to power that sort of vendetta would be pursued again.

The final group of people who have expressed real and grave concerns about the attacks on their characters launched by the Opposition are the very loyal, honourable, and senior members of the Public Service who sit on selection panels and who have been asked to conduct those panels by the Chairman of the Public Service Board or by a number of senior officers whose characters have been slurred by the threats and intimidation of the member for Nedlands, the Leader of the Opposition, and other members on the Opposition benches.

I add a warning to the warning often delivered by the Premier to the Opposition about the way in which it can create divisions and fear in a society and the effect of that on its own political prospects for the future. The truth is that the public sector of Western Australia is an extremely efficient one. Furthermore, it is becoming increasingly efficient because of efforts to remove the political aspects of the performance of public servants. Members opposite are condemned as people who will conduct a witch-hunt throughout the public sector of Western Australia if they are ever elected to Government, and I am sure that they would not stop with the lists and the criteria that they have identified today.

The SPEAKER: Further to my comment earlier, during the next question time I will give the call to the member for Merredin, as promised.