Legislative Council

Tuesday, 5 November 1985

THE PRESIDENT (Hon. Clive Griffiths) took the Chair at 4.30 p.m., and read prayers.

CLOSING DAYS OF SESSION

Standing and Sessional Orders Suspension

HON. D. K. DANS (South Metropolitan—Leader of the House) [4.35 p.m.]: I move, without notice—

> That Standing Orders and any Sessional Order be suspended so far as to enable any Bill to be introduced and passed through any or all stages in one sitting and any business to be taken after 11.00 p.m.

The PRESIDENT: Before I put the question, I remind honourable members that this motion requires the concurrence of an absolute majority. I will put the question. If there is no dissenting voice I will count the House and if there is an absolute majority present the motion will be carried. If there is a dissenting voice I will ring the bells.

Question put.

The PRESIDENT: There being no dissentient voice, I declare the question carried.

Question thus passed.

REGISTRATION OF BIRTHS, DEATHS AND MARRIAGES AMENDMENT BILL

Third Reading

Bill read a third time, on motion by Hon. J. M. Berinson (Attorney General), and transmitted to the Assembly.

TRAVEL AGENTS BILL

Second Reading

Debate resumed from 24 October.

HON. TOM KNIGHT (South) [4.36 p.m.]: The Opposition does not intend to oppose this Bill as we believe it has been warranted for some time. However, several provisions of the Bill should be brought to the notice of the Government. It is not our intention to move any amendments to the Bill, but we believe that the Government, in bringing forward the legislation, should be well aware of the problems that we see in it.

We have discussed the Bill with travel agents and with private members of the industry. Some of the smaller agencies are concerned about the possible monopolisation of the travel industry business. This has happened in several areas over the years. My attention was drawn, in particular, to a speech made in 1973 by Hon. I. G. Medcalf, on a proposal to introduce legislation for travel agents.

On 6 December 1973, Hon. I. G. Medcalf said he hoped that a watchful eye would be kept on such things because they could spoil the reputation of WA. He said that several rackets had been created by the registering of travel agents in other countries. These included the situation where people on organised tours could shop at only one shop during a short stay in a certain place. Prices were sometimes docked and the tour organiser received a rake-off. Other rackets were overcharging tourists on exchange or travellers' cheques and high taxi fares. I do not think that really applies directly to the travel agent, but more so to the travel companies organising the itineraries through different countries. I know that on several occasions tourists have complained of not getting a choice and of being taken to a particular point and being charged an extraordinary price over and above that experienced in other places because of the lack of choice and because that destination is included in the itinerary laid down by a particular agent. The Government should keep its eye on that situation. If this type of exploitation does start in Western Australia, it will do irreparable harm, particularly with the America's Cup coming on and the possibility of travel agents and others involved in the tourism industry being able to exploit the hundreds of thousands of visitors who will come to Australia for the Cup.

The Bill makes reference to a trust account and audit. We believe that there should be an audit and that there should be a trust account. More detail should be given in the Bill with respect to a particular trust account. The account should be kept in close consultation with the board that will be set up to run the travel agents so that an army of inspectors need not be used. We believe that by registering travel agents we are registering people who will be more totally responsible and, it is to be hoped, beyond reproach. Therefore, the setting up of a trust should be on the basis that it needs to be presented only on request rather than being subject to inspectors checking on the background, as happens in most cases. The Bill indicates that regular checks will be kept on the activities of the agents. I gather this may be one of those checks.

The other point we considered was the control of premises. Many of the small agents were concerned that if the required standard of premises was too high, it could put smaller operators out of business. At the same time, the Minister is aware that we do not believe agents should be allowed to operate from the back of parked cars or from car parks. A standard should be set, but we should bear in mind that many of the larger agencies have very expensively decorated premises to attract people to look at the other goods offered for sale. The standard to be set should not be to the detriment of smaller agents operating in small shopping centres.

The prescribed compensation is referred to several times in the Bill and reference is made to clause 29. The Opposition believes that the compensation provisions should be set out in detail in this Bill, so that people are aware of what will apply and for what they will be eligible. It appears that the prescribed compensation will be dealt with as a regulation, which means that the Opposition must keep a careful watch in the future on the regulations. It must be borne in mind that, because an election will be held at the beginning of next year, it will be July or August before the House sits, and members will not have an opportunity of disallowing or changing the regulations until that time. Bearing in mind that the regulations may not be in the interests of smaller agents or that they will not cover all aspects of consumer and public interests, that is not an acceptable situation. The compensation details should have been set out very clearly in the legislation.

The appropriate qualifications provision should have been more specific; that is, who is to set those qualifications, what the standards will be, and what the effect will be on employees. The Minister last week kindly afforded the Opposition the courtesy of circulating his proposed amendments to the Bill. From the amendments we note the qualification on the standing of persons who may be employed by the licensee. From the relevant amendment it appears that if the person who is the licensee cannot attend to the day-to-day operations of the company, the person employed on the premises to carry out that function must be qualified as a licensee. No time is specified with regard to the period during which the principal of the company may be absent, either on business, on holiday, or otherwise before this provision applies. Reference is made in the amendment to clause 12 (4) as follows—

> (h) a person proposed to be employed by the body corporate for the purposes of section 29(2) is not of good reputation or character or in any other way would not be a fit and proper person to be the holder of a licence if that person were to apply for a licence personally.".

It states further in the amendment to clause 12(2)(h)—

> (h) a person proposed to be employed by the individual for the purposes of section 29(1) is not of good reputation or character or in any other way would not be a fit and proper person to be the holder of a licence if that person were to apply for a licence personally.".

The amendment to clause 9(3)(f) states in part—

> (f) the name, address and such other particulars as are prescribed of the person it is proposed to employ at any address referred to in paragraph (b) in compliance with section 29;

From our understanding of these proposed amendments, the names, addresses, and financial backgrounds of persons who may be employed or whom it is proposed to employ, must be provided. That is not a normal business operating situation. The licensee must stand up to the requirements and criteria laid down by the tribunal. Therefore, it is in his best interests to make sure that the people he employs will look after his business interests. If the principal of a company is prepared to allow a certain person to run his business during his absence, that is his decision and his risk. I do not believe we should tell people whom they can employ and that we should request this kind of information. The legislation seems to be going off the deep end with regard to this requirement, bearing in mind that the licensee will be responsible for the business and its operation.

We raise another point with regard to the financial background provisions. It should be borne in mind that large companies which have large turnovers will be expected to carry higher financial restrictions than will smaller operators, say, in country towns with limited turnovers. The financial burden on small operators should not be too high and should be some reflection of the type of compensation that may be required if there are financial problems. If the restriction imposed to cater for the largest

agent in the metropolitan area is an overall and embracing restriction, it will definitely affect small agencies operating in suburban areas or in country towns.

Hon. Peter Dowding: What restrictions are you talking about?

Hon. TOM KNIGHT: A financial background is required. The Opposition will not have input into the regulations, and if the Government intends to alter the financial restrictions, it will prevent people from going into the industry. The Government must take into consideration the level of turnover and the circumstances applying, whether it is a major company or a small backstreet company operating in a country town. Restrictive financial requirements may preclude smaller operations from being licensed. We want the Government to be aware of that fact when drafting the regulations.

In the Minister's reply, I ask him to respond to a query with regard to WADC, TAA, Government-sponsored and Government-assisted operations, or Government departments and tourism agencies. Will they have to be licensed, and are they included in the legislation?

Hon. Peter Dowding: Why the WADC?

Hon. TOM KNIGHT: It is allowed to move into anything under its legislation, and it could start selling travel packages and getting involved in that area. I want to bring that to the Government's attention. As with the SGIO and the insurance industry, provision should be made that such Government controlled organisations and agencies must have the same benefits and the same restrictions as other groups in the industry. The same criteria must apply.

We have no intention of opposing the Bill. The Bill is necessary in this industry. The Minister would be aware that if an estate agent goes broke, it does not concern as many people as are concerned when a travel business goes broke. The moment a traveller is stranded overseas or loses his airline ticket, it is front-page news. It is the sort of activity that Governments are expected to control and assist consumers with.

We support the Bill.

HON. PETER DOWDING (North—Minister for Consumer Affairs) [4.59 p.m.]: We thank the Opposition for its support of the legislation. I think it is appropriate to answer the queries raised by honourable members in the Committee stage rather than now.

Question put and passed.

Bill read a second time.

In Committee

The Chairman of Committees (Hon. D. J. Wordsworth) in the Chair; Hon. Peter Dowding (Minister for Consumer Affairs) in charge of the Bill.

Clauses 1 and 2 put and passed.

Clause 3: Interpretation—

Hon. PETER DOWDING: I move the following amendments—

> Page 3, lines 10 and 11—To delete the definition of "prescribed compensation scheme".
>
> Page 3, after line 24—To insert after the definition of "the Commissioner" the following definitions—
>
> > "the Compensation Scheme" means the scheme prescribed by regulations made under section 58 (2) (h);
> >
> > "the Compensation Trustees" means the trustees by whom the Compensation Scheme is administered;

Amendments put and passed.

Clause, as amended, put and passed.

Clauses 4 to 6 put and passed.

Clause 7: Travel agent to be licensed—

Hon. P. H. WELLS: Who will be responsible to maintain a watch on the penalties to ensure that they are adequate or otherwise? Will the tribunal report to the Minister or to the Parliament on this matter?

Hon. PETER DOWDING: Later, in clause 57, provision is made for an annual report to be submitted, and I suppose that would be the appropriate mechanism to include comment on the level of penalties.

Hon. P. H. WELLS: Many Acts of Parliament require that annual reports be submitted, but I am yet to find one that includes a review of any penalties. Often a Government will come to Parliament explaining that penalties have not been increased for 10 years and so their monetary values are out of kilter and in need of updating. Has any consideration been given to requiring a report to be made after consideration has been given to whether the penalties are acting as reasonable deterrents or otherwise? An annual report does not require an obligation of this sort.

Clause put and passed.

Clause 8 put and passed.

Clause 9: Application for licence—

Hon. PETER DOWDING: I move an amendment—

Page 10, lines 9 to 12—To delete paragraphs (e) and (f) and substitute the following paragraphs—

(e) that the applicant is, or on being licensed will be, a participant in the Compensation Scheme;

(f) the name, address and such other particulars as are prescribed of the person it is proposed to employ at any address referred to in paragraph (b) in compliance with section 29; and

(g) such other matters as are prescribed.

Hon. TOM KNIGHT: Why is it that new paragraph (f) requires that the name, address, and such other particulars as are prescribed of the person it is proposed to employ at any address referred to in paragraph (b) be in compliance with clause 29? This is not normal business practice. If a person is employed and he proves to be satisfactory, it is reasonable that the employer should give notification that he has taken on that person. He should not be asked to give notice of this sort of someone merely proposed to be employed. This would not be normal business practice.

Hon. PETER DOWDING: Clause 29 provides for a situation where a licensee is an individual and is not personally going to be the person in charge of a business, and it also provides for a situation where a licensee is to be a body corporate, where we would not have a person identified as being the person supervising the conduct of the business. This amendment is to ensure that in the case of someone who is not going to be personally managing the business, that person nominates who will be at the place of business; and in the case of the body corporate, which does not have an identifiable person in charge, the person who is to be in charge is to be nominated in this application.

We do not want people simply putting themselves up as fronts and having no intention of being at the place of business.

Hon. TOM KNIGHT: I was aware of the contents of clause 29 before I raised my question. My concern relates to the fact that the amendment covers any person merely proposed to be employed.

Hon. Peter Dowding: In compliance with clause 29.

Hon. TOM KNIGHT: But there could be more than just the licensee and one person working at the business.

Hon. Peter Dowding: But it says "in compliance with section 29".

Hon. TOM KNIGHT: Clause 29 refers to any person not personally present and in charge of the day-to-day conduct of the business. Other people could be working in that business. This amendment does not cover an arrangement of having to put forward the names of all the people a person may wish to employ.

Hon. PETER DOWDING: The amendment relates to people who are to be there in compliance with clause 29. These are the people who are supervising the conduct of the business when the licensee is not going to be there personally or when the licensee is a body corporate.

Hon. Tom Knight: As long as that is right. It doesn't read that way.

Hon. PETER DOWDING: I suggest it does.

Amendment put and passed.

Clause, as amended, put and passed.

[Questions taken.]

Clauses 10 and 11 put and passed.

Clause 12: Grant or refusal of licence—

Hon. PETER DOWDING: I move the following amendments—

Page 13, lines 1 to 22—To delete subclause (2) and substitute the following subclause—

(2) An application made by an individual shall be refused if it appears to the Tribunal that—

(a) the individual has not attained the age of 18 years;

(b) the individual is disqualified under section 22(1)(e) from being a licensee;

(c) the individual is an insolvent under administration within the meaning of the *Companies (Western Australia) Code*;

(d) the individual is not a person likely to carry on business honestly and fairly under the authority that would be conferred by the relevant licence if it were granted;

(e) the individual does not have such qualifications for carrying on the business referred to in paragraph (d) as are prescribed;

(f) the individual is a person whose licence or registration granted under an Act specified in the Schedule has been cancelled or suspended;

(g) the individual is in any other way not a fit and proper person to be the holder of a licence; or

(h) a person proposed to be employed by the individual for the purposes of section 29(1) is not of good reputation or character or in any other way would not be a fit and proper person to be the holder of a licence if that person were to apply for a licence personally.

Page 14, line 33—To delete "or" at the end of paragraph (f).

Page 15, line 4—To delete the full stop at the end of paragraph (g) and substitute the following—

; or

Page 15, after line 4—To insert the following paragraph—

(h) a person proposed to be employed by the body corporate for the purposes of section 29(2) is not of good reputation or character or in any other way would not be a fit and proper person to be the holder of a licence if that person were to apply for a licence personally.

Page 15, line 6—To delete "(d) or (g)" and substitute the following—

(d), (g) or (h)

Page 15, line 7—To delete "(f) or (g)" and substitute the following—

(f), (g) or (h)

Page 16, lines 8 and 9—To delete "a prescribed compensation scheme" and substitute the following—

the Compensation Scheme

Amendments put and passed.

Clause, as amended, put and passed.

Clause 13: Conditions of licence—

Hon. PETER DOWDING: I move an amendment—

Page 17, lines 4 and 5—To delete "a prescribed compensation scheme" and substitute the following—

the Compensation Scheme

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 14 and 15 put and passed.

Clause 16: Change of address of licensee—

Hon. PETER DOWDING: I move an amendment—

Page 19, after line 5—To insert after subclause (2) the following subclause—

(3) When a licensee is required by subsection (1) to give notice in writing of another address, the licensee shall include in that notice the name, address and such other particulars as are prescribed of the person it is proposed to employ at that address in compliance with section 29.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 17 to 22 put and passed.

Clause 23: Appeals to District Court—

Hon. PETER DOWDING: I move the following amendments—

Page 28, lines 27 and 28—To delete "a prescribed compensation scheme" and substitute the following—

the Compensation Scheme

Page 28, lines 30 and 31—To delete "a prescribed compensation scheme" and substitute the following—

the Compensation Scheme

Amendments put and passed.

Clause, as amended, put and passed.

Clause 24: Determination of Appeal—

Hon. PETER DOWDING: I move the following amendments—

Page 30, lines 11 and 12—To delete "relevant prescribed compensation scheme" and substitute the following—

Compensation Scheme

Page 30, lines 20 and 21—To delete "prescribed compensation scheme to which that decision relates" and substitute the following—

Compensation Scheme

Amendments put and passed.

Clause, as amended, put and passed.

Clauses 25 and 26 put and passed.

Clause 27: Advertisements—

Hon. P. H. WELLS: I assume that although this clause talks about publishing an advertisement, it will also take into account radio advertisements; for example, motor vehicle advertisements. The way we go about requiring the licence number to be put over the radio is cumbersome. Would it not be better to require that a signed document be necessary so the radio station would not be able to accept an advertisement that did not have a licence number in writing, rather than requiring it to be tacked on the end of an advertisement? I can understand, in some cases, it may look all right in visual displays but it seems to me to be a rather stupid addition to announce the number at the end of a radio advertisement. A little more thought could provide the same type of protection without having to put the number over the radio.

Hon. PETER DOWDING: A policy decision has been made to require this so the listening public can acquaint themselves with that information if they require it without having to go to the business of tracking it down through a radio station. It is required to be published for the benefit of consumers and if the honourable member has expressed a point of view which he maintains, then, with respect, I disagree. We have, as a matter of policy, incorporated this aspect into the Bill.

Clause put and passed.

Clauses 28 and 29 put and passed.

Clause 30: Employment of disqualified person—

Hon. PETER DOWDING: I move the following amendments—

Page 32, line 24—To delete "if the licensee" and substitute the following—

in the case of a licensee which

Page 32, line 30—To insert after "responsible for" the following—

an individual being refused a licence on the ground referred to in section 12 (2) (h) or for

Page 32, line 32—To delete "(f) or (g)" and substitute the following—

(f), (g) or (h)

Amendments put and passed.

Clause, as amended, put and passed.

Clause 31 put and passed.

Clause 32: Forfeiture of illegal profits—

Hon. PETER DOWDING: I move an amendment—

Page 34, after line 39—To insert the following subclause—

(8) The Under Treasurer shall pay to the Compensation Trustees for the purposes of the Compensation Scheme an amount equivalent to any amount paid into the Consolidated Revenue Fund as moneys forfeited to the Crown under an order made under subsection (1), (5) or (7).

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 33 to 48 put and passed.

Clause 49: Civil liability of unlicensed travel agent—

Hon. PETER DOWDING: I move an amendment—

Page 48, lines 27 to 36—To delete all words after the clause designation 49 and substitute the following words—

Compensation Trustees to have certain rights by subrogation and otherwise.

(1) When a payment is made to a claimant under the Compensation Scheme by reason of an act or omission by a person carrying on business as a travel agent, the Compensation Trustees are subrogated to the rights of the claimant in relation to that act or omission.

(2) If the rights conferred by subsection (1) on the Compensation Trustees are exercisable against a body corporate, those rights are enforceable jointly against the body corporate and the persons who were its directors at the time of the relevant act or omission and severally against the body corporate and each of those directors.

(3) If it is proved that an act or omission by a body corporate occurred without the knowledge or consent of a director of the body corporate, the rights conferred by subsection

(1) are not enforceable under subsection (2) against that director in relation to the relevant act or omission.

(4) If an act or omission referred to in subsection (1) is that of a person who is not a licensee or exempted person (in this section called "the unlicensed person"), a person who aided, counselled or procured the carrying on by the unlicensed person of the business of a travel agent shall for the purposes of subsections (1), (2) and (3) be deemed to have, at the time of that act or omission, carried on business in partnership with the unlicensed person.

(5) Subsection (4) has effect whether or not the person who aided, counselled or procured the carrying on of business by the unlicensed person has for that reason been convicted of an offence by virtue of section 7 of The Criminal Code.

Hon. TOM KNIGHT: I refer to subclause (2) of proposed clause 49. Normally a director of a company or body corporate is only liable if he signs a guarantee or makes himself liable. I know the idea is to stop the $2 companies but at the same time a director of a company in normal business operations, at the agreement of the bank, may declare himself responsible for $5 000, $10 000, or $20 000. He does not have to be totally responsible so it wipes out that background he has in other businesses. The agreement states "... any action against the body corporate", and that of course stops the $2 companies. If this fails to produce the required compensation, then an action can be taken against the individuals. Individuals in a normal company can agree to whatever level of responsibility they put themselves in for. Is this all-embracing or does it mean that a director of a particular travel agency, which is a body corporate, is liable for everything that may happen, regardless of his other business or outside interests, that he may not have committed himself to under a normal business arrangement?

Hon. PETER DOWDING: The honourable member's attention must be drawn to subclause (3) of the amendment which, read with subclause (2), indicates the intention. The intention is to catch directors for acts or omissions which occurred with their knowledge and consent. It is a defence for them to claim that the acts or omissions which gave rise to the action occurred without their knowledge or consent. In other words, one is looking for the culpable director as well as the culpable body corporate. Where the director can demonstrate that he or she had no knowledge or gave no consent in relation to acts in question, then of course there is a defence available. So the liability is intended to protect a director who has neither participated in nor knowingly omitted to prevent an action from being caught.

Hon. Tom Knight: But this is not the case with a normal company, is it?

Hon. PETER DOWDING: On plenty of occasions the directors are unable to hide behind the corporate veil. Under this Bill they can hide behind the corporate veil so long as they demonstrate that the act or omission occurred without their knowledge or consent. Where they cannot so demonstrate of course they are culpable. The reason for that is pretty obvious: Where directors are acting in fact as the body corporate they ought not to be able to simply shield themselves behind that act. My adviser has drawn my attention to the fact that there is a provision, for instance, under the Companies Code where directors can be made liable for the debts of the company where it trades into insolvency. I do not have the Act in front of me, but we have followed that pattern with this legislation; but again the defence is that the innocent director is not caught by this clause.

Hon. TOM KNIGHT: I can see the point the Minister is shooting at, but it seems to me that if a person is appointed as a director, he would be expected to give a financial commitment as a director to a certain limit if it was demanded by the company's bank or the finance corporation with which the company was dealing on the financial side, and this has happened in a lot of companies. It seems that this case goes beyond that and, as the Minister said, the director can hide behind the corporate veil; yet in his next breath the Minister said any person who could prove that he was not aware of an act or omission or had not acted improperly in the dealings would not actually be hiding behind that veil because he had no knowledge of the action. Therefore it means it is still open and he has to prove that he did not have the knowledge of that action. On the basis of a normal company where a director has a financial commitment, he is limited to that amount. In many cases it is a relatively large amount to deal with, but I still believe there is a difference in this Bill as compared to every other corporation or company.

Hon. PETER DOWDING: Hon. Tom Knight has it wrong. This is about the wrongful act of the company which gives rise to a compensation claim. The limit of the director is of course defined by the amount of business the company is writing. If the directors have done a wrongful act or they are involved in a company which has done some wrongful act and they do not establish that they have no knowledge of that wrongful act, they ought to be liable. We are talking about wrongs.

Hon. Tom Knight: A company collapsing?

Hon. PETER DOWDING: We are not simply talking about borrowings; we are talking about wrongful acts by the company which give rise to a claim for compensation, and the directors who know what is going on cannot simply hide behind the company and say, "Oh, well, that was Dowding Travel Agency Pty Ltd. We have no liability."

Hon. Tom Knight: You wouldn't do anything wrong.

Hon. PETER DOWDING: I would not do anything wrong, but thousands of others might. It is not the same situation as a borrowing. It is more akin to the situation under the Companies Code where a company trades into insolvency and the directors are personally liable. That is the situation under this Bill where the directors are unable to establish the defence that they were not aware of what was happening. If they can establish that they did not know a certain thing was happening, of course, subclause (3) provides them with a defence. I think it is quite appropriate.

Hon. Tom Knight: I don't think it happens with any other person who is registered in any other business.

Hon. PETER DOWDING: Yes. I am just pointing out that the wrongful act of the corporate body ought to bind the directors unless they can show that they were not aware of the wrongful act. If a person goes into a partnership with another person he is fully liable for the wrongful acts of that partnership.

Hon. Tom Knight: If you go into a partnership you are responsible for him if he loses his money, too.

Hon. PETER DOWDING: If a person joins a company as a co-director and an act occurs which gives rise to compensation, an act of which the person has no knowledge, he has a defence; but if that person was, for instance, milking the trust fund, and applying the money to the purchase of trade tactics, some other wrongful act can result. If the person is aware of those things and he cannot establish the defence he ought to be liable for them.

Hon. Tom Knight: This is not covered in the Companies Code anywhere, is it?

Hon. PETER DOWDING: No, it is not, because we are talking about the compensation right to individuals. If we did not have that provision, all that would happen is that there would be a front as the company, a $2 company, and there would be no way in which the wrongful acts of the directors could be caught.

Hon. Tom Knight: I realise you are trying to stop $2 companies.

Hon. PETER DOWDING: I am trying to stop $100 000 companies too from wrongful acts. The point is that it is most likely that the company will be better managed if the directors have an obligation. They have the defence under this clause that if they were unaware of the act or omission or they had not consented to it they will not be caught by the provisions of this legislation and therefore they will not be financially at risk; but if they knew or consented to the wrongdoing, as a matter of policy they ought to be caught by the Bill.

Hon. Tom Knight: It is almost like the retrospective bottom-of-the-harbour legislation.

Hon. PETER DOWDING: It is not retrospective bottom-of-the-harbour legislation at all.

Hon. Tom Knight: It can happen though.

Hon. PETER DOWDING: It cannot happen. We are talking about the wrongful acts of a director of a company, committed knowingly or with his or her consent, which give rise to compensation claims. We are talking effectively about agents who behind the corporate veil do some act which results in a loss to the client, and if they knew or consented to that act they will be liable. If they can show that they did not know or did not consent, they have a defence. I hope with that explanation Hon. Tom Knight sees that it is not the same situation.

Hon. Tom Knight: I can see what you are trying to get at, but I don't necessarily go along with it.

Amendment put and passed.

Clause, as amended, put and passed.

Sitting suspended from 6.00 to 7.30 p.m.

Clauses 50 to 57 put and passed.

Clause 58: Regulations—

Hon. PETER DOWDING: I move an amendment—

Page 54, line 21, to page 55, line 7—To delete paragraph (h) and substitute the following paragraph—

(h) prescribe a compensation scheme for compensating persons who suffer loss by reason of an act or omission by a person who carries on, or carried on, business as a travel agent and may for that purpose adopt or incorporate the provisions of the trust deed by which the compensation scheme is established.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 59 to 61 put and passed.

New clause 51—

Hon. PETER DOWDING: I move—

Page 49, after line 17—To insert after clause 50 the following new clause to stand as clause 51—

Legal action by Compensation Trustees.

51. The Compensation Trustees may sue and be sued in the name of the "Travel Agents Compensation Fund" and, in any action brought by the Compensation Trustees it shall be presumed, unless the contrary is proved, that any condition precedent to the bringing of that action imposed on the Compensation Trustees by the Compensation Scheme has been complied with.

New clause put and passed.

Schedule 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 Hon. Peter Dowding (Minister for Consumer Affairs), and transmitted to the Assembly.

OIL REFINERY INDUSTRY (ANGLO-IRANIAN OIL COMPANY LIMITED) AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon. Peter Dowding (Minister for Employment and Training), read a first time.

Second Reading

HON. PETER DOWDING (North—Minister for Employment and Training) [7.40 p.m.]: I move—

That the Bill be now read a second time.

The purpose of the Bill is to ratify a variation agreement amending the provisions of the agreement scheduled to the Oil Refinery Industry (Anglo-Iranian Oil Company Limited) Act No. 1 of 1952.

Before outlining the purpose and content of the variation agreement, I mention that the Bill also provides for the 1952 Act to be retitled the Oil Refinery (Kwinana) Agreement Act.

The new title for the 1952 Act is appropriate. It is many years since the Anglo-Iranian Oil Company Limited totally assigned its interests and obligations under the agreement scheduled to that Act, to the company now known as "BP Refinery (Kwinana) Proprietary Limited", to which I will refer in this address as "BP Kwinana" or "the company".

Further, the new title for the 1952 Act should more readily indicate the relationship of that Act and the agreement which it ratified with the oil refinery at Kwinana established pursuant thereto.

The variation fulfils the longstanding need for the review and renegotiation by the State of provisions of the agreement scheduled to and ratified by the 1952 Act. The 1952 agreement

set down the financial concessions given by the State to the Anglo-Iranian Oil Company Limited and other State-company arrangements for the establishment and operation of the oil refinery at Kwinana.

On gaining office in 1983 this Government gave the highest priority to the review and renegotiation of the agreement, as the annual revenue losses arising from the financial concessions by the State under the 1952 agreement had spiralled, over the years, to in excess of 1.3 million in dollars of the day for 1981-82.

Those losses were directly attributable to the exemptions enjoyed by the company from the application of normal wharfage rates, tonnage rates and pilotage charges otherwise payable to the Fremantle Port Authority on cargo and/or ships passing through Fremantle Harbour, and to conservancy dues payable to the Department of Marine and Harbours for ships entering the port.

Over recent years the company has on occasion since 1976 made very small *ex gratia* contributions to the Fremantle Port Authority. The company also agreed to pay pilot servicing costs—pilotage—although there was no formal agreement to this effect. Those payments were taken into account in calculating the revenue loss quoted, but in any case, their inadequacy and the uncertainty as to their continuity emphasised the need for the company to accept more equitable and binding financial obligations to the State by way of appropriate amendments to the 1952 agreement.

The term of the present agreement extends to the year 2000, with the company having the right to have it further extended to the year 2020. The State was therefore faced with continued, and no doubt increasingly heavier annual losses of revenue because of the financial concessions granted under that agreement.

By the same token, other users of the Port of Fremantle would have continued to bear increases in port charges by the Fremantle Port Authority. Such increases were and would continue to be necessary to maintain and operate the port under the financial burden of the port charges exemptions enjoyed by BP Kwinana under the 1952 agreement.

Initially the company was totally opposed to the renegotiation of its agreement but, after some fairly hard negotiations, it agreed finally with the State that it had a very good deal and that it should agree to the changes reflected herein.

The variation agreement now before the House has rectified that former unsatisfactory situation.

It provides that from 1 July 1984, the company is liable to pay wharfage rates on its cargoes and tonnage on ships where, respectively, the cargoes or ships are associated with the operations of the oil refinery at Kwinana. In addition, the variation agreement formalises the payment of pilotage and cancels the exemption from the payment of conservancy dues to the Department of Marine and Harbours by the company.

The payments from BP for the 1984-85 financial year will be as follows:

To the Fremantle Port Authority—

	$
Pilotage	135 246
Tonnage	461 721
Wharfage	634 991
Subtotal	1 251 966

To the Department of Marine and Harbours—

Conservancy dues	100 000
Subtotal	1 351 966
Less the 1952 agreement annual dredging commitment—	90 202
Total new commitment	$1 261 764

The relevant clauses in the variation agreement will be explained in more detail and commented upon as necessary later in this address.

With regard to the non-financial provisions of the 1952 agreement, it was also apparent that some provisions had shortcomings in comparison with the obligations on other companies operating in the Kwinana area under State agreements. These shortcomings have also been rectified by the 1985 variation agreement, as will be itemised in the course of the comments to follow.

I will now deal in detail with the respective provisions of the variation agreement before the House.

The amendments to the 1952 agreement are contained in clause 3 of the variation agreement. Subclause (1) of clause 3 sets out the new definitions and amendments to the existing definitions in the 1952 agreement.

Paragraph (a) of subclause (2) establishes 30 June 1984 as the termination date of the company's liability to make a direct fixed annual contribution of $90 202 to the State towards the cost of dredging the Success and Parmelia Banks in Cockburn Sound. That obligation has now been absorbed in the new charging arrangements with which the company is required to comply.

Paragraph (b) of subclause (2) sets out the wharfage rates payable by the company to the Fremantle Port Authority from 1 July 1984, with appropriate provisions for variation of those rates commensurate with any changes in the port authority's standard rates. It also provides for reviews of the base wharfage rate for bulk cargoes at five-yearly intervals thereafter, and the maintenance of a suitable index for the establishment of the basic wharfage rate in the future. The term "bulk cargo" is defined in clause 1 of the variation agreement.

As the remaining provisions of paragraph (b) of subclause (2) relate to non-financial matters, I will defer comment on them until the remaining financial issues have been detailed.

Subparagraph (i) of paragraph (i) of subclause (3) is a minor amendment consequential to the wharfage charge provisions of paragraph (b) of subclause (2).

Paragraph (h) of subclause (3) of the variation agreement has a dual role. The new subclause (r) to be incorporated in clause 4 of the 1952 agreement by this paragraph defines the limitations on the raising of charges against the ships associated with the operations of the Kwinana oil refinery and concurrently renders such ships liable for the Fremantle Port Authority and Department of Marine and Harbours charges listed therein.

This provision of the variation agreement, coupled with the wharfage charges on the company's cargoes imposed by paragraph (b) of subclause (2), will entitle the State to a reasonable level of revenue from the company's shipping operations associated with the Kwinana oil refinery.

Paragraph (h) of subclause (4) defines—in new subclause (w)—the limitations on the raising of further charges, beyond those just described, against the company's cargoes as defined in that new subclause, or against ships associated with the operations of the Kwinana oil refinery.

The sum annual total of the revenue to be derived from 1 July 1984, as a direct result of these amendments to the financial provisions of the 1952 agreement, will be at a level acceptable to the State, as assessed by officers of the Department of Resources Development, in consultation with officers of the State Treasury, the Department of Marine and Harbours and the Fremantle Port Authority.

That assessment was made with due regard to the substantial indirect benefits to the State over many years from the establishment of the oil refinery at Kwinana under the provisions of the 1952 agreement and the level of contribution to the Fremantle Port Authority required for the provision and maintenance of a safe haven for BP vessels.

In dealing with the non-financial provisions of the variation agreement, I would first briefly explain that the following provisions relate purely to the amendments which are necessary to update certain references to legislation, power quantities, and State or other authorities mentioned in the 1952 agreement.

The variation agreement provisions to which I refer are as follows—

> Clause 3, subclause (3): Paragraphs (a) to (g) inclusive; and subparagraph (ii) of paragraph (i).
>
> Clause 3, subclause (4): Paragraphs (a), (c), (d), (f) and (g).

The previously mentioned paragraph (b) to subclause (2) of clause 3 of the 1985 variation agreement also contains new subclauses (l) and (m) to be incorporated in clause 3 of the 1952 agreement. New subclause (l) requires the company to comply with certain criteria set by the State with regard to environmental matters, while new subclause (m) sets down the company's obligations with regard to supervision of its wharves and other ship facilities at the refinery itself.

Paragraph (j) of subclause (3) of clause 3 of the variation agreement provides a new subclause (ua) to 1952 agreement clause 4. Its effect is to build into the 1952 agreement the standard State agreement clause to protect the

company against future discriminatory charges or actions by the State, or by a State body or any local or other authority.

Paragraph (b) of subclause (4) of clause 3 modernises and broadens, to a small extent, the range of companies to which BP Kwinana may assign its interests in the ratified agreement. This amendment is in keeping with normal Government policy on agreement assignment rights in those instances where the assignment is not subject to the prior consent of the Minister.

Paragraph (e) of subclause (4) sets down the requirements to be satisfied by the company should it desire to close down the operations of the refinery for more than 12 months.

Paragraph (h) of subclause (4) adds new subclauses (w) and (x) to clause 5 of the 1952 agreement. New subclause (w) has already been explained in relation to the financial clauses of the variation agreement. New subclause (x) sets out the mechanism for dealing with a company decision to, in any significant way, depart from its present activities carried on at the refinery pursuant to the ratified agreement.

Clause 4 of the variation agreement simply terminates the variation agreement entered into in 1956 between the State and the company. On ratification of the 1985 variation agreement the 1956 variation agreement will no longer remain operative.

It will be seen that the foregoing amendments and additions to the non-financial clauses of the 1952 agreement result in their substantial modernisation to a form more in keeping with that of more recent State agreements.

This concludes the detailed outline of the content and effect of the variation agreement scheduled to the Oil Refinery (Kwinana) Agreement Amendment Bill 1985.

I would, however, draw honourable members' attention to the very significant achievement on behalf of the State by the Government officers and those of the Fremantle Port Authority in carrying through the extremely detailed and prolonged negotiations with BP Refinery (Kwinana) Proprietary Limited, which have culminated in the conclusion of the variation agreement.

Mention should also be made of the cooperation of the company's executive officers after accepting the need expressed by the State for a complete review of the provisions of the 1952 agreement, although that agreement was legally binding on both parties thereto.

The company had also followed a policy of complying with certain environmental and other non-financial requirements, either State or local government, although the terms of the 1952 agreement did not place any such obligations on the company.

Ratification of the 1985 variation agreement will permit the terms of the 1952 agreement between the State and the company to be substantially modernised. It will also bring the company's financial obligations to the State and the Fremantle Port Authority into line with those of other major industries using the Fremantle outer harbour—Kwinana—for shipping associated with their operations.

I commend the Bill to the House.

Debate adjourned, on motion by Hon. N. F. Moore.

COAL MINE WORKERS (PENSIONS) AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon. Peter Dowding (Minister for Employment and Training), read a first time.

Second Reading

HON. PETER DOWDING (North—Minister for Employment and Training) [7.53 p.m.]: I move—

That the Bill be now read a second time.

The principal Act which this Bill proposes to amend relates to the pension scheme for coalminers in Western Australia.

The original Act was introduced in 1943 so that coalminers, who were compulsorily retired at 60 years of age, could cover themselves for loss of earning power between 60 and 65 years, at which time the age pension would apply.

The Act also allowed pensions for injured coalminers and dependants of deceased miners.

Since 1980 several amendments to the Coal Mine Workers (Pensions) Act have introduced lump-sum payments for new retirees.

This Bill seeks to allow those beneficiaries who retired prior to the introduction of lump-sum payments on retirement in 1979, the option to commute their fortnightly pension to a lump sum.

Those beneficiaries who elect to remain on a fortnightly pension would do so on a deemed rate, "deemed rate" being the difference between the maximum coalmine worker's pension and the maximum Commonwealth social security pension.

For those beneficiaries who elect the fortnightly pension option and who are currently receiving in excess of the deemed rate, an additional benefit will be paid until the pension has been gradually redeemed over a two-year period to the level of the deemed rate.

This Bill also seeks to make provision for lump-sum payment to beneficiaries of single mineworkers.

The PRESIDENT: Order! We have a combination of honourable members carrying on audible conversations, which are unparliamentary and rude, and we have the Minister whispering. That combination means that no-one can hear what is happening, including the *Hansard* reporter. Honourable members who are being unruly by engaging in audible conversations should stop, and the Minister should address the House with an audible voice.

Hon. PETER DOWDING: To make the Act consistent with the majority of superannuation schemes, the section which prohibits benefits being paid to beneficiaries of mineworkers whose death arose from an intentional self-inflicted injury has been deleted.

Incorporation of relevant elements from the Commonwealth Sex Discrimination Act 1984 referring to gender will bring the Act into line with all other State Acts and will allow the recent amendments to the Coal Mines Regulation Act and regulations to apply.

I commend the Bill to the House.

Debate adjourned, on motion by Hon. W. N. Stretch.

COLLIE COAL (WESTERN COLLIERIES) AGREEMENT AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon. Peter Dowding (Minister for Employment and Training), read a first time.

Second Reading

HON. PETER DOWDING (North—Minister for Employment and Training) [7.57 p.m.]: I move—

That the Bill be now read a second time.

The purpose of this Bill is to obtain parliamentary ratification of the agreement entered into on 7 October 1985 between the State and Western Collieries Limited to vary the provisions of the Collie Coal (Western Collieries) Agreement Act of 1979.

The 1979 agreement was ratified by Act No. 4 of 1979 and will be referred to as the "principal agreement", with Western Collieries Limited being referred to as "the company".

The major function of the variation agreement now before the House is to provide for the issue of a mining lease under the Mining Act 1978 for coal only. The principal agreement had provided for the issue of a coalmining lease under the provisions of the Mining Act 1904. However, the issue of such lease is no longer possible due to the operation of the Mining Act 1978.

In conjunction with the mining lease issue the opportunity was taken to review and update other provisions of the principal agreement.

I turn now to the specific provisions of the variation agreement scheduled to the Bill before the House, which are contained in clause 3 of the document.

The variation agreement provides in clause 3(1) for additions and variations to the definitions contained in clause 1 of the principal agreement to reflect the existence of the Mining Act 1978.

Subclauses (2) to (4) of clause 3 of the variation agreement substitutes "the mining lease" for "the coal mining lease" in clauses 5, 6 and 9 of the principal agreement.

Clause 3(5) of the variation agreement modifies the approval mechanism for additional proposals submitted under the provisions of clause 10 of the principal agreement. Non-approval of such additional proposals will not constitute grounds for determination of the agreement.

Clause 3(6)(a) of the variation agreement replaces subclause (2) of clause 11 of the principal agreement with a new subclause that specifies the due dates for the submission of annual interim and detailed triennial rehabilitation reports.

Clause 3(6)(b) of the variation agreement modifies the provisions of clause 11(4) of the principal agreement to the extent that non-approval of any additional environmental proposals will not be a cause for determination of the agreement.

Clause 3(6)(c) of the variation agreement widens the scope of clause 11(5) of the principal agreement by obliging the company to implement the decision of the Minister or an award on arbitration in relation to additional environmental proposals.

The obligation under clause 14 of the principal agreement to provide copies of mining plans currently supplied to the State Energy Commission of WA (SECWA) under contractual arrangements has been replaced by a requirement to submit five-yearly mine development plans. This change has been made as it is most likely that future SECWA coal contracts may not require submission of mining plans.

Clause 3(8) of the variation agreement replaces the expression "the coal mining lease" in clause 17 of the principal agreement with "the mining lease".

Clause 3(9) of the variation agreement modifies the requirements of clause 18(2) of the principal agreement by providing for agreement to be reached between the company and SECWA on cost and payment terms prior to SECWA diverting powerlines at the request of the company.

Clause 3(10) of the variation agreement replaces "the coal mining lease" in clause 19 of the principal agreement with "the mining lease".

Clause 3(11)(a) of the variation agreement substitutes the existing obligation under clause 21(1) of the principal agreement to issue a coalmining lease under the Mining Act 1904 with an obligation to issue a mining lease for coal. The rental for the mining lease for coal is fixed at 80 per cent of the rental specified in the Mining Act 1978 for mining leases for all minerals.

Clause 3(11)(b) of the variation agreement substitutes in clause 21(2) of the principal agreement "the mining lease" for "the coal mining lease".

It is logical that any economic coal reserves identified in areas adjacent to the agreement mining lease be exploited as part of an integrated mining plan. Clause 3(11)(c) of the variation agreement adds new subclauses (2a) and (2b) to clause 21 of the principal agreement to provide for additional areas to be added to the mining lease from time to time.

Clause 3(11)(d) of the variation agreement substitutes an exemption from expenditure conditions of the Mining Act 1978 for exemption from the labour conditions of the Mining Act 1904.

Clause 3(11)(e) of the variation agreement replaces clause 21(4) of the principal agreement dealing with the grant to other parties of mining tenements under the Mining Act 1904 for minerals other than coal with a new provision to conform to the requirements of the Mining Act 1978.

Clauses 3(11)(f) to (j) inclusive of the variation agreement change the terminology in subclauses (5), (6), (7), (8) and (9) of clause 21 of the principal agreement to conform to the provisions of the Mining Act 1978.

Although the mining lease is to be restricted to the mining of coal in accordance with the principle that resource development agreements be project specific, new clause 21A is to be added to the principal agreement by clause 3(12) of the variation agreement to permit the company to recover other minerals as part of its coalmining operations.

New clause 21B affords the company the same rights as third parties have to mining leases for minerals other than coal. Should the company obtain mining leases for minerals other than coal the respective leases will be automatically excised from the agreement mining lease.

New clause 21C of the agreement provides for any leases taken out under the provisions of new clause 21B to revert to the agreement mining lease upon termination. This action is necessary so that rehabilitation is carried out under the provisions of the principal agreement.

Clauses 3(13) to (18) inclusive of the variation agreement changes the terminology in clauses 26, 27, 31, 32, 33 and 38 of the principal agreement to achieve conformity with the provisions of the Mining Act 1978.

Clause 19 of the variation agreement replaces the schedule with a new schedule detailing the form of the mining lease to be issued under the provisions of the Mining Act 1978.

The agreement to be ratified by this Bill provides Western Collieries Ltd with the security it needs to be able to plan for the future. Together with the actions the Government has taken in finalising the long outstanding contractual commitments between the company and the SEC, it has enabled the development of

Western No. 7 underground mine and is one of the many things we have done to secure the future of Collie, which was in grave doubt before we came into Government.

I commend the Bill to the House.

Debate adjourned, on motion by Hon. W. N. Stretch.

LOCAL GOVERNMENT AMENDMENT BILL (No. 2)

Second Reading

Debate resumed from 30 October.

HON. J. M. BERINSON (North Central Metropolitan—Attorney General) [8.05 p.m.]: In the course of the second reading debate questions were raised and comments made on four or five provisions of the Bill. I propose to limit my response to those specific queries.

Hon. P. H. Lockyer raised a question in the first place as to the effect of clause 3 which deals with consolidated electoral rolls. This clause provides some discretion to the Minister to allow the continued use of two rolls. Mr Lockyer asked whether it was intended to allow the continued use of two rolls for any particular length of time.

The Minister advised that in his view it is desirable that local government bodies move to a single roll as quickly as possible. On the other hand, this provision of the Bill serves to recognise that there may be technical and cost difficulties involved in requiring councils to move too quickly and that there should be a capacity to allow some delay in the process.

The Minister's response as given in the Legislative Assembly was to the effect that it is preferable to wait on experience and see how we go over the next 12 months without indicating so far in advance what his position might then be. In general, the aim is to avoid any undue hardship or cost to local government bodies, and that will be the guiding principle in his application of this provision.

I deal next with clause 16, which provides some additional administrative powers to local government bodies in respect of street trading. Hon. Graham MacKinnon and Hon. I. G. Pratt expressed strong disapproval of this provision. I understand the point they made but with due respect to them I would suggest to the House that their views as to the nature and effect of clause 16 are exaggerated. This is not, as Hon. G. C. MacKinnon suggested, the first step on the way to a totalitarian State, nor is it a provision directed at hawkers. Without putting too much stress on the differences between these different categories of traders, the fact is that hawkers are regarded in a different way from street traders. We are dealing with the latter category here. It is not just a question of saying in respect of this provision that we are proposing unreasonable restrictions on one section of the community which ought to be helped and giving undue assistance to the shopkeepers who are potentially put at risk of their own position by excessive street trading.

In both respects we have a need for proper control and adminstration. Shopkeepers themselves are not free to build shops where they like nor are they free to engage in any business they like in shops which are already built. In many respects shopkeepers themselves are subject to orderly control and when all is said and done, that is what this Bill proposes.

Perhaps I can approach this subject in another way by taking up the distinction which Hon. G. C. MacKinnon offered between what he saw as the excessively restrictive attitude of the Perth City Council as against what he saw as the more enlightened view of the Fremantle City Council.

Hon. G. C. MacKinnon: You remind me of the ship's captain in a movie that I saw—

Hon. J. M. BERINSON: Was the ship going down or sailing on course?

Hon. G. C. MacKinnon interjected.

Hon. J. M. BERINSON: I do not know what Hon. Graham MacKinnon means and I doubt very much that it has anything to do with street traders. If Hon. Graham MacKinnon does not mind, I will continue with the discussion on this Bill rather than a discussion of the history of a German war movie.

I want to look at this matter adopting the dichotomy that Mr MacKinnon offered; that is, between the respective attitudes of the Perth City Council and the Fremantle City Council. I put it seriously to the honourable member that the Fremantle City Council itself, no matter how liberal it might be in the granting of licences, would nonetheless require some powers in order to enforce its own licensing system or by-laws. That is what is provided in this clause.

By way of interjection I earlier asked Hon. Graham MacKinnon whether he believed that the Fremantle City Council would be so broad-minded in this matter as to have no restrictions at all on the licences which it might make available.

Hon. G. C. MacKinnon: Of course.

Hon. J. M. BERINSON: The question arises then as to how the Fremantle City Council will place itself in a position to effectively enforce its own restrictions. If it is agreed that the licences will be restricted, what is the council to do if persons set up their street businesses in defiance of the fact that they may have been refused a licence? The experience has been that existing provisions do not allow for a proper enforcement of reasonable control. There are reasonable limitations in this matter which can be discussed separately when we see how the local government bodies actually draft and implement their own by-laws. The fact remains that whatever the nature of the local government bodies' by-laws, there has to be an effective enforcement mechanism. That is what has been grossly lacking in the past, as evidenced by the fact that some people, openly defying existing restrictions, have had literally hundreds of summonses served on them and then simply turned up the next day to repeat the process and openly mock the capacity of local government bodies to enforce any control at all.

Clause 25 deals with the question of welfare services. Several members have expressed a fear that this might open the way to the duplication or triplication or, even worse, multiplication of services which are already provided by other levels of government. I think the first answer to that must be a purely practical one. It rests on the fact that local government, like all levels of government, has to exercise very careful control of its expenditure because all levels of government are subject to considerable constraints. Local government in those circumstances is not likely to go off wantonly duplicating services which already satisfactorily exist, given the problem which it has in funding existing commitments. This provision is designed to provide the council with a more carefully defined discretion to fill in the gaps of existing services, so to speak, where they identify the gaps as serious enough to justify their allocation of part of their admittedly scarce financial resources.

The position of the Government would be that that is a proper discretion to be left to the local government bodies, and they should be left to exercise that discretion on the basis of their knowledge of the requirements of their local government area, of their knowledge of the wishes of their own ratepayers, and combining both those factors with their own knowledge of their financial capacity to provide additional services.

As members will be aware, local government bodies in any event are engaged in a fairly substantial range of activities which could broadly come under the heading of welfare services, and a number of these activities are the subject of specific provision in the Act. They include, for example, a capacity in local government bodies to subsidise nursing services, hospital services and medical and dental services. There are other specific provisions which allow them to assist in respect of kindergartens and other educational efforts. Under the Health Act, local government bodies have a capacity to assist the establishment and the maintenance of aged persons' homes. All of those clearly come within our ordinary understanding of welfare services. So there is no radical change of principle involved in this clause. What is involved is some potential broadening of the fields in which local government bodies activate themselves.

It should be understood in this context that even now there are services provided by local government, or subsidised by local government, which come under the broad heading of welfare services and which do not appear to be specifically authorised. A couple of examples of those would be autumn centres and Meals on Wheels. Those services do not appear to have specific authority for local government involvement, but they have simply developed for one reason or another, whether or not the initial impetus was the provision of funds from the State or Commonwealth Government. At the end of the day, the question of principle has to be faced. If it is all right, as I take it just about everyone agrees, that local government bodies should participate and continue to participate in activities like kindergartens, medical and nursing services, and aged persons' homes, what is wrong in principle in opening the way to their activities in other fields?

Again I emphasise that there is no question here of obliging local government bodies to act in these areas. It is purely a matter of providing them with a discretion to reflect their own views and, in appropriate cases, the views of their ratepayers who will have to meet the costs at the end of the day.

Hon. G. C. MacKinnon interjected.

Hon. J. M. BERINSON: I am saying what I am saying, and I think I have said it fairly clearly and I stand by it.

Clause 32 provides for a capacity in local government bodies to construct and lease commercial premises. Some reservations were

expressed on this proposal and, as best I understand it, they were on the general basis that local government should not intrude into areas where private investors have a clear capacity to act instead. In this respect I remind the House that clause 32 is not in any way inconsistent with that point of view. In fact, the restrictions to be found in proposed section 514B(2) precisely reflect that point of view. That subsection indicates that a council may only exercise the power to construct premises for lease where two criteria are met. The first is that in the area in which the premises are to be constructed there is a demand for the proposed premises; and, secondly, that there is no reasonable prospect of the demand being met if the council does not construct the proposed premises. In other words, we are dealing in this clause with a power which one would expect to find used in exceptional circumstances only.

Hon. P. H. Wells: What happens if they do not approve it?

Hon. J. M. BERINSON: First it would involve a view by the local government body that there is a demand for commercial premises in the particular area; secondly, that it is in the interests of the community for that demand to be met; thirdly, and in particular, that that demand is not likely to be met unless the local government body meets it.

In fact, reverting to the actual terminology of the Bill, the restriction is in even stronger terms because the Bill does not refer to commercial investment being unlikely, but there being no reasonable prospect of it. There is no inconsistency between the limited objections which were raised on this question and the terminology of the Bill itself.

I hope that with these comments I have covered the main points raised in the debate. At one stage I was about to cover one of the less important points as well. Perhaps any further discussion might usefully be left to the Committee stage.

Question put and passed.

Bill read a second time.

In Committee

The Chairman of Committees (Hon. D. J. Wordsworth) in the Chair; Hon. J. M. Berinson (Attorney General) in charge of the Bill.

Clauses 1 and 2 put and passed.

Clause 3: Section 41 amended—

Hon. P. H. LOCKYER: I listened with interest to the Attorney General's explanation that at this stage the Minister for Local Government is not prepared to commit himself 12 months ahead. I accept that. However, the possibility exists that some councils may have a problem within 12 months, and I urge the Attorney General to inform the Minister responsible for this Bill that if he is to err at all, he should err on the side of generosity as far as tolerating this. I know that some councils have problems getting two rolls together, but I am satisfied that they are all making an effort to do so. I am also satisfied about the comments I made during the second reading debate.

Hon. J. M. BERINSON: I am happy to convey that view to the Minister for Local Government. I am sure that in any event it will reflect his own view.

Clause put and passed.

Clause 4 put and passed.

Clause 5: Section 66 repealed—

Hon. P. H. LOCKYER: The repeal of section 66 is an amendment the Opposition thought would be necessary because of the advent of adult franchise. There is no way around the present situation except by bringing forward this amendment.

A situation might arise in a council where a sitting councillor could owe $1 on his rates and this would render him ineligible to be a sitting councillor. In fact, he would be disqualified. On the other hand we could have the situation where a person is elected to a council under the franchise rules and he pays no rates at all. He can sit on the council for as long as he likes, according to his elected term, but because he does not pay rates he cannot be found guilty of non-payment of them.

Many councils are still unhappy with the amendment to the Local Government Act which brought in adult franchise; and it directly affects this clause. Only time will tell what will happen, but we saw what could happen in Wiluna. I understand that the problem could be overcome with the advent of wards. However, I am not forecasting doom and despair; I am just making the point that this is one of the things that could arise. I wonder what else may arise in due course.

We are happy to support the clause because it rights a wrong situation. I hope that it does not encourage some of our city councillors—

Hon. J. M. Berinson: Not to pay their rates.

Hon. P. H. LOCKYER: Yes, not to pay their rates. Quite frankly, it is my belief that councillors have a responsibility to set some form of example. Many councils in the State are having increasing difficulty in collecting rates. In fact, some councils have gone to the extreme of offering incentives to people who pay their rates early. My good friend, Mayor Findlayson, and the Town of Kalgoorlie put up a bar of gold as an incentive for people to pay their rates early.

Hon. Garry Kelly: That is appropriate for Kalgoorlie!

Hon. P. H. LOCKYER: The winner's name was drawn out of a barrel. I recently saw in the *Kalgoorlie Miner*, the paper that serves that area, a beaming Ray Findlayson presenting a couple with the bar of gold. I simply make the point that it would not be a good thing for councillors suddenly to stop paying their rates because of this changed provision, as they should set an example.

We support this clause.

Hon. G. C. MacKINNON: I am a little bemused by this clause. It has been accepted in local government for years that a councillor representing the people ought not to be in debt to anyone. The theory has been expounded that not only ratepayers contribute towards a local authority. We all accept that. Many other people contribute to the local authority by patronising shops. They pay their share of rates because the shopkeeper pays rates and, in theory, he adds the cost of those rates to the prices of his goods. A pharmacist, for instance, charges a little extra on toothpaste and other goods to cover the cost of his land and water rates. Thus everybody contributes.

There are many other ways by which contributions are made to local authorities, such as through licences and the like. Street vendors are now going to have to pay for licences. In this instance, the Government has decided to take the humane and reasonable way out by saying that it does not matter if a councillor owes the council in rates, and that he can remain a member of the council or even be the mayor of a city or town. However, the Government takes the absolutely opposite point of view with respect to some poor unfortunate young fellow who wants to try to make a bob selling a bit of stuff on the side of the road. It takes the heartless, cruel and inhuman attitude of not establishing any rules that might allow him to do so.

Hon. J. M. Berinson: That is for local government to establish.

Hon. G. C. MacKINNON: It is not. It is a Government matter. With this clause council members are exonerated from obeying certain rules. It has been said that no longer will councillors have to pay their rates to be eligible for membership of a council. From one end of the country to the other, councillors and aldermen have faced court cases and expulsion from councils because they have not paid their rates. The Government has not said that any person in debt for any reason to any local community shall not be able to hold office. It has taken the easy way out and scrubbed the provision with respect to the local authority. However, the Government is not that kind to the ordinary young, unemployed guy who wants to sell some stuff on the side of the road. The Government takes an unconscionable attitude to him. The Government is quite unreasonably inconsistent in this respect.

A moment ago, the Attorney mentioned the Fremantle authority. Fremantle has shown the way for other local governments in this respect. Why not include Fremantle's method in this legislation to show those other authorities how to cope with the matter? The Government has said to street traders that if they indulge in the practice iron doors will clang shut on them. On the other hand, it has thrown wide open the gates for the bloke who is a member of the local authority. It does not matter that he is in debt. It does not matter that he has not paid licence fees or his rates. We do not allow members of Parliament to avoid such payments, but we are allowing local authority members to do so. The Attorney is totally and cruelly inconsistent in this respect. The last time this matter was raised in this House, Hon. Bob Hetherington and Hon. Peter Dowding agreed with me and we threw out the provision. I ask Mr Hetherington whether that is not so.

Hon. Robert Hetherington: Yes, we did.

Hon. G. C. MacKINNON: We threw it out. I ask how this Minister, with his history, can square this sort of behaviour, this total inconsistency in the one piece of legislation, with his conscience.

The CHAIRMAN: The question is that clause 5 stand as printed. Does the Attorney wish to respond?

Hon. J. M. BERINSON: No, Mr Chairman.

Hon. G. C. MacKINNON: I just want to put it on record that the Minister, Hon. Joe Berinson, could not justify the clause.

Hon. J. M. Berinson: Oh, rubbish! There was nothing worth replying to.

Hon. I. G. PRATT: Mr Chairman, what is the purpose of our having a Committee stage if the Minister will not answer the questions raised by members during it? Mr MacKinnon obviously wanted an answer and the Minister is not prepared to give him one. If the Minister were dinkum about this Bill, he would stand up as many times as required to answer members.

Hon. J. M. BERINSON: I am happy to stand up as often as the Chamber likes. I am not required to stand up and I stand up at my discretion. I do that when I feel the necessity to answer an argument. Though I say it myself, I have not been backward in this Chamber in answering arguments. The difficulty that I face with Mr MacKinnon's last comments was that whereas we were supposed to be dealing with clause 5 of the Bill, the honourable member was dealing with clause 16 of the Bill, as would not have escaped the attention of honourable members. Given the member's concern with street trading, I am quite happy to deal with that as fully as Mr MacKinnon or any other member would like when we come to the appropriate clause.

As I am on my feet, I will make one other brief comment. I suggest to Mr MacKinnon that he is drawing a whole battery of longbows in attempting to argue the inconsistency of the Bill's approach in respect of clause 5 and of the provisions of clause 16. Clause 5 is not a provision designed to provide humane relief to anybody. It is designed to produce some rational consistency. In this respect we have the position where certain people are entitled to stand for local government without paying rates. It appears rational and logical on that basis to say that the payment of rates should therefore not be a relevant factor in the right to nominate for membership of a local government body. That is all that is involved—the application of rational, logical consistency. It is not a humane measure and it is not designed to be such. It is designed simply to make sense and to be consistent.

Reluctant as I am to jump 11 clauses, I have to point out very briefly to Mr MacKinnon that clause 16 has exactly the same purpose; that is, the purpose of producing some rational consistency. That arises from the fact that where, for example, we have shopkeepers, so do we have all manner of control devices. When we come to traders who are not in shops but are engaged in a somewhat similar activity, there should also be some reasonable element of control which local government bodies are capable of enforcing. That also is a matter of consistency and not humanity.

Clause 16 does not prevent a street trader from trading; it permits local government bodies a discretion as to the way in which street trading should be carried on and under what conditions. It gives local government bodies the capacity to determine the limits of that sort of trading.

The CHAIRMAN: I believe we are on clause 5.

Hon. J. M. BERINSON: I believe we are too, and I will restrict myself to that. I will only point out that in the course of Mr MacKinnon's comments—and those of Mr Pratt for that matter—I did not think it appropriate to raise a point of order, though it would have been proper at the time. But the matter having been raised in this way, I trust what I have now said will demonstrate to Mr Pratt that if on any occasion I do not reply, it is not because of my incapacity but simply of a reflection of a point of view that comment is not called for.

Hon. I. G. PRATT: I fail to see what point of order the Minister could have raised.

Hon. J. M. Berinson: I was referring to Mr MacKinnon's speech, not yours.

Hon. I. G. PRATT: I am delighted the Government has embarked on some rationality and clear thinking.

Hon. J. M. Berinson: We do it all the time.

Hon. I. G. PRATT: It has taken a long time, because I remember clearly, as will Mr Hetherington and Mr Edwards, at the time adult franchise was introduced into local government, the Opposition was saying it would produce a disability for ratepayers, in that they could be disqualified from sitting on the council if they were in arrears with their rates. It did not appear to be clear thinking then, but it has somehow dawned on the Government that what we were saying months ago is a rational argument and clear thinking. I congratulate the Minister for catching up with reality and agreeing with the Opposition.

Hon. G. C. MacKINNON: I am delighted the Minister has got back to stonewalling his own Bills and then speaking at great length.

Several members interjected.

Hon. G. C. MacKINNON: I do not like the innuendo that a point of order could have been taken against me. I was talking about clause 5,

which repeals section 66 of the principal Act. I wish the Minister had taken the point of order so that we could have had that matter out.

Hon. J. M. Berinson: I am too polite!

Hon. G. C. MacKINNON: What we are talking about is making it possible for a recalcitrant member of a local community who has not paid his rates to continue as an office bearer of that local authority. In other words, he can sin against his local fellow men and still hold office.

Hon. J. M. Berinson: If you have not paid your land tax, you can continue to hold office in this Parliament.

Hon. G. C. MacKINNON: I have never tried that.

Hon. J. M. Berinson: But it is a fact.

Hon. G. C. MacKINNON: I do not know. I never thought it was.

Hon. J. M. Berinson: I put it to you as a fact. You can continue as a member of Parliament although you have not paid your land tax.

Hon. G. C. MacKINNON: We learn something every day. I am grateful to the Minister. I have always taken it for granted that if one sins against the local community, one can be tossed out. All I am saying here is that we are allowing a person to commit what has always been regarded as an offence and get away with it. It is reasonable to draw a comparison with other sections of the Act where we are making it very difficult for people not to commit an offence.

Hon. J. M. Berinson: I thought you thought it was too comprehensive.

Hon. G. C. MacKINNON: I am not sure it was not that I shamed the Minister by saying he was not prepared to say something that he got up.

Hon. J. M. Berinson: I got up in response to Mr Pratt. Do not take all the credit.

Hon. G. C. MacKINNON: Congratulations! Mr Pratt is a better man than I am.

I want to talk about a later clause in greater detail, but I thought it reasonable to break the ground and show how the Government is prepared to give relief to a member who commits one offence from any sort of blame and let him continue in his exalted position as a representative of the community. We will compare that with our attitude to other people later in this Bill.

Hon. H. W. GAYFER: In respect of this clause I come down on the side of the logical argument put forward by Hon. Philip Lockyer. In fact, I spent some time during the second reading debate talking to his particular clause.

If this clause is passed a ratepayer will no longer need to have paid his rates in order to be a councillor on a shire council. As Mr Lockyer said, shire councils in the country generally are not very happy about this provision. The Country Shire Councils Association of Western Australia has agreed generally with the provisions of this Bill, but this has not stopped the shire councils from disagreeing with some of the contents of the Bill.

We had that infamous meeting at the Sheraton Hotel last year, when suddenly there was a change of heart at lunchtime. All the resolutions which were so carefully supported by the 138 shires represented there were suddenly turned over as a result of a dramatic speech by Mr Ward. There was a change of heart and the shire councils no longer opposed the various amendments. That was when this provision—that a person other than a ratepayer could represent a shire—was introduced.

That did not mean that the 138 shires present on that day agreed with this principle. I believe they came away from the Sheraton Hotel absolutely dejected with the day's work. There is no doubt about it; they were bewildered about what had gone wrong. They had been stood up by their own representatives for some weeks before and led to believe the provisions put forward by the Minister of the day, Jeffrey Carr, would be opposed.

One of their greatest objections was this provision that a person who did not pay rates could be elected as a shire councillor and it followed, as their argument was put forward, that perhaps a whole council could comprise people who did not pay rates and they would be able to spend the money provided by the ratepayers to keep the shire council going, while the ratepayers themselves might not be represented. That is the provision in this Bill which clause 5 deals with. Hon. Phil Lockyer is dead right in putting on record the point that the shire councils are absolutely disappointed and disillusioned with the way that amendments have been made to the Local Government Act since that time.

I attended a meeting on Thursday at which Rick Maslin was also present. I discussed this point in front of him and the majority of the 18 shire councils—would not Hon. E. J. Charlton

agree?—agreed with the sentiments I expressed in respect of this representation and who would have the right to spend public money. That is the point made in this clause. Hon. G. C. MacKinnon has put forward other points, but we want our objection to this clause recorded. It removes the right to expel a councillor if he is a ratepayer who has not paid his rates. Clause 5 gets over that provision. I do not expect the Minister to answer me; I wanted to lodge my thoughts on this matter.

Hon. I. G. PRATT: While I congratulate the Government for assuming some of the qualities of rationality and clear thinking of the Opposition, the Attorney should give us some explanation as to why the Government has changed its position in the months which followed the meeting to which Hon. Mick Gayfer referred. Have there been cases wherein councillors have been disqualified during that period? I realise the Attorney has considerable problems in his wandering around the Chamber, and doing other things; instead of—

Hon. J. M. Berinson: I was listening to you but I couldn't catch it, that is all.

Hon. I. G. PRATT: —busily writing something down he should be listening to what is being said. For the Minister's sake I will repeat it.

Hon. J. M. Berinson: Why are you so offensive?

The CHAIRMAN: Order! Hon. I. G. Pratt will continue.

Hon. I. G. PRATT: I would have thought if there was any offence—

Hon. J. M. Berinson: I am writing notes in order to assist me to answer you.

Hon. I. G. PRATT: —it was on the part of the Attorney who recently, while Hon. Mick Gayfer was speaking, left his seat, had his back to him and went and spoke to one of his backbenchers. If members are looking for disrespect that is probably the prime example they can find.

Hon. Mark Nevill: It is hard to beat yours.

Hon. I. G. PRATT: I do not know what Hon. Mark Nevill is talking about.

Hon. Mark Nevill: It is obvious you don't.

Hon. I. G. PRATT: What respect does he think I should be showing to him? I am endeavouring to speak to the Attorney General who is the Minister handling this Bill. I will speak very slowly.

Hon. Graham Edwards: I thought you were in the classroom.

Hon. I. G. PRATT: One wonders how Hon. Graham Edwards got out of one—

The CHAIRMAN: Order! Interjections are out of order.

Hon. I. G. PRATT: —or how he got into one in the first place. I will repeat very quietly and very slowly for the Attorney now that he is not bothering himself with other activities, so perhaps he might listen to me. I said that while I congratulate the Government for having assumed the Opposition's qualities of rationality and clear thinking—

Hon. Garry Kelly: Self-praise is no recommendation.

Hon. Mark Nevill: Repetition.

Hon. I. G. PRATT: I really think the Minister should have discussions with his backbenchers.

Hon. J. M. Berinson: You told me a moment ago I should not do so.

Hon. Mark Nevill: Lift your game or sit down.

Hon. Garry Kelly: Be consistent.

Hon. I. G. PRATT: I am not suggesting he should do it while I am speaking.

Hon. Garry Kelly: Speak clearly then.

Hon. I. G. PRATT: I can understand Hon. Garry Kelly's concern that nobody wants to speak to him, and I do not blame them for that position either. I am not addressing Hon. Garry Kelly; I am addressing the Attorney who should get hold of his backbenchers—he should take them aside sometime—and get their act together. He is asking me to repeat my comments and his backbenchers are complaining of repetition. Surely they have some of this consistency within their ranks that the Attorney speaks about.

Hon. Mark Nevill: I will give you 100 lines.

Hon. I. G. PRATT: We will see if I can explain it to the Attorney without his having any destructive assistance from his backbenchers. I will start again at the beginning at line one.

I have congratulated the Government on at last assuming some of the qualities that the Opposition has shown for so long—rationality and clear thinking, the qualities the Attorney spoke of when discussing his reasons for introducing this amendment. I remind Hon. G. C. MacKinnon and the Attorney that the very matters he is referring to are the matters that the Opposition raised months and months ago.

The Attorney should explain why the Government has changed its mind, why it would not listen to us when we raised this point and illustrated what disadvantage would be accorded to ratepayers by giving adult franchise. I ask him if the Government has found it necessary to disqualify any elected councillors during that time and, if not, what has brought this matter to a head? Why has the Government changed its position? If the Attorney wishes to have the Opposition support his moves he should give better reasons than to say the Government is thinking clearly, because the Government was not prepared to do those things months ago. Why has the Government changed its mind?

Hon. J. M. BERINSON: To the extent that there has been any change in the Government's position, it has simply followed normal reconsideration in the light of experience. In the relevant period I understand that no councillors were disqualified.

Clause put and passed.

Clauses 6 to 10 put and passed.

Clause 11: Sections 157A and 157B inserted—

Hon. P. H. LOCKYER: This is one of the more important clauses of the Bill. I do not think that enough emphasis was perhaps put on this matter during the Attorney's second reading speech. I do not hold him responsible for that because it was fairly easily brushed over by his saying it was a tidying up of the Act, where it gives councillors the power to delegate a wide range of functions to municipal officers. But if members closely read the clause and the amendment which encompass three or four pages, it is quite obvious that a considerable amount of work has gone into this.

I went to some considerable trouble to seek out the comments of the various associations and shires, not only in my own electorate, but also across the board, to make sure that this amendment is acceptable.

It is quite obvious that councils and associations are quite happy with it. It is interesting to note that not only does the new section point out the type of delegation to council officers, but it also carefully points out the functions that council officers cannot carry out. I am pleased that in new section 157A(1) it is made quite clear that the delegation may be by resolution, and that it must be passed by an absolute majority of the council. This means that it is regarded as an important part of council business. I think that it has to be this way because delegation to council officers is not something that should be taken lightly. I note also that it is necessary for the clerk of the day to keep records in the register of all the particulars of any type of delegation so that it can be open to public scrutiny.

I merely want to bring to the attention of the Committee the great importance of this new section. It passes on some considerable power to council officers, and one question I would put to the Attorney General is: Where did the request for this particular amendment come from? Did it come from the associations or did it come from individual councils which were unhappy in a whole range of areas? It was a long drawn-out job to get the delegation, or the permission to get the delegation, for council officers to carry out their type of functions. I understand that there are problems when councils meet monthly, and that sometimes it is absolutely necessary that certain matters are delegated. Is this something that the Local Government Department has merely been looking at by way of the amendment?

Hon. J. M. BERINSON: Hon. P. H. Lockyer is quite right in saying that this is one of the more important provisions of this Bill. He is also correct in recognising that the clause itself reflects the importance of the measure by the number of restrictions which are imposed, such as the requirement for an absolute majority and so on. I think I am right that one precautionary measure that the honourable member might not have mentioned is that in proposed section 157A(4) there is a requirement that councils review all delegations at least once in every year. That is another indication of the caution with which this provision is framed.

The honourable member asked whether the provision had any particular support in terms of requests to the Minister. I am advised that a provision of this nature has in fact been sought for many years and that it has been the subject of discussion by the Minister with local government associations over the period since he has occupied the office. It comes up for consideration now, as I understand it, not so much in response to any special drive on the issue but because it is among a whole range of issues which have gradually accumulated and which have been conveniently considered together in this Bill.

Clause put and passed.

Clause 12: Section 160 amended—

Hon. P. H. LOCKYER: This clause will allow a council to appoint an unqualified officer temporarily. It is quite important that this amendment should go through as well. This brings me to a point which is of concern: When a shire clerk goes away for a few days it is important that his deputy should take over. It is important that some councils are able to get a relieving shire clerk in this event because there are councils which do not have a deputy shire clerk; for example, the Shire of Menzies. I would like the Minister to take back to the Minister for Local Government an indication of the necessity to have a pool of people who are available to take on these relieving jobs in this State. I believe it is the role of the Local Government Department to provide a pool of these people to be available at short notice because the situation does arise, whether through illness or other urgent reasons, where a shire clerk has to absent himself from his council.

I cannot stress the importance enough because the shire clerk is the chief executive of the business. He is virtually the managing director of the business of the council and, if he is away for any particular space of time, it is very important that a qualified person replace him. For example, there are some shire clerks who retire and who would not mind some part-time work. Perhaps the Attorney General could tell me, by referring to the gentleman who is with him, whether this facility already exists, because I know that at times some councils have difficulty in knowing where to go to find another shire clerk. Sometimes this goes purely by way of local knowledge. There is a chap who served on a number of different councils in my electorate who makes himself available even though he is no longer in the local government sphere. He is quite happy to relieve, particularly in councils in coastal regions, if it is necessary. Has the Local Government Department some form of pool that could assist councils in this situation?

Hon. J. M. BERINSON: I am advised that there is in fact a pool of qualified persons who are available to act as relieving officers and that the activities of these people are coordinated by the department. Unfortunately, it appears that their numbers are insufficient to meet the need, but the general framework is there within the department for assistance in this activity.

Clause put and passed.

Clause 13: Section 171 amended—

Hon. P. H. LOCKYER: This clause allows for annual electors' meetings to be held without the auditor's report on the annual financial statements. As I pointed out in my second reading speech, during a normal year a number of councils seek ministerial approval to hold annual electors' meetings without having received the auditor's report, so that the meetings are not held too far distant from the end of their financial year.

I note that when this Bill was originally introduced into the other place, this clause proposed that, when the auditor's report was received, a meeting should be held within 30 days. I am pleased to say that, at the suggestion of my colleague in the other place, the Government saw fit to amend the time to 60 days, which is far more sensible. For instance, if a report is received by the clerk one day after the monthly council meeting, the council would need a special meeting convened to meet the deadline. In particular we must take wheatbelt towns into consideration; there, in December, it can be unnecessary.

I commend the Government for amending the time to 60 days and for that reason we will support this clause.

Clause put and passed.

Clauses 14 and 15 put and passed.

Clause 16: Section 242A inserted—

Hon. G. C. MacKINNON: I ask members to vote against this clause. I have plenty of sympathy for small shopkeepers. Incidentally, section 242 defines a stall as a moveable or temporary fixed stall; defines a stall holder; and allows a council to make by-laws for regulation of the places in which stall holders can set up stalls, and so on.

By inserting this draconian provision, the Government is forcing the stall holders and, indeed, the public, to follow a line of action of which I personally do not approve—it is quite proper in a way, and is done—that is, to agitate to change the council, or the Government, or whatever. It is done all the time but I think it is possible for Governments to forestall that sort of action. By following the course it is taking, the Government is almost predetermining a line of action by people to change the law. I do not blame this Government. Unfortunately, and in a somewhat sheepish fashion, it is following a line commenced in this Chamber by Hon. Robert Pike, instigated by Hon. June Craig.

For 27 years prior to that, a number of us had been able to avoid this sort of draconian situation and we made it possible for traders to operate in all sorts of situations. A number of local authorities have allowed this. One of the exaggerated claims was that put forward by Hon. Mick Gayfer the other day, when he spoke about a fellow going to Corrigin and setting up a truck full of vegetables outside the local greengrocers. Nobody in his right mind would buy from him—people would just operate at the local shop. But we are talking about a totally different thing, about young people who set up stalls. In every other city the local authority has coped with the situation and there is no doubt that public pressure has made it a proper, acceptable arrangement.

Hon. J. M. Berinson: You are not suggesting that the other cities are free of controls and regulations?

Hon. G. C. MacKINNON: Of course not, but they allow such conditions when they have not had to impose them. I am saying the Government is making it possible for the situation to exist where the proper conditions to allow them to enter the field are not there. Mr Piantadosi's local authority has coped with the situation, as has Mr Edwards' local authority. Who represents Rockingham?

An Opposition member: Mr Kelly and Mr Dans.

Hon. G. C. MacKINNON: Mr Dans' local authority is coping with the situation in Fremantle and Rockingham and, in company with Mr Kelly and Mr Piantadosi, I looked at that. We saw stall holders operating. Mr Williams' and Mr Medcalf's local authorities cope with the situation—they have not asked for these sorts of rules. There is only one local authority which has asked for the rules and the Government has gone along with it. When Hon. June Craig, a member of the Liberal Government, introduced them, I was able to persuade Mr Hetherington, Mr Dowding, and sufficient or all of the Labor members—and probably Mr Berinson—to vote with me, and we threw it out. Or we did not have to throw it out; we persuaded Mr Pike to report progress and ask leave to sit again, and he never brought the Bill back, for the simple reason that he knew jolly well that Mr Hetherington, Mr Berinson, Mr Dans, Mr Dowding, and all the other members would vote against it. He was not so silly that he did not know when he was facing defeat. I have checked the *Hansard*; he reported progress and asked leave to sit again and we never saw the Bill again.

Hon. P. H. Lockyer: Or Bob Pike.

Hon. G. C. MacKINNON: Or Bob Pike. Perhaps there is a lesson there for Mr Berinson!

Hon. I. G. Pratt: Who was the other Minister who tried to bring those rules in, and what has happened to her?

Hon. G. C. MacKINNON: The two Ministers who tried to foist this—

Hon. J. M. Berinson: It is a sad day when you rejoice in defeat.

Hon. G. C. MacKINNON: I am not rejoicing in defeat because I was very fond of the lady. I will not be so hypocritical as to say I was fond of Mr Pike, but I was shocked at the defeat of Hon. June Craig. However, I must admit that I did warn her about this.

Every other local authority has coped with the situation, and I read out to the Chamber that Fremantle has coped. Mr Berinson says we need these laws but I am saying that such is the reasonable nature of the local authorities represented by Mr Edwards, Mr Piantadosi, Mr Dans—and by me in Bunbury where we have our local markets and our stall holders who work there—that these laws are not necessary. None of them has asked for such draconian rules. They do not have them in Sydney, or anywhere else.

I have said that if the objection is that such stalls are not subject to health laws, they should be made subject to health laws; if it is that they are not subject to rates and taxes, they should be subject to those charges. The traders agree with that. They are prepared to pay several thousand dollars for two square metres. I have asked them how they would feel if they were allowed to trade in an area such as that near the blood bank. They said they would be quite happy about that because it is no further out of town than the area set aside in Sydney. They would like to be able to operate for six or seven days a week, but are prepared to operate for only five days a week. They are also prepared to pay fees, several thousand dollars' worth, which would be comparable to payment of rates and taxes.

What course is left open to them? The only course left to them is to agitate by making nuisances of themselves, as they are doing. They must have cost Perth City Council thousands of dollars in legal fees already.

Hon. J. M. Berinson: Doesn't that suggest something to you?

Hon. G. C. MacKINNON: It indicates that their present situation is impossible. Stall holders in Sydney do not cost the Sydney City Council thousands of dollars. They will not cost the Fremantle authority thousands of dollars. None of the local authorities in Wanneroo, Rockingham, Fremantle or Subiaco will face legal suits that will cost thousands of dollars. Those authorities do not have to confiscate all sorts of goods, because they have reasonable rules.

Hon. J. M. Berinson: Are you sure they don't have similar powers?

Hon. G. C. MacKINNON: We are just putting those powers in the Bill.

Hon. J. M. Berinson: No, I am referring to the interstate comparisons that you draw.

Hon. G. C. MacKINNON: I am sorry; I cannot hear the Attorney General. If he spoke up, I could hear him.

Hon. Kay Hallahan: I can hear him.

Hon. G. C. MacKINNON: I am older than Hon. Kay Hallahan and have had a much harder life than she has.

Hon. Kay Hallahan: Self-inflicted, no doubt.

Hon. G. C. MacKINNON: The heartlessness of women never ceases to amaze me, especially women in Labor. I suppose that has something to do with the condition that they are in.

I am sorry that I missed the interjection of the Minister, but I am quite sure that it was succinct and to the point.

Hon. J. M. Berinson: I was asking whether you were quite sure that powers of this nature are not available to the interstate municipalities you are referring to.

Hon. G. C. MacKINNON: That is a good question and the answer is that I am not sure. The point is that even before the powers become law they are being used in this State. Let the Minister deny that if he can. I read out the relevant cutting from the paper. Before those powers become law, they have been used in this State. I am not fortunate enough to have someone telling me what to say word by word as we go along. I rely purely and simply on what I regard to be a proper, humane approach to a real problem.

I suggest that the only solution left to young people who want to make a living in this fashion is to agitate to get some sort of market situation. I make one prognostication; I indulge in one bit of fortune telling. I suggest that they will win. I say that because they have won in Brisbane, Sydney, Melbourne, Wanneroo, Midland, Rockingham, Subiaco and Fremantle. I ask Mr Piantadosi where else we visited.

Hon. S. M. Piantadosi: You have covered them all.

Hon. G. C. MacKINNON: I have covered them all, and between us we have seen them all. All those markets are operating. The people want them. Those stall holders do not want to undercut the ordinary shopkeeper. I have family members who have little shops. I would not want them to be undercut. They are prepared to face the competition or to join it provided these people pay the same sort of rates and prices as they do. We should set up a system whereby they pay the same rates and face the same laws, but we should not introduce these sorts of draconian rules. They could be introduced afterwards if need be; but these people should at least be given access to areas in which to sell their goods. Fremantle, with those other local authorities I mentioned, has given them such access. I suggest that only one local authority has asked for these rules. According to my information, that local authority started to use them before they became law, which is a great pity. I ask that on this occasion the Attorney does the same as we did last time such legislation was introduced. I notice that he has one of his backbenchers on his knees to him asking him to go along with me. I know that many of his members would feel that they would like my ideas to prevail.

Hon. J. M. Berinson: The place won't be the same without you, Mr MacKinnon.

Hon. G. C. MacKINNON: I suggest that the Attorney do what Mr Pike did and ask leave to sit again while he reconsiders this legislation. If he does so, I promise him that I will not do a jolly thing to see that he follows the same fate at his predecessor.

Hon. P. H. LOCKYER: Mr Chairman, I have a history of respecting age and integrity but, unlike my colleagues on the opposite benches, I have the opportunity to disagree with others in my party. While I have the deepest possible sympathy for Hon. Graham MacKinnon's argument, I feel I should clarify certain areas of it. I noticed that he very carefully, when speaking of my good friends, Graham Edwards and Sam Piantadosi, as members of a particular committee, neglected to say that I was the chairman of that committee. It was probably a mere oversight, but I point out that I also saw the various markets.

What Hon. Graham MacKinnon said about the operations in Subiaco, Rockingham, Midland and the other areas is quite right. However, when we consider this clause and its application, we see that the honourable member omitted to mention that, in those places, areas have been put aside specifically for these traders.

Hon. J. M. Berinson: Spot on!

Hon. P. H. LOCKYER: In Rockingham, the trader hires a stall, pays a certain fee and is entitled to operate. I support this clause because of the situation that exists in the Perth Hay Street Mall. The Hay Street Mall is only a quarter of the size of its opposite number in Adelaide, the Rundle Street Mall. Hay Street is a very narrow street. Before that section of Hay Street became the Mall it was a one-way, narrow street.

Hon. Robert Hetherington: Rundle Street wasn't very wide.

Hon. P. H. LOCKYER: No, but it was a much bigger mall. Hon. Robert Hetherington would remember that because that was his birthplace. Many great things come out of Adelaide. I instance the Grand Prix and, some short number of years ago, Mr Hetherington.

The Perth City Council has supported the shopkeepers in Hay Street. I went to the trouble of calling on a great number of the shopkeepers and of looking quietly at the situation of the street traders in Hay Street. The shopkeepers put up the argument that the Mall simply is not big enough to cope with these traders. When they set up their stalls they interfere with the doorways through which people must go to conduct their business. Their PA systems for their operations are noisy. The argument that shopkeepers so succinctly put up is that they pay rates and taxes and that there is little enough business in the city as it is. That business is ever diminishing because of the spread of various shopping centres outside the city.

It is no secret that many things have affected the inner City of Perth, notwithstanding that it is a pretty place; for example, the availability of parking and the ability to be able to drive a car into the city. It is quite a traumatic event for housewives or other people to shop in the city. The trade in central Perth is diminishing and people are not using the centre as they did some years ago. For instance, 10 years ago it would have been traditional to do one's Christmas shopping in Perth, but one has only to look at the suburban shopping centres to see that the major trading companies such as Boans, Woolworths and others have noted a changing trend, and that people are now shopping in the suburban centres. Therefore, it is only reasonable that the shop operators in the Mall should look at every possible opportunity to encourage potential customers. This matter has been carefully considered by the Perth City Council which is of the view that it should be given more power to deal with street traders. I agree with Mr MacKinnon that they are becoming a nuisance and if I operated a business in the Mall I would be doing my best to remain in business. Some rules must be made. Many areas are available to these people, and I understand that the merchants in the Mall are not averse to these traders being given a section in which to operate. In fact, they encourage such activities. We saw a good example of that in the Victorian markets in Melbourne, which are close to the city centre.

Mr MacKinnon is quite right; people like this sort of activity and the Perth merchants would be happy with operating in their own section, perhaps in an area such as the Perth Railway Station. They have become a nuisance at present to those who pay their rates and taxes. While it pains me not to be able to agree with my friend and colleague who shares my office at Parliament House, Hon. Graham MacKinnon, I must disagree with him and point out that I shall support the Government on this occasion.

Hon. G. C. MacKINNON: If members will excuse me, I will take out my handkerchief and blow my nose, after that performance by Mr Lockyer.

I have no argument with Mr Lockyer. My heart bleeds for the shopkeepers of central Perth because successive Governments have let them down. I suggest that the Perth City Council should send a representative to look at Toronto in the Province of Ontario, Canada, to learn how to keep a city alive. I have already said that had the Government, in consultation with the Perth City Council, set an area aside for these traders, the situation would have been satisfactory. In a few years' time the Perth City Council will suffer because the markets will move away from where they are currently, situated. Mr Lockyer, Mr Piantadosi, Mr Edwards, and I have already recommended that move. Indeed, in our decision we were marginally ahead of the Government, and the Government was marginally ahead of our report. I suggest that the current city markets might become markets such as those I saw in Sydney and Melbourne, and they will attract many

people away from the centre of Perth. A stall holder can operate in two square metres of space, which is an area from where Mr Gayfer is sitting, including Mr McNeil's seat and my seat. That is a small area to occupy. I suggest that properly policed and organised, and paying their rates and taxes, or the equivalent, they can bring custom to the middle of the city.

Hon. J. M. Berinson: How many would you allow in the Mall?

Hon. G. C. MacKINNON: About 15.

Hon. J. M. Berinson: What would you do with the others?

Hon. G. C. MacKINNON: I would give them an area elsewhere.

Hon. J. M. Berinson: They do not want to go elsewhere; they want to be in the Mall.

Hon. G. C. MacKINNON: I am winning a point gradually. I have the Attorney General up to 15 and previously he would not agree to any; he said we should chop off their heads, grab their goods, and cart them off in a truck.

I thoroughly agree with everything Mr Lockyer has said, and I am pointing out that these people will play up without the discipline of an orderly arrangement. I suggest that they will not play up within the discipline of a properly organised system. I suggest that a certain number should be allowed to operate in the Mall, as many as can operate on a reasonable basis. Perhaps the overflow could be catered for somewhere near the blood bank in one of the streets blocked off by the railway, provided those traders were allowed to operate on a regular basis. If they are given an opportunity to trade, and know that each will get a turn, they will operate in an orderly fashion. The Government is not giving them that opportunity, it is only making it possible for security guards, police, and trucks to round them up and cart their stuff away. No other local authority can do that. I ask the Attorney General to be at least as humane as Bob Pike, to report progress, ask leave to sit again, and consider the matter further.

I am getting overwrought about this; members are all so young that they have not lived through this situation and do not know what it is like. A barbaric attitude is coming forward. This action was tried under the Liberal Government, but I was able to stop it in those days because I was able to play on the sympathy of Mr Berinson and his members and they agreed with me. We were able to prevent Bob Pike's proposal from being implemented, and the provision was not incorporated in the Act. Unfortunately, I do not have the same influence on the Liberal members. We have all switched places now, the Labor members have become the Government, more inclined towards free enterprise and grinding these people into the ground; and this side has become more socialist. Mr Lockyer will not listen to me.

Hon. P. H. Lockyer: I did listen.

Hon. G. C. MacKINNON: But he did not agree with me. I am prepared to accept the idea of a separate area provided that the Government makes a rule that it sets the licence fees and allows the traders to operate in their section on payment of a reasonable licence fee. If it is set up some distance out of Perth, it will work to the detriment of the Perth city traders, but they seem to want this activity removed from the centre. I ask the Government not to stop the traders operating by adopting this harsh and unconscionable approach.

No other local authority or city has seen the necessity to erect these brick walls and to move in the way we are trying to move. Every other local authority has set up a separate area such as in disused parking lots or, as in Bunbury, in a shed. Melbourne or Sydney has its markets. Elsewhere they have set up rules to keep the street traders under some sort of discipline.

Hon. P. H. Lockyer: They are not in city malls.

Hon. G. C. MacKINNON: Some are. They are in the main streets of New York and London.

Hon. J. M. Berinson: When you talk about markets, you are not talking about malls, which is the point Mr Lockyer is making.

Hon. G. C. MacKINNON: Mr Lockyer wants a separate area for them and I am saying that we should not necessarily disagree with that—if we can prove there is no room for them in the Mall. It would be foolish to give them only a separate area, because it would take business from the Mall. Mr Chairman, I know you would not allow Mr Piantadosi, Mr Edwards or Mr Lockyer to interrupt, but if you ask them later I know they will agree with me that overseas we almost had to hold hands to walk through the crowds. That was the only way we could keep each other in sight at times. The street traders attract crowds and I am suggesting that the Perth traders want people in the city centre, yet we are doing everything possible to exclude people from the city centre.

Some of these street traders are in there now because they have bought little laneways. I asked one about his spot and he told me that he owned the lane. It would be a pity to set aside an area away from the Mall, but that could be at least the first step rather than bringing in these harsh and unconscionable rules. All the big cities have these people. This is just a little city; we have just reached one million people. We can manage them at Midland during the weekend and at Subiaco, which could easily operate throughout the week. Fremantle has them. However, it seems we cannot handle these people in Perth.

What the Minister is suggesting will ensure that we see agitation by these street traders. We will see them standing for the local council. Instead of a little party like the National Party in the country, we will see a street traders party in the city. This course we are pursuing is a bad one and in the fullness of time members will see that what I have said will happen, does happen. The street traders will get a member onto the local authority because they are quite determined and enough of them have the intelligence to do it. After a couple of years we will see the street traders in the city operating legally and then everyone will look back with shame on this legislation—I hope.

Hon. H. W. GAYFER: I do not think any of us disagrees with the sentiments aired by Hon. Graham MacKinnon, but what we are dealing with here is an amendment to section 242 of the Local Government Act. This is the section which sets out all those things that Mr MacKinnon wants. I quote from section 242 as follows—

> (2) A council may so make by-laws—
>
> (a) for regulating the places in which persons may set up stalls;
>
> (b) for prescribing the days and times during which a stallholder may conduct business at a stall;
>
> (c) for regulating the conduct of stallholders in and about stalls;

So this section sets out all the things that a council may do if it wants to have street traders operating in its town or city.

Once a council has agreed that it wants stalls in certain places, it is entirely the right of the council to act in accordance with this provision, so that if the street traders operate their stalls in a place where the council has said they could not operate those stalls, perhaps to the inconvenience of someone who does not want to see these stalls, a council officer is authorised to remove and impound any goods, wares or merchandise from any street or other public place in breach of the conditions on which a licence has been issued by the council under any street trading law. So it is the existing section 242 in the Local Government Act that gives them the power to operate in the markets as described by Mr MacKinnon when he referred to the Melbourne markets. I repeat: The local council can agree to their operating in certain areas.

All this amendment does is to provide that if the street traders go outside an area that a council has set apart for them, these various forfeitures can take place.

The point should be made to Mr MacKinnon that we in this Chamber cannot tell a person where he can put a stall. Such a decision is entirely within the province of local authorities and is covered by section 242 of the Act. No matter what Mr MacKinnon might want us to do, we cannot give permission for vendors or hawkers to operate up and down the Hay Street Mall, the main street of Corrigin or anywhere else. The principal Act allows for the councils to make that decision. We are now adding a provision whereby if someone does not adhere to the rules decreed by a council, the council can remove that person's goods or wares from the place where he should not be trading. Mr MacKinnon's argument has nothing to do with this amendment; his argument is really to do with the existing section.

Hon. E. J. CHARLTON: Mr Gayfer has said all I really wanted to say. I might add that, in Brisbane, buskers have to go through an audition before they are allowed to perform. It seems to me that some of the people we have seen in the Mall could undergo the same sort of thing.

They have some hot-shot individuals running around every quarter of an hour with $5 or $10 in their pockets to get the mob to gather round. People are silly enough to rush up and buy when they see the bloke with $5 in his pocket buying the goods. He has been using the same $5 note for three or four weeks. Fair enough!

Hon. G. C. MacKinnon: You don't know that at all.

Hon. E. J. CHARLTON: I have seen them do it.

Hon. Kay Hallahan: Can you explain?

Hon. E. J. CHARLTON: As a country boy who has to wait for his wife for quarter of an hour or so when she is late for an appointment, or for sons or daughters, I have seen these people in the Mall. I have seen the man who is the stooge; he has $5 or $10. When the man who does the talking gets the people in by saying, "I am not going to charge you $10, or $9, or $7, or even $6, but only $5 for a special", he goes on for some considerable time. When the man says, "If you do not take it now it will not be here tomorrow", along comes the bloke with the $5 and says, "I will have one", and all the sheep follow. After the people have gone the man comes back and gets his $5; stands back in the crowd for a while, waits till the street trader gets his breath back, and the whole thing goes on again.

As Mr Gayfer pointed out, if the council wants to allow a place in the city for those people, that is a matter for the council. I believe the Mall is not the place for those street traders, not that we are in a position to determine it. That sort of situation does not occur in the Brisbane Mall because I was there a few weeks ago. I do not think it adds anything to the place.

Hon. S. M. PIANTADOSI: I agree with what Hon. Philip Lockyer had to say about our visit to the Eastern States. The markets there are in one central area. In New South Wales on a Sunday, the produce markets are not used, and 27 000 square feet of space is opened up to accommodate these people. In Melbourne the traders set up every Saturday morning at the old Victoria Market and they sell a variety of goods such as meat, dairy products, fur coats, and the lot. There were still small fruit trolleys in Bourke Street and Swanston Street, and other streets as well, but one never saw any people hawking goods along city streets. In South Australia there are old markets which cater for that situation; again they are in a central location.

In Western Australia the only area where street selling occurred some time back was in the Stirling area where there were fruit and vegetable stalls. That changed considerably because the shire council applied the health regulations. The same situation applied along Albany Highway. The efforts of street traders in that location have been curtailed considerably.

We discussed this at the committee meetings and we all agreed on the question of the health regulations. There was consensus among the four of us on the need for a centralised system. A lot of shopkeepers put up arguments in support of street trading. There is a place for those people but I do not think it is in the Mall. Possibly an area like the Metropolitan Markets would be suitable. I point out that the Victoria Market is at one end of the city and the Flemington Market is further out of the city in Sydney than the Metropolitan Market here, but they have still proved popular, and the clientele who wish to frequent them still go there.

Hon. ROBERT HETHERINGTON: I support this clause with no great joy because I remember the Bill to which Mr MacKinnon referred. These clauses are not quite as draconian as those in the other Bill. I am not very happy with the Bill because I am not happy with something which empowers councils to impound the goods of street traders who are sometimes people without a lot of capital. I think it is a pity that all this is tied up with the confrontationist attitude of the Perth City Council and the street traders in the past. I do not know whether they could have done any better; I do not know whether we have to blame the Press for making a lot of noise about it. Certainly it has given a most unfortunate impression.

I agree with other members that street traders are popular. Other members have mentioned their travels, and I point out that if one goes to London or Florence one can find streets full of street traders. One says, "Isn't this marvellous; why don't we have something like it?" Of course, they are exotic European places.

Once the Bill is through we should think about doing something about this situation. I wonder if it is not possible, when we remodel Forrest Place to be wider and bigger with all sorts of wonderful things, to somehow put in a space for street stalls and street traders so we can have that exotic European atmosphere in Perth. If we could have something that would appeal to people in Perth as well as tourists it would be worth considering. Perhaps once the Bill is passed and the Perth City Council does not feel so threatened by the power of the street traders and it can control them, we may be able to settle down and do something constructive. We may be able to see whether somewhere in Perth or Northbridge, or between, in the various places we are planning to make the city more interesting, we cannot find a place where street traders flourish to their own benefit and to make the whole environment more interesting.

Personally I do not buy from street traders, but that is because I am peculiar. People should be able to buy from them if they want to. Perhaps Perth could improve itself if it thought about this aspect. Although I was strongly opposed to Mr Pike's Bill and I am not terribly happy about this one, it has been more or less forced on us. I hope once the Bill is through people will think about what we can do in future, particularly as we are going to remodel the city to make it bigger, brighter, and more interesting.

Hon. J. M. BERINSON: So many of the relevant matters have been covered by other speakers that I think I can be brief. At the outset I endorse the comments of Hon. Philip Lockyer in particular, and also those of Mr Gayfer and Mr Piantadosi.

I have no argument against the setting up of a stall market, and I see nothing in this Bill that is inconsistent with that. What we are dealing with, however, is something quite different. It is exemplified by the sorts of problems which we all know about and which exist in the most extreme form in the Hay Street Mall.

I believe that in dealing with a proposal like this we have two basic questions to ask. First, do we agree that street traders should be subject to some sort of regulation and control? The Government's answer is, "Yes." The difference between this debate and the debate three years ago is that it was then possible to argue that the by-law powers of the local government bodies, combined with the enforcement powers which they then enjoyed, were adequate for the task. It was then said that it was unnecessary to move beyond that point because the proper administration of existing provisions would be enough.

We have had three years' experience since then, and it is notorious that those provisions are not enough. We have had a number of individuals who have absolutely thumbed their noses at the local government by-laws and, indeed, have made a mockery of the law in this area. I have referred to individuals having literally hundreds of summonses served upon them and in the end, after a process which has taken as long as a year and which has cost local government thousands of dollars, they turn around and say, "They can be paid off by four days in prison in default of payment of the fines because the default sentences run concurrently." That is the sort of thumbing of the nose at the existing by-laws which we have experienced over three years, and it constitutes a real problem.

We have reached the point of agreeing with local government bodies that it is necessary to have proper control and regulation over street traders. To do that we need more effective enforcement measures than have been available. It is the purpose of this clause to provide them.

The second basic question, having agreed, I hope, that some sort of control and regulation is necessary, is who should exercise that control and regulation. Should we attempt to do that from the Parliament or should we accept that this is a proper area of authority for local government?

I would argue that this is quite clearly a matter which should be left to local government because it is in the best position to consider locations and cases on their individual merits and to judge the various factors that should come into this judgment. I would suggest that none of us would want to get into the business of using State authorities to issue these sorts of licences and maintain the ordinary free flow of traffic. In this respect I point to one of the examples of unregulated street trading that has not been mentioned so far. Most of the attention has been concentrated on the Hay Street Mall, but a different situation occurred in Murray Street last Christmas.

In the absence of a mall area, utilities and trucks were parking in Perth City Council parking meter areas and were remaining there all day while their owners sold their merchandise from the backs of vehicles. It was a clear violation of the parking requirements, and every half an hour a Perth City Council parking attendant would go along and issue a ticket. I do not know whether it cost $7 or $10 a time. However, a $10 fine each half hour during the Christmas rush would have been considered very cheap rent.

In the process we had street traders who were not only competing with the shopkeepers' business, but were also preventing people from parking in front of shops which was again to the detriment of the shopkeepers. That is another example to illustrate the problem, and I ask whether we should bring the control of city parking into the Parliament on the basis that the Perth City Council cannot be trusted with it. The answer would be "No." We do need some reasonable regulations in this area and local government is the appropriate body for that purpose. That is the object of this

clause. It involves several elements of discretion by the local government authority before any action is triggered. The first is the existence of by-laws to which Mr Gayfer has drawn attention, and the second is the decision to act in this way. After all, proposed section 242A does not say that goods must be seized in all cases because at that point there is an element of discretion available to the local authority.

With due respect I think it could be said that this has been an extensive and useful debate on the issues involved, but at the end of the day we come down to the practical question; that is, will we regulate or have a free-for-all? If we should regulate, surely the regulation should be effective and it should be left with the local authority to implement rather than to this Parliament.

Hon. G. C. MacKINNON: I am delighted that everyone who has spoken so far has agreed with me, but I am sad that they will not vote with me.

Hon. J. M. Berinson: We have not agreed on the matters on which we are voting.

Hon. G. C. MacKINNON: Yes, we have. The example which Mr Berinson brought forward has reinforced my argument. For instance, we have rules in regard to parking and a person who drives his vehicle into a half hour parking bay and puts his money in the meter can keep his vehicle there for half an hour. However, people often find their way around these sorts of things. I have been there and done that. I recall what occurred regarding rock lobster. As the price increased I had to alter the rules in order that the penalty was severe enough.

The obvious penalty, if one parks his vehicle for two hours longer than he should, is for that vehicle to be towed away. Most cities have that rule and it seems quite an obvious solution.

To reinforce my argument Mr Berinson said that we should apply the rules. If a person has a properly licensed vehicle and he parks it in a bay, he must pay the necessary fee for parking it.

When I was chairman of the rights and privileges committee we were offered the opportunity to park our vehicles free of charge when the members of the committee appeared before the Salaries and Allowances Tribunal. As chairman of that committee I refused the offer because I believed members should pay for those things for which they are responsible. Of course the owner of a vehicle should pay a licence fee, and if he parks his vehicle illegally it should be towed away. The rules must be established first.

The Government is giving local authorities *carte blanche* to refuse licences and to make it impossible for street traders to trade. If, in desperation, the street traders do trade in order to make a living, the local authority concerned can say, "We will confiscate your goods and you will be thrown into the dungeons." How much harsher can one be? All I am asking is that the Government establishes reasonable rules by which street traders can obtain licences to operate.

One can then apply the rules afterwards. That was my argument before, when everyone in the Labor Party agreed with me and we were able to persuade the then Minister to drop them.

Members all agree with me again that on this occasion the Bill has not been altered enough and Labor members are still caucused. Last time Mr Pike brought in so many changes that all the rules that applied to what had happened at the previous Caucus meeting went out the window. I am frightened to mention the person's name because it may bring people's hackles up and they may decide to vote against me.

Everyone knows that street traders are an attraction in the city and other councils have solved the problem, but this Bill will not solve the problem. It will empower some authority—I do not care which authority it is—to grab them, confiscate their goods and throw them in the dungeon. I am old-fashioned but I am not so old-fashioned that I enjoy that sort of behaviour, and I for one will vote against the clause.

Hon. I. G. PRATT: I begin by expressing my unhappiness at what is happening to our Committee system. Once we had a situation where the Minister handling the Bill in Committee personally answered everyone who spoke. I thought that was why we had a Committee system. If someone has a specific question on a clause past history has, until the last three years, been for the Minister to specifically answer that query.

I was concerned at the Minister's comments when he rose to answer queries from the group of speakers previous to me. He said that he would not be speaking very long because some of the other members had already answered some of the queries. I believe members speaking in the Committee stage have a right to have

their queries answered by the Minister because it is the Minister who is handling the Bill, not some other Opposition member or Government backbencher. I think we have had seven speakers tonight, and that is why I remained seated until we had been through a break before I had my say. This system of letting everyone speak and answer is leading to a state where the Committee stage is becoming more like a second reading stage and members are not getting to the specifics of the clause. They are speaking generally about the feel of it and the philosophy behind it.

I want to deal with the details of the clause. Some honourable members have said that this clause is not as bad or as draconian as the last one, but I think it is as bad as the last one. It has the same sort of confiscation powers, particularly those referring to perishable goods, and for assuming control of motor vehicles. My main concern on the last two occasions when Mrs Craig and Mr Pike brought in Bills was the effect on the individual trader—not necessarily whether he should trade in the Mall or somewhere else. However, I am concerned with traders in country areas. They may be people who provide fish supplies to country towns where there would not be fish otherwise. You, Sir, would know the sort of people I speak of, as you represent a country area.

I refer members to clause 16(2), which assumes that the law has been broken and that the person being dealt with is guilty. Further on in the clause we find the mechanism for what happens if a person is found not guilty. Clause 16(3)(b) refers to the serving of the notice. Clause 16(4) deals with perishables. Perishables have to be recovered within a period of three days.

The point I raised on previous occasions was that perishable goods which are taken on a Friday afternoon, when the council offices are closed, stay in the office until Monday. If those goods are perishables, such as fruit, they may have deteriorated to a state where they are not worth reclaiming. After doing that, we may find when the case goes to court that the person was not in the wrong. His goods have gone, particularly if we are looking at fresh vegetables, melons, meat, fish, ice cream, and items that needed to be refrigerated. They are taken and deposited at the council depot at 4 o'clock on Friday afternoon and the shire clerk has gone. There is no-one to authorise the release of those goods and by Monday it is too late. With clause 16(4), we are faced with a situation that the goods can be confiscated and taken away without a guarantee of a prosecution. The clause does not say the council will prosecute. It says the council "may" prosecute.

I refer members to clause 16(5) which provides that a street trader can face his goods being confiscated and then have the court impose a penalty. But this is not the end of it. I refer to clause 16(6)(b) where the council can then sue him for the cost involved. This is pretty heavy treatment. The street trader has his goods confiscated; he can be fined; and then he can be sued for the council costs. In clause 16(7), the council may then serve notice to return the goods.

That person has had his goods confiscated, he has not been convicted, yet the council can serve notice on him to collect the goods. The goods were taken away from him in the first place and is it not reasonable that if the court finds that the council should not have confiscated the goods, the council should return them to the trader? The Bill does not provide for this event, and the previous Bill to which I objected did not, either. It is nonsense to suggest that the Bill is not draconian, because the provisions are the same as in the previous Bill. If, for some reason, that person does not collect the goods, under proposed subsection (8) the council may sell those goods. If those goods are sold the proceeds of that sale shall be paid into the council's municipal fund. Therefore, we could have the situation in which goods may have been confiscated that should not have been, for some reason they have not been collected, and the council is able to sell those goods and keep the money.

Proposed subsection (9) refers to perishables, and states that if they have not been collected within a period of three days the council may sell or otherwise dispose of the perishables. A person may have had perishables taken away from him on a Friday, not necessarily justifiably; the council may decide not to proceed with the prosecution or it may go to court and it may be found that the trader has no case to answer; but the goods can be disposed of by the council. If a person in that situation were prevented from getting to the council depot on a Monday, his goods could be disposed of, either by being sold, thrown in the rubbish bin, or in some other way. The person involved may have done nothing wrong; he may have been acting completely within his rights.

The officer apprehending him may have been mistaken or not have been acting correctly. Those of us who have been around for some time will recall a municipal traffic inspector who operated in the Wanneroo area and shifted speed restriction signs so that he could charge people with speeding. He caught a number of people before he was found out. Similarly, in this situation, either on purpose or by accident, a council officer acting in good faith could make an honest mistake in confiscating goods which he should not.

It is completely unacceptable that people's goods can be taken away and disposed of, when it has not been proved that the people have broken the law.

I refer now to proposed subsection (10), the good faith clause, which deals with an officer's liability for any loss of or damage to goods.

Let us assume a person who possibly is innocent had his goods mistakenly impounded by an officer who believed he was doing the right thing. That person has been deprived of the use of his goods until his case has been to court and, even if he is found not guilty or the council decides not to proceed with the prosecution, he has already suffered a severe penalty even though he has done nothing wrong. With regard to damage to goods, I ask members to consider a street trader who specialises in blown glass; many of us have seen the delicate articles of blown glass which must be handled carefully because they are fragile. If any damage occurs to those items after they have been confiscated and carted to a council depot, the trader must prove in a court that the confiscating officer did not exercise due care. It will be hard to demonstrate that a piece of fragile blown glass was broken because the person handling it did not exercise due care. The trader will have to go to the expense of taking the case to court and it will be hard to prove that the officer was not taking care.

Similarly, in the case of perishables, a confiscating officer could have a carton of easily damaged fruit and, while carrying it on a slippery surface, could fall and damage the fruit while taking all the care in the world. Such goods can be damaged by a simple accident. That would be bad enough if the trader from whom they were confiscated was guilty. However, as I pointed out, the provisions allow that some of the people involved will not be guilty, will not be convicted, or will not have action taken against them.

With regard to proposed subsection (11), I spoke long and hard about this to my colleagues in years gone by when an attempt was made to foist a similar provision on us. This proposed subsection deals with vehicle entry. The provision allows that an officer may enter a vehicle. What happens if the person who owns that vehicle is quite sure that he is not breaking the law, refuses to give up the vehicle and locks the doors? Suppose that trader has done nothing wrong and the council officer, mistakenly and in good faith, believes he has broken the law? As I understand it, and the Minister can correct me if I am wrong, I believe similar words were contained in the off-road vehicle legislation; the officer can physically gain entrance by breaking a window and unlocking a door.

Proposed subsection (12) deals with the person resuming control of the vehicle. What is "as soon as practicable"? What does it mean in this Friday afternoon situation where a vehicle and the goods are taken just before the shire yard is locked up? I presume the officer will have to lodge the confiscated goods in a secure place which would I presume be the council depot. He gets in just as the yard is due to be locked up and he has no time to unload the vehicle. When is he going to unload it? At 8 o'clock on Monday morning.

Not only have the goods been impounded but the owner has been deprived of his vehicle for the weekend. I do not think that is what is intended, but it is what will happen in actual fact. The same thing could happen on a weekday where the vehicle was taken in late in the afternoon; the person may not gain access to it until the next day. There might be an urgent need for that person to use that vehicle in his business, for shifting or collecting goods. Again we might find that after his vehicle is taken away he is deprived of the use of it and he has no case because somebody has made an honest error in good faith.

Under proposed subsection (13), if a vehicle has been left for two months it may be held by the council for a further period until storage charges have been paid. We might find the vehicle has been impounded, the owner has got into some difficulty—anything could have happened and for a couple of months he cannot receive that vehicle. It may be that the council officer damaged it while driving it and it is not roadworthy. There might be a dispute about the damage. But if it is not collected within two

months the council may refuse to allow the vehicle to be taken until costs have been paid to the council.

If the person refuses to pay the storage costs of the vehicle the council may sell it and put the money into municipal funds. Again that person does not necessarily have to be guilty.

Hon. G. C. MacKinnon: The Fisheries Act has nothing on this!

Hon. I. G. PRATT: To get back to the common liability part, after taking the vehicle the council is not liable for any damage to it. It is the same with goods. Council officers can take them away and if something happens to the goods they are not liable.

Sitting suspended from 10.34 to 10.53 p.m.

Hon. J. M. BERINSON: Hon. Ian Pratt has raised some serious questions which go to the heart of the problem which this clause is designed to meet. There is no doubt that clause 16 does provide substantial powers to local government bodies, and that means that these powers will have to be exercised responsibly and with proper care. I can find no reason to doubt that local government bodies would in fact administer these provisions responsibly and even cautiously.

We have spent a considerable part of the present discussion on the particular problem of the Perth City Council. Taking that as the example, it is fair to say that the Perth City Council has exercised very great patience and restraint and indeed has explored all available lesser remedies before coming to the Government again to seek these more stringent provisions.

I do not suggest that Hon. Ian Pratt was alleging that local government bodies would not behave responsibly in these matters, but I do suggest that many of the questions which were raised in the course of his comments were in fact based on a view that councils would or might act either in bad faith or even maliciously.

There was also an assumption that councils would not be prepared to make appropriate arrangements to minimise rather than maximise the difficulties which street traders might face when subjected to the provisions of clause 16. The example I have in mind is the problem which Mr Pratt suggested could arise in the case of perishable goods which were seized on Friday afternoon and were not available for return to the trader until Monday, when they might have perished. The provision requires that notice of the place at which perishable goods might be reclaimed should be provided to the trader and that he should be advised at that stage of the hours during which the goods might be claimed.

The Committee will note that this clause provides that notice shall be provided while the goods are in the course of being removed so that we do not have a case here of goods being seized and taken away and then at some later time the trader being advised where he can pick them up. That itself could involve delay, but new subsection (4) requires that he should have that notice in the course of the act of seizure itself.

Hon. I. G. Pratt: That is a bit doubtful.

Hon. J. M. BERINSON: No, I think that is the clear effect of the terms here which provide that when any perishables are being removed, the officers removing them shall deliver a notice to the person from whom those perishables are removed. The use of those terms relating to the removal of goods carries with it the requirement to serve the notice at that stage. All that I draw from that terminology is that at least the first possibility of delay is minimised and that the person has the earliest possible notice of where to go. Beyond that there could indeed be a problem were councils not to provide reasonable facilities to allow goods to be reclaimed in good time to prevent their perishing.

I concede at once that the Act does not say that they must, but I believe it would be part of normal and proper administration and in keeping with the clear intention of the Bill that perishable goods should be protected by special means and that councils should reasonably be expected to provide facilities to prevent that particular weekend type of problem occurring.

Hon. I. G. Pratt: The Bill does not give any instructions to councils.

Hon. J. M. BERINSON: I agree, and I have already conceded that the Bill does not say that councils should stay open on the Saturday or Sunday for the purpose of allowing reclamation of perishables. I say at the same time, however, that the Bill makes it clear that there is an intention to avoid the loss of perishables and that is why they are treated so differently from non-perishables.

I believe it would be in keeping with the need for proper administration by the local government bodies to ensure that there was reasonable access to traders seeking to reclaim those goods. With reference to non-perishables, I

think I am right in saying that Mr Pratt's main argument related to the position of traders who were charged but not convicted.

Hon. I. G. Pratt: I referred to those people who were not actually charged.

Hon. J. M. BERINSON: And to those people who were not charged. The argument is that there is a potential loss by people whose goods are withheld for some time when in some events it may be the case that the goods should not have been seized.

I would offer two different lines of response to this problem. The first line of response would go to practical considerations. To take the easiest case: Since street trading in the Mall is precluded by the by-laws, there is no question but that a person engaging in street trading must be in breach of the by-laws; or if the by-laws provide for those stalls which we see there from time to time, then the existence of a licence would be very well known to the authorities and would, no doubt, be available from the stall holder for quick substantiation of his or her right to be there. This is an area in which it is most unlikely that there will be difficult questions of legal interpretation.

A typical case would involve no more than a question as to whether a trader has a licence to be there, and that can be demonstrated readily. That is what one might call a practical response and it rests on the relative absence of difficult questions of legal interpretation.

Another line of response would be that while these powers are certainly considerable, they are by no means unique or exceptional. Similar seizure powers exist in relation to the ability of relevant authorities to seize goods as evidence, or to seize goods suspected of being stolen or unlawfully obtained, or to seize goods believed to be in breach of customs regulations. In all such cases, as in this case, there is a requirement that the seizure should not be unlawful or unreasonable. If that requirement is not met, then of course the person seizing the goods renders himself liable to civil remedies and substantial damages.

Hon. G. C. MacKinnon: Do you consider this breach to be as serious as a potential breach of customs regulations?

Hon. J. M. BERINSON: I think that is a reasonable question and I think the response to it would be that this is a serious measure, but it is one which, in its own context, is required to meet a serious situation. The situation is that for years we have had regulating legislation which has proved ineffective and has brought these regulations and this part of the law into disrepute. It is a problem which has been demonstrated to be not amenable to solutions which are less serious than these.

In the light of that experience and, indeed, in the light of the experience over the three years since a similar measure was last considered, that is the conclusion which one is forced to reach. Almost every other conceivable approach to the problem has been pursued and tried and has been shown to be ineffective.

All other remedies have failed. At the end of the day we are left with a principle which seems to have general support, if not the support of all the members in this Chamber; that is, that this sort of trading should be regulated. Failure of alternative forms of enforcement has, in fact, led to what I readily acknowledge to be a very serious form of enforcement.

I believe that we are dealing with enforcement authorities which can be relied upon to act responsibly, and that we are also operating in an area where, for reasons I have tried to indicate earlier, there is far less scope for error on the part of the enforcement officers than is the case in many other situations.

Therefore, without denying that these measures do involve a severe form of enforcement, I would urge the Chamber to accept that they are nonetheless measures which experience has shown to be necessary, and the enforcement of which can be relied on to be kept within reasonable bounds because of the nature of the authorities in which we are reposing these powers.

Hon. I. G. PRATT: The Attorney General suggests that my contribution was based on the idea that local authorities would act in bad faith or maliciously. In fact, that is just the opposite of what *Hansard* would reveal that I said.

Hon. J. M. Berinson: I said you were not alleging that. In fact, you will also find that in *Hansard*. I said you were not alleging it and that an impression could be gathered that perhaps you could not rely on it.

Hon. I. G. PRATT: I will deal with the Minister's second justification of the confiscation first, and that is that it is not unique, or exceptional. He gave the illustration of where this similar sort of action was taken with goods thought to be stolen, evading customs, and so on. Mr MacKinnon interjected and asked whether this was considered as serious as the evasion of customs and quarantine. The Minister replied that it was a very serious matter. It

has never been a good enough argument to convince me that, because provisions are used in another Act, they should be used in an Act before this Chamber.

An ex-Minister here will remember very vividly the time when Hon. Gordon Masters and I, and a couple of other members, rather forcibly convinced him that fisheries and wildlife inspectors should not have permits to search around the curtilages of dwellings. At that time the argument was put that, because other officers had those powers under other Acts, we should agree to it in that Act. We did not agree to it, and I do not think we should use that as a justification to agree to these provisions in this Bill. They would really need to be justified by a reason and a cause within this situation, and I do not believe street traders are creating a problem as significant as that involving stolen goods or items in a customs search.

The Minister's first words about confiscation were that he acknowledged there was a problem. I want the Committee to remember that, because we have an acknowledgment of a problem. The Minister said, in the first of his reasons why my argument should not be accepted by the Chamber, that we were referring to the Perth City Council and, because no licences were issued for street trading, anyone trading would automatically be breaking the law; or, if a licence was issued, the problem could be solved simply by the inspector asking for the production of a licence.

I make the point that there could still be an error of judgment or an honest mistake by the council inspector. I gave an example of the not-so-honest error that used to be carried on by the officer of the Wanneroo Shire, who used to change the position of the speed sign. One would go along one day and find a 30 mph sign just around the corner. Next day it would be just in front of the corner. One would expect it to be in the same place as the previous day—

The CHAIRMAN: Order! I ask the member to get back to street traders.

Hon. I. G. PRATT: I am, Mr Chairman, because I am giving the example of what can happen in local authorities. It is necessary for us to examine what officers of local authorities actually do. They will be carrying out these laws—not the councillors, not the chief executive officers. The latter can have all the goodwill in the world, but it is the guy who happens to be out there in the heat or in teeming rain to do the job. He might not have the patience or perhaps the judgment of senior officers, or the councillors themselves, and he will make human mistakes.

I cited the case of a person who was prepared to give chance a bit of a nudge. That is not an isolated incident. I am not suggesting that all council officers do go out and do terrible things, but we do have a significant number of problems brought to us as members of Parliament regarding the actions of council officers, and some of them prove to be justified. One was brought to me the other day concerning the actions of a council ranger in relation to some dogs. From what I have been able to find out, his actions appeared to be unreasonable.

I believe a licensing situation could exist where there was a disagreement or misunderstanding as to the physical position for which that licence was issued. If licences were issued by the Perth City Council, the actual positioning of the plot on which stall holders could operate would be very important. It could well be that there is a dispute between the inspector and the stall holder as to whether the stall is on the correct plot and, human nature being human nature, and perhaps given the heat of a very hot summer day or the teeming rain of a wet winter day, it could be that the situation could cloud the judgment of the officer carrying out his job. Perhaps the belligerence of the stall holder could affect the judgment of the officer in his job.

The fact that there is a licensing system does not necessarily mean that the person apprehended is guilty, because there could be instances where he was perfectly innocent but there is a lack of understanding or judgment, with all the goodwill in the world being shown by the council officer.

The Minister mentioned that he acknowledged the Act was deficient in that it did not require the councils to provide a satisfactory site for the delivery of confiscated goods.

Hon. J. M. Berinson: I did not describe that as a deficiency—I said it did not have that provision, but I do not accept that as a deficiency.

Hon. I. G. PRATT: I say it is a deficiency. The Minister acknowledged that councils do not have to provide a suitable site, and then said that local authorities would expect from the Act that they would need to provide one, but there is nothing in the Act to say they must. It could be an expensive exercise for some local authorities to set up a place where, for instance,

refrigerated goods could be kept safely. I do not imagine that some of my smaller councils could do so.

Because of that deficiency, and because the Minister has acknowledged that there are problems relating to the actual confiscation, the Minister should follow the established, traditional course in such matters and report progress, then go away and carefully consider clause 16. He should then come back to this Chamber with some assurances that these problems can and will be solved, and that the possibility of innocent people being caught up through some misunderstanding and suffering quite considerable loss through no fault of their own is eradicated.

I hope that members will vote against this clause. In its present form it is completely unsatisfactory to me and, I would think, to members of the Opposition and backbenchers of the Government because it really gives Government backbenchers a chance to do things that they suggest to us from time to time we should do—

Hon. Kay Hallahan: Don't be boring.

The CHAIRMAN: Order!

Hon. I. G. PRATT: —and that is vote according to our consciences. It would give us the chance to get the definite action which the Minister talks about if we voted with our consciences. It is a pity that Hon. Kay Hallahan thinks that is boring. I think it is one of our obligations as elected members of Parliament, but each to his own. I opposed this measure when my party was in Government because I believed that it was the role of this Chamber to do that. I believe the role of local members is to protect their constituents, so I make a plea to the Minister to report progress, take this clause away and bring it back with some new provisions which will assure us that local government bodies will have to take some real, physical steps to protect the goods they confiscate, and also to take away those parts of this clause which exempt the council and its officers from being responsible for their actions. If they take action and it is proved not to be with foundation they should accept responsibility for that action.

Hon. J. M. BERINSON: The first point Hon. Ian Pratt made was that the existence of certain provisions in some Acts cannot on its own justify similar provisions in another Act. That point seems perfectly reasonable; in fact, my own arguments have been consistent with that. But the point is that I do not rely on the provisions in other Acts. I essentially rely on the demonstrated ineffectiveness of all other methods of enforcement of street trading regulations. That also explains the difference in the position which the Government takes now as opposed to the position which most Government members of this Chamber took three years ago. Hon. Ian Pratt is tonight arguing consistently with his position of three years ago. I am not arguing consistently with my approach of three years ago, but I suggest to the Chamber that the change of position has been made necessary by the experience of the intervening period, and faced with public expressions—

Hon. N. F. Moore: You became a Minister.

Hon. J. M. BERINSON: That is not irrelevant, but during that time, and faced with the very good advice from this Council three years ago that they should pursue existing means of enforcement, the local bodies concerned have attempted to follow that good advice. Only one body has been involved, and that is the Perth City Council. It has tried to follow that advice and it has come a cropper. Year after year the problem has persisted and has become worse, and despite all attempts by existing means of enforcement the situation does not show the remotest possibility of being met by anything less than the provisions of clause 16. That is the position we have to face up to and I suppose this brings us around a full circle again to some of the primary questions I asked earlier in this debate.

In particular, it brings us to the question: Do we or do we not accept that it is a proper exercise of local government authority to subject street traders to a proper degree of control and regulation? The Government says the answer to that question is yes, and if that answer is accepted, we also have to accept an effective means of enforcement and not allow this farcical situation to continue.

I want to add to some earlier comments about what I see as the limited scope of this problem. This clause is designed to supplement section 242 of the Act, which provides the by-law making power in respect of street traders. This clause has no field of operation unless those by-laws are enacted by local government. I cannot be precise on the point, but my understanding is that in the metropolitan area such by-laws to this stage have only been implemented by the Perth City Council. I cannot speak with any definite knowledge of country shires or councils, but again I can say that my understanding is that—

Hon. I. G. Pratt: Don't you think that really it would be more satisfactory to report progress and find out?

Hon. J. M. BERINSON: No, because I do not think this is an essential point. My understanding is that either no shires or very few other shires would in fact have these by-laws in operation. In other words, we do have to face up to the fact that this problem is restricted to a very few areas. The central business district of the Perth City Council is the prime problem area and perhaps if existing facilities in Fremantle were to be abused that council would be a candidate for the enactment of regulations if they do not exist already.

But we are operating within a narrow scope and, in particular, we are not operating within a framework where many councils will have these by-laws, and lots of officers will be involved in their enforcement and mistakes either deliberate or accidental will be made. It is a narrow problem and the proposal is that the problem be met with these enforcement measures because all other measures have failed.

One cannot set out in legislation all aspects of the approach to administration which should be implemented. The commonsense approach to proposed subsection (4) relating to perishables would be that when the authorised officer seizes the goods and gives the notice to the street trader, the street trader would normally follow the officer to the depot and pick up the perishables straightaway.

Hon. I. G. Pratt: The notice would specify the hours during which they can be collected.

Hon. J. M. BERINSON: That is right.

Hon. I. G. Pratt: It does not say that here.

Hon. J. M. BERINSON: I am suggesting the hours during which trading is likely to take place and also the enforcement by the officer will require the depot to be open for the officer to lodge the goods there. Just on the basis of ordinary, reasonable dealing, there should be nothing to prevent the trader from turning up virtually simultaneously with the officer and claiming the goods there and then. I am sure it is possible to postulate circumstances where the trader is out with his perishables at 11 o'clock at night and a zealous enforcement officer seizes his goods. The officer is the only person with a key to the depot, and he locks the door and disappears. Those sorts of possibilities can be postulated.

We are not dealing with fly-by-nighters trying to put something over the people they are dealing with; we are dealing with local government bodies which are supposed to act responsibly. It would be reasonable to expect that they would facilitate the return of perishables rather than put hurdles in the way of those goods being reclaimed simply on the basis that that is a reasonable sort of thing to do and that is the way that representative organisations are expected to behave.

I do not go further to talk about liability to the Ombudsman, oversight, or anything like that. I rest on the fact that local governments have responsible duties in many respects and they behave responsibly. There is no reason to believe that they would behave less responsibly on this question of making these perishable goods available to their owners than they do in respect of their many other responsibilities.

At the end of the day we still come back to our starting point; that is, there is a demonstrated need for regulation of street traders. There is a demonstrated ineffectiveness of current means of enforcement. After lengthy and repeated consideration of this problem the solution provided by clause 16 has been proposed, and no other solution from any other source has appeared. In those circumstances it is clause 16 or nothing, and experience indicates that it should be implemented and allowed to operate.

Hon. I. G. Pratt: Before you sit down, you have not mentioned my concerns about motor vehicles.

Hon. J. M. BERINSON: Mr Pratt reminds me that at an earlier stage of the debate he referred to proposed subsection (11) and asked, "What do you do about the removal of a vehicle when you are not allowed to enter because the man locks the door?" One of my earlier comments related to the practice of some street traders last Christmas. They parked their vehicles for trading purposes in Murray Street, and they were standing there for hours on end. I thought it was Mr Pratt, but it may have been another member, who suggested that one should not rely on the seizure by-laws for that purpose. Perhaps it was Mr MacKinnon who raised the point. It was suggested the vehicle should be towed away.

One way or another it seems to be accepted that if that is the nature of the problem, then it must be faced.

A person in the position I have described—namely, sitting in a parking area for several hours in clear defiance of the parking by-laws, let alone the trading by-laws—really has very little ground for public support when he compounds his various other offences by hindering an officer in the exercise of his duties, which this part of the Bill contemplates. While I have said that I believe other concerns of Mr Pratt require serious consideration, I think a person who has placed himself in this extreme position has much less ground for complaint, whatever measures are taken.

Hon. I. G. PRATT: We return to the same problem. The Minister is basing his thinking on what happened with the Perth City Council. Once this Bill has been passed and it becomes law we are right away from the Perth City Council situation. This may happen in any local authority which wishes to have by-laws made.

The Minister referred to vehicles which had been parked illegally for hours, breaking parking regulations as well as street trading regulations. New subsection (11) does not refer to people breaking parking laws, it refers to a vehicle which the officer believes to be involved in illegal street trading. The officer may be mistaken. It may happen to be a truck loaded with vegetables which are not the vegetables being traded by the street trader. My question related to the nature of the vehicle.

What I want to know is whether we will reach the same situation as we have reached in other Acts where the authority of an officer extends to the breaking of a window to break into that vehicle. I would like to reinforce the fact that I am talking not about the guy who wilfully breaks the law, because I have very little sympathy for him. I am looking at the citizen who gets caught up due to somebody else's misjudgment, be it in good faith or otherwise. I would not like to see the situation where somebody's vehicle can be broken into and moved. The other subsections will then come into play. This may happen before the owner can be found, and he has no claim if the officer did it in good faith.

Hon. J. M. BERINSON: The direct question is whether the entitlement to enter the vehicle also entitles an officer to break a window and force entry. My understanding is that he would be entitled to enter forcibly if he was prevented from doing so otherwise. Having said that, I think no difference in principle is raised by this clause except that clause 11 limits such entry to cases where it is made necessary by the impracticality of removing the goods otherwise, and clause 12 ensures that the vehicle, as opposed to the goods, is returned at the first opportunity.

Hon. N. F. MOORE: I want to take this opportunity to get the record straight with regard to Robert Pike's involvement when he was a Minister of this Chamber. When he was a backbencher he strongly opposed this legislation and was instrumental in the party room along with Hon. Graham MacKinnon and several other members in ensuring that the then Liberal Party did not proceed with the recommendation of the then Minister for Local Government to go ahead with legislation to do what this Bill seeks to do. He was very active and I remember hearing him speak with great fervour and enthusiasm on the subject. The supreme irony of politics arose when he became a Minister and represented the Minister for Local Government in this Chamber.

That Minister was able to persuade her colleagues to bring in a Bill which was passed by the Legislative Assembly, and Mr Pike found he had to handle it in this Chamber. He did a good job in promoting the virtues of the Bill, but I do not think he was unhappy when he had to report progress, and he was very pleased when the Bill did not come back again. In view of the fact that some members have commented on his role in the past, I thought it was necessary to get the record straight. If he were here he would be arguing with Hon. Graham MacKinnon very vociferously against this legislation.

Hon. I. G. PRATT: The Minister has confirmed my fears about this clause giving a council officer the right to force entry into a locked vehicle. If we look at the clause which follows we find that it is not anticipated that the owner will be there because the vehicle will be returned to him, and if he is not there he will be served with notice. The people who drew up the Bill have anticipated a situation in which the driver will not be present to take the vehicle when it is unloaded. The Bill says, "as soon as practicable after being unloaded". It may not be practical to unload the vehicle immediately; it may be necessary to keep it for some time and to unload the stuff, if it is perishable vegetables—

Hon. J. M. Berinson: If it is perishables it can be reclaimed at the same time as the vehicle because there is no holding of goods.

Hon. I. G. PRATT: That is if the owner is there, but if we look at the technique practised by the Perth City Council recently, it is likely the owner will not be there. Mr MacKinnon read the Press cutting on what happened in that instance.

Hon. G. C. MacKinnon: The Press statement was by some fire brigade officers.

Hon. J. M. Berinson: That was not a vehicle situation was it?

Hon. G. C. MacKinnon: A vehicle was not involved.

Hon. J. M. Berinson: It was jewellery; I think it is a separate point.

Hon. I. G. PRATT: In that case the owner of the jewellery got so upset at the jewellery being taken that he created a disturbance and I believe was arrested for disturbing the peace. How much more likely is it we will have an owner being arrested if someone comes up with a hammer and bashes a hole in the driver's side window to unlock the car? It is likely he will be down at the police station awaiting the results of his charge of disturbing the peace. Again we might find no charge was laid against him in the end other than that of disturbing the peace.

I think this new subsection is a very significant matter. I know the Minister did not appear to share my concern but I am sure you, Mr Chairman, or I would be concerned if someone gained forcible entry to your vehicle by breaking a window.

I think it is a very untidy provision; too much is left to chance. I know the Minister is probably genuine in saying he does not believe council officers are unreasonable. Heavens above, we have people in our offices every day complaining about some civil servant who has been unreasonable. Among the good ones there will be bad ones because they are human beings. They are not necessarily going to try to be unreasonable; it is their nature. Often they believe they are doing the right thing.

The Minister should take this away and go through it with a fine-tooth comb and then come back with something that has safeguards for innocent people. There are no safeguards at present. If people do not reclaim their goods in a certain time they will be sold or the owners will be charged for storage. There is nothing in the Bill which says that if a council confiscates something without just cause a council shall return it. The owner gets a notice to collect it himself. I do not think that is fair. The provision should be rewritten.

The Minister has been saying that all the other controls that have been used have not proven to be effective so the Government is going to make them work. If I can mention a parallel, that is just the opposite to what we are doing in relation to murder. More and more murders are occurring and yet we are making the penalty lighter. If we were to follow Hon. Joe Berinson's reasoning as far as murder is concerned we would be burning people at the stake instead of hanging them because hanging was not solving the problem. That is virtually what we are doing to the street traders; we are not going to hang them, we are going to burn them at the stake. I urge the Attorney General to take the Bill away and come back with something practical.

Hon. J. M. BERINSON: I do not know how to deal with this analogy of murder and capital punishment, but it reminds me of an occasion in the Federal Parliament when one of my colleagues, Dick Klugman, did something to upset a constituent. She was so upset that she wrote and said, "You ought to be hanged, drawn, and quartered." He wrote back and said, "Wouldn't one be enough?" I do not know that that is relevant to this Bill but I do not think it is any less relevant than the analogy we were offered a few minutes ago.

One can postulate all sorts of theoretical possibilities and then put them into a combination with virtually limitless further possibilities. There is a need again to be practical, and a practical view of the sort of circumstances where the vehicle provisions come into play will reveal a somewhat different scenario. It is not as though the vehicle is there and it is locked and not doing anything except standing there, and an officer comes along with a hammer and breaks a window and drives it away.

That does not happen. The proposed subsection in the Bill is only activated when street trading is in process. There has to be someone there. We have not reached the stage of self-service street trading. If someone is there and is called on to allow the vehicle to be driven away in accordance with the provisions and then deliberately obstructs the officer, requiring him to break in, we really do not have this picture of an innocent victim who should not have been tackled in the first place.

Hon. I. G. Pratt: Can you imagine a truck load of cabbages and vegetables and a shop selling lettuces and tomatoes and an inspector coming along and saying, "You are selling let-

tuces and tomatoes; is that your truck?" He says, "Yes." The inspector says, "I will confiscate your truck."

Hon. J. M. BERINSON: That forces me back to my earlier comment. I can imagine all manner of things but I do not believe the practicalities of the situation at which this Bill is directed requires us to go up all those paths. Contrary to Mr Pratt's view, I do not see the vehicle provisions involving anything more difficult or different in principle than the general direction of the clause. I think our basic positions have to be recognised: I support the clause and Mr Pratt does not. It might be appropriate to now invite the Committee to give an expression of view on this matter.

Clause put and a division taken with the following result—

Ayes 21

Hon. C. J. Bell	Hon. Garry Kelly
Hon. J. M. Berinson	Hon. P. H. Lockyer
Hon. E. J. Charlton	Hon. G. E. Masters
Hon. D. K. Dans	Hon. Margaret McAleer
Hon. Graham Edwards	Hon. Tom McNeil
Hon. Lyla Elliott	Hon. N. F. Moore
Hon. V. J. Ferry	Hon. Neil Oliver
Hon. H. W. Gayfer	Hon. P. G. Pendal
Hon. Kay Hallahan	Hon. S. M. Piantadosi
Hon. Robert Hetherington *(Teller)*	Hon. W. N. Stretch
	Hon. Mark Nevill

Noes 3

Hon. G. C. MacKinnon	Hon. A. A. Lewis *(Teller)*
Hon. I. G. Pratt	

Clause thus passed.

Clause 17: Section 244AA inserted—

Hon. P. H. LOCKER: The proposed new section empowers the council to approve any facilities in the streets and other places. I have carefully considered the clause. While the Opposition welcomes it, I want the Minister to assure me that the people who take advantage of the eating areas will be subject to the same health regulations as people who already operate restaurants and establishments of that kind which already come under health regulations and local government by-laws.

Hon. J. M. BERINSON: I can give that assurance. I am advised that regulations have been drawn up to that effect. The regulations come under the Health Act and not under the Local Government Act.

Clause put and passed.

Clauses 18 to 24 put and passed.

Clause 25: Section 446 amended—

Hon. P. H. LOCKYER: I mentioned this clause during the debate on the second reading. The Opposition has considerable concern about that part of the clause dealing with buildings for the provision of community welfare services. I regret to inform the Minister that I was not convinced by his argument tonight, persuasive though it may have been. As I said during the second reading debate, the Opposition does not object to that part of the clause concerning the management of theatres, because such a practice is already in vogue in some towns, in particular in Geraldton. We concede that the insertion of "theatres" is acceptable.

However, we believe that local government should not venture any further than it already has into the area of community welfare services. Federal and State Governments already provide considerable community welfare services to many sections of this State. We do not believe it to be desirable for local governments to enter into the area. For that reason, I propose to move an amendment to clause 25. Honourable members will no doubt have been circulated with a copy of that amendment. The amendment would seek to take away the provision for local government to become involved in the building of buildings for the provision of community welfare services. We are not convinced by the argument that there is already a specific need for this. The argument that has been put to us is that councils should have the choice, but we are not at all persuaded by that argument.

The other night Hon. Garry Kelly interjected with a remark that local government is closest to the people. I reiterate my answer to that interjection. I would have far more chance of persuading my colleagues to accept this provision if community welfare was handled totally by local government. However, we are not convinced that it is in the best interests of welfare to split it up amongst so many Government partners. Many people believe that it is already split up too much. They believe that

there is already some duplication in community welfare services, especially in the buildings and the different—

Hon. Garry Kelly: What if local government sees a need?

Hon. P. H. LOCKYER: In that case, it should bring the matter to the attention of the appropriate Federal or State Government. There is enough commitment of ratepayers' fund for the general running of councils without their having to expand into areas like that. I have yet to find a local authority which can tell me that there are enough recreation parks, footpaths, and various other facilities which local councils are best at providing, without bringing them into the area of community welfare services. Not every council in the State would take advantage of this part of the clause.

Before I move my admendment, in deference to the Minister, I will listen to any further argument that he might like to put forward. I assure him that at present I feel quite strongly that we would oppose that particular provision, notwithstanding that we support every other part of the clause.

Hon. N. F. MOORE: I support the remarks of my colleague, Hon. Phil Lockyer. When I spoke to the second reading, I argued that there might be a case for local authorities to be given control over the whole area of welfare. I have not been persuaded one way or the other about that since. This clause provides that all levels of Government—Commonwealth, State and now local—will be able to be involved in the welfare area. I am absolutely convinced that at present there is duplication of welfare services; this clause will cause triplication of welfare services. If the Minister could say that this would replace some other level of Government involvement in welfare, I might be persuaded to support the clause. But it does not mean that; it means that this Government wants local authorities to be able to get involved in welfare.

It seems that Government powers in Australia are flowing in two directions. State powers are flowing to the Federal Government, which is usurping more and more control over the affairs of Australians at the expense of the State. We read in *The West Australian* of today of another attempt by a group of Federal politicians to put State electoral laws within the grasp of the Commonwealth. Since 1901 there has been a movement from the States to the Commonwealth of a range of powers which were at one time assumed to be in the realm of the States. In recent times we have seen a movement in the other direction; that is, away from the States towards local authorities. This plays into the hands of those members of the Labor Party who still persist with the idea that Australia ought to consist of one central Government in Canberra and a series of regional local governments, and that State Governments ought eventually to become redundant. State Governments can only be made redundant if we take away their powers. It seems to me that we are going down that track, and it is about time we reversed it.

It is about time that the Commonwealth started to divest itself of some of the powers it has assumed and hand them back to the States. The States ought to stop saying to local authorities that just because they want some more powers they can have them. We have to have a little bit of political fortitude and say to local governments that enough is enough. Within Australia there are three levels of government—three spheres of which local governments talk about—each of which has its own responsibilities. There is a division of power within Australia and that is how it should be. Those powers should not move from State Governments to the Commonwealth Government and to local authorities.

This Bill gives to local authorities a massive area in which to make laws; that is, the area of welfare. I still argue that such powers would mean triplication of welfare services without there necessarily being improvement in them. I can see only an additional burden on the taxpayers and ratepayers of Australia to provide welfare services at a third level. Hon. Garry Kelly asked by way of interjection, "What if a local authority sees a need?" In such an eventuality it should refer the need to the State Government which is in charge of welfare and get it to fix it up, rather than the State Government giving the local authority the power to spend on that area that it perceives to be in need.

Hon. Garry Kelly: What if it is not one of those needs that is critical or urgent?

Hon. N. F. MOORE: Is the honourable member suggesting that the State Government cannot respond quickly enough? If it cannot, it is the fault of the State Government. It should get off its tail and do something about it. If the member finds that his Government is not providing for the welfare needs of the citizens of Western Australia, I suggest that there is something wrong with his Government. If he feels that it is necessary to give that power to

the local authorities in Western Australia, because his Government cannnot handle it, he should say so.

There may be some virtue in the Minister divesting himself of these powers and giving them to local authorities, and I suggested that once before.

Hon. Kay Hallahan interjected.

Hon. N. F. MOORE: Hon. Kay Hallahan always comes in an hour too late!

There may be some virtue in local authorities handling the whole question. This Bill seeks to give local authorities additional power, so if the Government feels it cannot handle the matter at a State level it should think about giving the power to local authorities so we do not have these three levels of welfare, one at each level of government. It should be handled at one level. So if the Minister can convince me that by giving this power to local authorities with respect to welfare and providing facilities for welfare purposes, he intends to take it away from the State or the Commonwealth, I will support this clause. I am sure he will not give me that assurance and I am sure I will vote against the clause.

Hon. J. M. BERINSON: Despite the lateness of the hour, I cannot resist following Hon. Norman Moore for at least a moment down the track of discussion as to the proper balance of powers as between the Commonwealth, the State, and local governments. Something can be said for a proper examination of the current balance, affected in particular by High Court decisions in recent years. It rather surprised me though that Hon. Norman Moore should argue for some redress of the balance by the return to the States of some powers now exercised by the Commonwealth when an opportunity to move in that direction was defeated in the last referendum on the question of the States' interchange of powers. We all know that that referendum was not relevant to the question of the States divesting their powers to the Commonwealth. The only point in the interchange proposal was to at least open the possibility of some reverse movement from the Commonwealth to the States. In particular, there was some interest in seeing whether the present excessively narrow tax base of the States might be redressed by the Commonwealth vacating some taxation fields in favour of the States. I only make that point because the referendum was defeated and a major reason for its defeat was the opposition to it by the Liberal and National Parties. That was a shame—

Hon. Garry Kelly: They are very consistent, aren't they?

Hon. J. M. BERINSON: —and it was shortsighted; it leaves us in a position where the very fundamental question that Hon. Norman Moore raised will need to receive some further attention. That is admittedly a fair distance from the current debate.

I revert to the matter before the Chair by saying I can really add very little to my comments in the second reading reply. Frankly, I do not share the enthusiasm of some members to place all social welfare in the care of local government. To do that would call for such a massive change in the relative balance between the three levels of government that we are really talking about a different system of government in Australia.

Hon. N. F. Moore: We will get some value for our dollar.

Hon. J. M. BERINSON: It would cost approximately $4 billion a year for pensions alone and the thought of putting local government in the position of administering social welfare, let alone setting up the guidelines for it, really involves a total change in the structure of Government in this country.

So with the best will in the world towards the theories involved, I do not think it is a practical suggestion. If we are looking to some community welfare activity of local government it has to be of modest proportions. That is all that is contemplated by this Bill. It is in keeping with the current provisions of the Act which allow local government to participate in a number of activities which can properly be described as community welfare. It will formalise the capacity of local government bodies to continue some of their activities in regard to community welfare which are of doubtful validity under the present provisions of the Act. There is no question of local governments suddenly expanding into the development of a comprehensive third tier of community welfare, and I indicated the reason for that earlier: They could not afford it. There is nothing to suggest that either Commonwealth or State Governments would be interested in funding local government into a comprehensive new system of social welfare.

All that is contemplated under this Bill is a capacity by local government bodies within the restrictions of their financial constraints to exercise their discretion to fill in gaps which they perceive to be of sufficient priority to have scarce funds allocated to them. On my under-

standing of the position, the availability of similar powers elsewhere has not led to a massive duplication of programmes, nor for that matter to enormous increases in expenditure.

New South Wales, I understand, has had a general capacity by local government to participate in community welfare since 1983. Even longer experience is available to us from Victoria. I note that the Local Government Act of that State provides that councils may provide any social services they wish for the benefit of the people of the municipality. That provision was included in the Victorian Act as long ago as 1972. It is an indication of the non-ideological base, if you like, of this provision, that it was implemented by a non-Labor Government.

This is one of those measures that ought to be seen within the limitations which it sets for itself, and that is a very modest ability to enter into the field of community welfare where a local government body may recognise the need and be prepared to give sufficient priority to that need to allocate part of its funds for that purpose

Hon. I. G. PRATT: The Minister might be able to assist me. I have not been able to find an actual definition of community welfare services as they relate to the Act and I assume there is not one. I wonder whether the Minister could give me his definition of what he believes community welfare services to be so that it can be recorded in *Hansard* and so we have some record of what the Government believes would be involved in this situation in regard to community welfare services at a local level?

Hon. J. M. BERINSON: It is a long time since I studied philosophy 10 at the University of Western Australia, and I can remember only one thing from the course. That is the comment by Wittgenstein that the meaning of a word is its use in the language. What I am trying to say is that community welfare means what all of us understand it to mean. It is not a term of art. The fact that there is no definition in the Bill is itself an indication that I am not in a position to provide a definition now.

That is not a very threatening situation. The fact is that I have already referred to the use in the equivalent New South Wales Act of the term, "community welfare".

Hon. I. G. Pratt: Is there a definition in that Act?

Hon. J. M. BERINSON: That is the point I am coming to. It has the same term as ours and it is undefined in the New South Wales Act. I have also referred to the fact that the Victorians use the term, "social welfare" in their Act, again without definition. So quite seriously I do not believe that the absence of a formal definition involves any problem. We understand what community welfare relates to, and local governments should have no less difficulty in deciding for themselves.

Hon. I. G. PRATT: I may have misunderstood the Minister, but I thought in reply to Hon. Norman Moore he said he was not expecting a duplication of the community welfare services. If he is not expecting that he should express to the Chamber why he thinks local government should be involved in addition to the State and Federal Governments.

Hon. J. M. BERINSON: My reference to duplication was in relation to the prospect that comprehensive programmes already provided by Commonwealth or State Governments would be duplicated by comprehensive programmes in the same area. It was in that sense that I suggested there was no room to believe that we would have a duplication of services.

That was not meant to suggest that it would be improper for local government to supplement some particular form of existing community welfare services which it regarded as inadequately catered for by the Commonwealth and State in respect of its own area and population. I hope that clarifies the intention of my earlier comment. There are no doubt fields which neither Commonwealth nor State handle at the moment and in which local government might be interested. But that was not really the basis of my earlier answer to these fears of duplication.

Hon. I. G. PRATT: A number of local authorities are involved in activities which could perhaps be dragged into this community welfare classification. When I was a councillor of the Armadale-Kelmscott Shire we employed a social worker. She was employed through the health department. That would no doubt be counted a community welfare service. I understand the Fremantle City Council has a fairly well-developed community welfare system operating.

The Minister mentioned some doubt about the validity of some of the things done in this area. I wonder if he could use the Fremantle model as his example and specify just what difficulties the present situation in these local authorities involves as far as their activities are concerned.

Hon. J. M. BERINSON: I cannot be too specific on this, or even comprehensive. I suggested in the course of my earlier comments that local government contributions of one sort or another to autumn centres and Meals on Wheels services might be questionable. I understand there is some interest by the local government authority in Fremantle to assist community housing efforts. I am not aware of any of these matters being challenged or jeopardised. That is simply on the basis of the acceptance of them as a reasonable activity by the local government body in that area. This provision is to meet suggestions that the situation should be put on a clearer basis, and that the authority of local governments to activate themselves in these areas should be made more specific.

Hon. P. H. LOCKYER: I regret that I am not persuaded concerning this provision of community welfare services.

Hon. Garry Kelly: Oh!

Hon. P. H. LOCKYER: I am not.

I move an amendment—

Page 19, lines 10 to 13—To delete subparagraph (ii).

Amendment put and a division taken with the following result—

Ayes 15

Hon. C. J. Bell	Hon. Tom McNeil
Hon. E. J. Charlton	Hon. N. F. Moore
Hon. V. J. Ferry	Hon. Neil Oliver
Hon. H. W. Gayfer	Hon. P. G. Pendal
Hon. A. A. Lewis	Hon. W. N. Stretch
Hon. P. H. Lockyer	Hon. D. J. Wordsworth
Hon. G. C. MacKinnon	Hon. Margaret McAleer *(Teller)*
Hon. G. E. Masters	

Noes 10

Hon. J. M. Berinson	Hon. Robert Hetherington
Hon. D. K. Dans	Hon. Garry Kelly
Hon. Graham Edwards	Hon. S. M. Piantadosi
Hon. Lyla Elliott	Hon. I. G. Pratt
Hon. Kay Hallahan	Hon. Mark Nevill *(Teller)*

Pairs

Ayes	Noes
Hon. I. G. Medcalf	Hon. J. M. Brown
Hon. Tom Knight	Hon. Tom Stephens
Hon. John Williams	Hon. Fred McKenzie
Hon. P. H. Wells	Hon. Peter Dowding

Amendment thus passed.

Hon. P. H. LOCKYER: I move an amendment—

Page 19, lines 24 and 25—To delete proposed paragraph (e).

Hon. J. M. BERINSON: I rise only to place on the record the Government's opposition to this amendment. Since it involves the same principle as the earlier amendment, I will say no more on it and I do not propose to call a division.

Hon. P. H. LOCKYER: I thank the Minister. Our argument is precisely the same as the one we put forward earlier. We do not believe that the provision of community welfare services is the area of local government.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 26 to 31 put and passed.

Clause 32: Section 514B inserted—

Hon. P. H. LOCKYER: The Opposition sees some danger in this new section. I know that the Minister's argument in his summing up of the second reading debate tonight concerned the councils' power under this new provision to construct buildings on land acquired by them for the purpose, shops, showrooms, warehouses, factories or similar commercial premises for the purposes of letting or leasing.

I made it quite clear in my contribution to the debate that we on this side see this as an area for private enterprise. We do not believe that ratepayers' funds should be expended in local government for this type of operation. I concede that in proposed subsection (2) it says to the effect that there is no reasonable prospect of the council not constructing such premises. I take it that the Minister's argument will be that the council will require this legislation so that when a council fails to attract people to build the premises, the need will arise for the council to do it and it will have the right to do the building itself.

I am very keen to know whether that is his argument and whether there are some other members of the Chamber who would like to persuade me to accept other than my particular viewpoint. I see the construction of these types of building as being strictly an area for private enterprise.

Hon. D. K. Dans interjected.

Hon. P. H. LOCKYER: That is not an area in which I could be totally persuaded. However, I have the greatest respect for the Leader of the House, although at the present moment I am opposed to this clause. I am, however, open to good argument.

Hon. N. F. MOORE: I again share the view of my colleague, Hon. P. H. Lockyer, in respect of this clause. It is a classic example of social-

ism. Here one has a Bill which says that local government, which is an arm of government, can go into the business of building premises that we would regard as being a matter for private enterprise. These are the sorts of activities that are clearly in the area in which the private sector operates. Proposed subsection (2) says that if there is no reasonable prospect of the demand being met and if one had a council that clearly decided it wanted to go into the business of construction, it could resolve that nobody else could build on a specific piece of land and it could reserve that for itself. I would like the Minister to give me an example of where the prospect might arise that the private sector wants to provide these sorts of facilities and where he feels that local authorities ought to be given this authority.

A Government member: Private doctors' surgeries.

Hon. N. F. MOORE: There is a further provision in clause 25 for that to be done, which is quite separate from this. This clause is very specific about "commercial" premises. It is in the legislation quite clearly, and I would be interested to know whether the Minister could give me an example of where this clause might be used and what sort of circumstance could arise in which there is no reasonable prospect of the private sector providing these sorts of facilities so that the local government authorities need to do it.

It seems to me that if there is a need for commercial premises to be built, the private sector is way out in front of the Government to provide these sorts of facilities. I would be interested to hear the Minister in charge of the Bill explain how this clause might be put into operation.

Hon. H. W. GAYFER: I am not in any discomfort over this particular clause. I would be a lot happier with it if in new subsection (2) instead of saying the council "may" exercise the power, it said the council "shall" exercise the power. I am comforted because I can see a contingency in new subsection (2)(b) where it refers to having regard to whether there is no reasonable prospect of the demand being met if the council does not construct the proposed premises. I can visualise a country town that lacks a shopping area, and with the developmental committees operating in the country districts at the present moment I can see an urge for a particular type of facility to be built and the council supporting the idea.

I know in my own home town of Corrigin only recently we constructed a baker's shop and the community financed it by public subscription. However, there was a definite demand. The old bakery had fallen to bits; the wall was falling down. So there was a need to do something with it. The baker had just finished his apprenticeship. He was a young chap greatly appreciated in the town, from a family within the town and there was no way he could have built it on his own. So the community stood behind him and got a committee together and the building is now up and going.

That is the type of facility that may be needed, desired and wanted by the district, and the council in its wisdom may see there is some good purpose to construct a shop, office, showroom or warehouse for a particular purpose. However, I would have liked it to be more positive; rather than saying the council "may" only exercise the power, it should say "shall" only exercise the power. The word "may" seems to be wishy-washy, evasive and permissive. It seems to me that it is not positive enough. I would like to hear the Minister speak. I would be more satisfied with the word "shall" rather than the word "may".

Hon. J. M. BERINSON: I will start with the point made by Hon. P. H. Lockyer when he said that he saw the area of commercial premises as essentially one for private enterprise. I have no argument with that point of view. The problem in the area covered by this Bill is that we are dealing with situations where private enterprise does not see these developments as a matter for private enterprise.

The alternative is either to have some local initiative or not to have the facility. That, I think, is the answer to Mr Lockyer's comment. This clause does not set out to encourage local government into commercial lease ventures. The comment by Mr Dans, by way of interjection, as to the experience of Fremantle is interesting from an historical point of view. However, with respect, it is not relevant to this provision in that I would find it very hard to conceive of a local government body like Fremantle or the Perth City Council being in a situation where it could be demonstrated that there was a requirement for commercial premises which could not be met commercially.

The answer to Hon. Norman Moore is that one would expect to find the scope for this clause, in by far the majority of cases, in country areas. Mr Gayfer was helpful in providing the concrete example and I thank him for that because I did not have one myself.

Hon. N. F. Moore: How could the Corrigin Shire do it without the power?

Hon. J. M. BERINSON: The shire did not do it. It was a community effort.

I do not know that I can satisfy Mr Gayfer on the question of "shall" versus "may" in the context of new subsection (2)(b) except to say I am quite sure that "may" is the correct word in this context. To change it could produce a very odd effect in that if one puts in that word "shall" one ends up with something to this effect: The council shall exercise the power to construct premises but only if certain conditions are met. There is a certain connotation of compulsion on its interest in commercial development which is not proposed here.

I do not pretend that that is a good explanation. However, I am very confident that "may" is the correct word to use in this context and its effect is as set out; namely, that since the council "may" only exercise this power in certain conditions, it cannot exercise it otherwise.

If it would help the honourable member I am happy to get Parliamentary Counsel's more formal confirmation of that. I am confident this is the correct word to achieve what both he and I accept as a desirable limitation on the discretion.

The CHAIRMAN: Order! I ask Hon. P. H. Lockyer to desist from reading the newspaper. We are debating a Bill.

Hon. MARGARET McALEER: I feel very comfortable with the Minister's explanation of "may". I follow that very well.

Hon. J. M. Berinson: That is half the battle.

Hon. MARGARET McALEER: I do not quite follow to whom a council demonstrates the need to undertake commercial activities.

The Attorney General said it would be very difficult for the City of Fremantle to demonstrate a need to construct a shopping centre. However, it may have been very easy for the local authority which controls the town of Northampton to take action to do such a thing.

As far as the Bill is concerned, who judges that there is a need for such a commercial construction?

Hon. J. M. BERINSON: From my understanding, the judgment would be one from the local governing body itself. Of course, that is to be understood in the context of a situation where, if the local governing body deliberately exceeded the powers intended by this clause, it would be acting beyond its power and would be subject to challenge in various ways. Nonetheless, as in many other parts of the Act the judgment would be made by the local governing body itself.

Hon. N. F. MOORE: Is it possible under the existing Act for a Minister to give a local authority the power to do these things, bearing in mind that, under clause 35, we will give local government the power to build doctors' surgeries, yet some local authorities have already built doctors' surgeries as a result of the decision of the Minister? If, at the present time, under the existing Act, the Minister can allow local authorities to do this at his discretion, I suggest that might be sufficient power.

Hon. J. M. BERINSON: Section 513(1)(d) of the Act deals with the ability of local government bodies to subsidise various services, including nursing assistance, hospitals, both public and private, and a qualified medical practitioner, among others.

I understand that the ability to assist in that way could well meet the situation to which Mr Moore was referring in respect of the provision of facilities for a doctor.

The second part of Mr Moore's question related to the capacity of the Minister to authorise the construction of premises as sought to be covered by this clause. In this respect, I point out that section 529(e) does authorise a council to spend money out of its municipal fund in any manner authorised by the Minister. He is correct, therefore, in saying there is a general power in the Minister to authorise such expenditure, but it does not really meet the situation that in many parts of the Act councils are authorised to expend moneys in various ways without the need for ministerial approval.

Indeed, it is part of the general pattern of the development of the Act which the Minister has pursued to minimise the areas in which local government authorities are restrained from exercising their own discretion and are forced to call on the authority of the Minister before acting. Clause 32 is another example of that general development.

Hon. N. F. MOORE: The Attorney General has confirmed what I thought was the situation in respect of this matter.

Clause 32 does one thing basically; that is, it removes the necessity of a local authority to seek the Minister's approval to become involved in a commercial activity. The Attorney has fortified my view that clause 32 is not necessary.

If, for example, we have a situation which Hon. Mick Gayfer referred to—that is, where a particular council needs to become involved in some commercial venture—there may well be a situation in which the Minister can make a once only decision, bearing in mind the circumstances of the case.

Clause 32 seeks to give appropriate power to all local authorities to become involved in all commercial activities.

Hon. Margaret McAleer raised the point concerning who has to be convinced that private enterprise will not come into a town and carry out the commercial activities established by the local authority. If a local authority wants to get into the business of erecting a commercial building it would have no problem under this clause to get into that sort of business.

Hon. Garry Kelly: Are you saying that you do not trust local authorities?

Hon. N. F. MOORE: I do not think any level of Government should become involved in any commercial business. Governments at all levels are very much involved in commercial activities, and it is my view that they should get out of them. We should not be allowing local government to get into business by erecting commercial premises for lease. We should be turning the clock the other way to get Government out of the business of business.

It is my view that the community and the economy would be far better off when Government gets out of the private sector. I will not come into this Chamber and support local government becoming involved in commercial activities when I am committed to making sure that Government gets out of commercial activities. The existing legislation is sufficient. If there is a particular circumstance in the Shire of Corrigin and local government can be persuaded that it is necessary for it to carry out a commercial activity, it can do that. I am sure that we will have a Minister, in the not-too-distant future, who will share my view about local government involvement in commercial activities. I would prefer to leave the situation as it is rather than support clause 32.

Hon. H. W. GAYFER: I understand the sentiments expressed by Hon. Norman Moore. The shire council in my area built a magnificent home and surgery, with the Minister's approval, to entice a doctor into the town. It also built a magnificent dentist's home, surgery and waiting rooms. The centre has housed about three doctors.

Now a doctor has come into the town and moved out of the premises provided by the shire and built himself a home, surgery, and waiting rooms. As a result, the shire has been put in the position where it has had to lease the original doctor's facilities for a purpose for which it was not intended. The facilities have now become useful for another type of business and are not necessarily used as a doctor's facility.

I cannot see much difference in building a shop downtown that may be required as a doctor's waiting room for example but which will be designated for some other use before it is completed. I do not understand why the council cannot be trusted to make up its own mind to build whatever it wants in the interests of the community. If the community does not want a certain facility, it will oppose it at the loan poll. People will come out in force and every good reason will have to be given for the project to continue.

At present the council can argue with the Minister that the facility is urgently required because a doctor is waiting on the wharf at Fremantle and the house is required the following week. The council can become involved in all sorts of procrastination and red tape. Once the building has been constructed, and different use is to be made of that building, the Minister will have to change his mind on that subject; otherwise the building will fall into disrepair and be of no use whatsoever.

I do not see this measure as a situation in which the principles of free enterprise are abrogated in any way. If anything, it will help free enterprise because a council could assist someone to set up in business if it felt it was in the interests of the community to do so. Why should the council be required to go to the Minister? It is big and strong enough to make its own decisions. If the public do not like those decisions, as I have said they can oppose the council at the loan poll.

Hon. J. M. BERINSON: Mr Moore says that clause 32 is not necessary because a capacity exists to engage in this sort of activity with the agreement of the Minister. Mr Moore is quite right in saying that, but his view is apparently coloured by an acceptance of ministerial intervention in local government bodies which goes beyond the Government's view on this matter.

I previously indicated that it has been the deliberate intention of the Minister for Local Government to encourage a withdrawal by Ministers from excessive intervention in local

government decisions. This clause is a further indication of that general pattern and it goes without saying that it is well accepted by the local government bodies themselves. I also said earlier that the decision as to whether a council could justify its entry into a commercial leasing proposal was a matter for its own judgment. I should perhaps have gone on from there to say that in common with other activities of local government, it is not a power which would be free from proper review and oversight. In particular section 631 of the Act deals with the auditor's report on the accounts and statements submitted to him by local government bodies. Section 631(2)(b) requires that where the auditor considers that any money paid from the municipal fund or any other fund or account of a council has been misapplied to purposes not authorised by law, he shall include details of that in a report. Section 632 goes on to indicate the action which a Minister should take on receipt of a report of that nature.

I would imagine that it would be very difficult for a council to slip in some improper investment, especially given that this would no doubt be seen as contrary to the interests of commercial developers. Complaints or calls by developers who are themselves prepared to engage in that development would quickly require the council to review its position since the complaints themselves would indicate that the requirements of this clause were not met.

Hon. N. F. MOORE: I agree that there should be less ministerial involvement in local government and I commend the Minister for his actions in removing his involvement in many aspects of local government. However, clause 32 removes the Minister's involvement and gives the power to local authorities. I do not believe that a local authority should be given the power proposed under this clause or that it should be allowed to build commercial premises for lease. That is the simple philosophical position I hold.

I argued in favour of the present situation in which the Minister has some authority in this matter to provide for a degree of flexibility so that in the event that a town like Corrigin has a particular problem, the Minister is able to be flexible enough to allow the local authority to carry out an activity which in general would not be regarded as an acceptable power of local authority. It provides a flexibility which can be exercised by the Minister.

If we consider the Statutes in Western Australia, an enormous amount of ministerial discretion is contained within them, which allows for a degree of commonsense to prevail and gets rid of an inflexible situation that can develop. I do not believe in principle that local authorities should be given the power to become involved in the construction of commercial premises. There are probably some circumstances in which this may be warranted and a degree of flexibility should be allowed for. In that case the Minister is the appropriate person to exercise that flexibility by retaining the power he now has to grant permission. The existing situation is adequate, and clause 32 is not necessary.

Clause put and passed.

Clauses 33 to 38 put and passed.

Title put and passed.

Report

Bill reported, with amendments, and the report adopted.

Third Reading

HON. J. M. BERINSON (North Central Metropolitan—Attorney General) [1.11 a.m.]: I move—

That the Bill be now read a third time.

HON. TOM McNEIL (Upper West) [1.12 a.m.]: Mr Deputy President (Hon. Robert Hetherington), I thank you for observing me on my feet. I feel somewhat like an Olympic athlete who has just competed in four events, has been first across the line in each event, has been acknowledged as having done so by the electronic equipment and the naked eye, but has not received the pat from the judge.

I intend to make an observation about clause 30 of the Bill. Some seven years ago the previous Liberal-National Country Party Government saw fit to introduce the Local Government Amendment Bill (No. 3) 1978, and the Committee debate is recorded in *Hansard* on pages 3821 to 3837 for Tuesday, 17 October 1978. That debate holds an interesting story and I think a good story in that it seems we in this House have now reached the stage of having some credibility in that we seem now to be prepared to admit to having been wrong in passing legislation seven years ago, having since seen the error of our way and having decided to do something about it.

During that debate I recall moving an amendment which, although meeting with your approval, Mr Deputy President, did not meet with the appoval of members now on this side of the House. At that time I argued strongly for

members to respect the autonomy of local government, whereby it should not have been necessary for councillors who undertook overseas trips to be burdened with the intervention of the Minister to decide on the correctness of their trips. I am glad to see that the requirement for the Minister's intervention has now been removed. What surprises me is that on this occasion the matter rated no debate, because it was a matter of hot debate at the time to which I have referred. Seven years ago I felt the subject of autonomy for local government was important and that councillors should not have to seek the approval of the Minister to do certain things. Perhaps we should have heard debate today on why there has been this turnaround of opinion.

Question put and passed.

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

CAMBALLIN FARMS (AIL HOLDINGS PTY. LTD.) AGREEMENT BILL

Second Reading

Debate resumed from 29 October.

HON. N. F. MOORE (Lower North) [1.15 a.m.]: This Bill is to ratify an agreement between the State and AIL Holdings Pty Ltd with respect to the Camballin project situated in the West Kimberley. Members will know that in recent times an organisation called Northern Developments Pty Ltd sought to develop a large-scale irrigation project on the Fitzroy River at Camballin, and that the project was covered by an agreement between the company and the State Government. It was a massive project and many millions of dollars were invested in trying to develop a sorghum crop at Camballin. Regrettably, and for a variety of reasons, the project was not successful and in February 1982 a receiver-manager was appointed to wind up the joint venture company.

Following the winding up of the company, the current Government requested the receiver-manager to be permitted to call for international tenders to purchase the Liveringa pastoral lease and for the successful tenderer to become involved in the agreements between the State and the Camballin project. Tenders were called and Mr Raveh, representing an Israeli consortium, expressed an interest in the project. Eventually he put forward a proposition for the Camballin farm.

Basically he proposed that the Liveringa pastoral station be re-established as a fully-stocked and viable pastoral lease; that a three to five-year experimental programme on the Camballin lands be undertaken to identify crops suitable for further development; and that a study be made of the potential for joint ventures on the project lands, which might establish ready markets and spread risk capital input. They were the three aims of the consortium which sought to enter into an agreement with the State.

The negotiations continued and a consortium was established under the name of Australasian Investments Ltd—AIL—which subsequently entered into an agreement with the State Government. The Bill seeks to ratify that agreement so that AIL can carry out essentially the three activities I have just outlined. In view of the hour I do not propose to canvass the various aspects of the agreement, but very quickly I indicate that I hope very much the project is successful.

Many attempts have been made to develop irrigated agriculture in the north of the State, particularly in the Kimberley, but not many of them have been successful. The Camballin project under the previous operators was a very grand scheme and had it been successful would have been of tremendous benefit to the Kimberley region. However, it seemed almost as though that operation was fated not to be successful, because all sorts of unusual disasters befell it and eventually it was unable to carry on. On behalf of the Opposition I wish AIL Holdings every success in its venture.

The Kimberley of course is currently suffering from severe economic circumstances brought about by a long drought, the difficulties with cattle at the various abattoirs, such as the lack of cattle at the Broome meatworks, the suggestion that the Wyndham meatworks will be closed down, and the closure of the Derby port. The area has witnessed a whole string of economic problems.

This project, which is off and running, has the potential to provide a significant boost to the economy of the West Kimberley. I certainly hope it is successful. I do not think the company is under any illusions as to the likelihood of its success. It is clearly aware of the many difficulties it faces and of the great difficulties of irrigated agriculture succeeding in a part of the world which is so far from the markets. I guess that in the future we must look at establishing markets to the north of the

Kimberley rather than to the south. In this respect, the private shipping sector will be most important in getting the produce from the Kimberley to Asia.

I do not propose to go into any more detail on this legislation. The Opposition supports it and wishes the company well, and hopes that it is successful. We are not as optimistic as we might have been at the time of the ALCCO attempt when we were full of enthusiasm and eventually found that, like many other projects, it did not work.

Hon. D. K. Dans: They tried hard, though.

Hon. N. F. MOORE: They tried to the tune of tens of millions of dollars which they are finding hard to recover. But if they have that amount of commitment, as did Mr Jack Fletcher of ALCCO, I certainly hope they will be successful. I hope the consortium succeeds and that the next time we talk about this in the House, we are talking of success at Camballin and Liveringa, and not about a new agreement for a new company to take over.

I wish the company every success.

HON. D. J. WORDSWORTH (South) [1.23 a.m.]: I do not wish to hold up the House very long at 1.20 in the morning on the subject of Camballin. However, I feel the Bill should not pass without a few comments.

I admire those in private enterprise who are willing to accept the challenge of a project such as this. It is an agricultural project of over 40 000 hectares of arable land in an isolated area. I very much admire the previous group and the fact that they were willing to take it on. It is easy enough to be critical and say they made mistakes, but unfortunately most large companies of that nature do make mistakes—from Esperance with Alan Chase, to other examples—and I am afraid this project fell very much into the same difficulties.

One of those difficulties was that a shipload of fertiliser on its way from the United States burnt, and that set the whole project back. Of course, crops must be sown on time, and the company was not able to arrange for that replacement quickly. There are other matters that went wrong with that project. Those are the sorts of things that companies like that face.

I saw a similar thing happen at Esperance, and one can very quickly criticise Alan Chase. As it happens, when one looks back historically one finds that they made Sir William Gunn their Australian director and expected great things of him. With due respect, I think he was more interested in being a director of Philip Morris Ltd at the time, and I do not know whether he even visited Esperance.

The company at Camballin also fell into trouble. I hope this Government will give the project the support it deserves and needs. I am not suggesting it should put millions in, but I was a Minister in a Government which built a grain storage shed at Broome worth, at the time, some $3.8 million. We were criticised for that, but it was felt that if the company was willing to put in about $18.5 million, the Government should be willing to give some support, particularly because grain handling facilities are normally the prerogative of CBH. Indeed, CBH did put in some small silo systems at Wyndham to help the Kununurra development.

Hon. H. W. Gayfer interjected.

Hon. D. J. WORDSWORTH: I appreciate that CBH tries to serve all grain producers, but I agree with the interjection by the Chairman of CBH that that was too big a project for the grain growers of Western Australia to undertake; and it was right that the State Government stepped in and did it to save the embarrassment of the grain growers who have done a great job in this State by providing all the bulk handling. One does not see that in other States.

I stand by the fact that the State put $3.8 million into the project. Some of the criticism came, because the Department of Agriculture itself stated that it could not see the project succeeding. However, I believe that private enterprise has the right to invest money where it thinks there is a chance of a profit. I presume the U.S. insurance company had made large profits in Australia which it could offset against its loss, so while $18.5 million sounded a lot of money, perhaps as a tax deduction it would have been able to do it for less. I understand that the Aetna company, which came in as the major partner, has projects worth hundreds of millions of dollars throughout the world—in agricultural projects in particular—and I do not suppose that $18 million was a large amount for it to risk. It was in the game of insurance and gambling with the dice; it took the challenge and lost. That is private enterprise.

I wish this new company well. It would be great to see private enterprise succeed up there. I hope that it does succeed and that we see a subdivision later on and land sold to farmer-

settlers. That would be the ideal form of agriculture there, but it is probably right for the big companies to take the risk in the first place.

The Bill is written in such a manner that the Government retains some responsibility when it comes to the diversion bank, dam, etc., and this lends itself to moving into subdivision in future.

HON. H. W. GAYFER (Central) [1.29 a.m.]: The story of Liveringa is a most interesting one, and certainly one of great legend. Liveringa in itself has meant something to my family for many years. My elder brother used to shear up there in the early 1930s with "the mad eight", or PLB, but not many people would know what that meant. He was up there with the Dunbars and went right through that area. When I was a little fellow he used to come home and tell me all the stories of wonderful Liveringa.

When I first came into Parliament in 1962, a Bill was being introduced at the time by Hon. Stewart Bovell dealing with regeneration and looking after the lands of the Kimberley and certain other provisions to do with Camballin. Mr Tom Hart, who was the member for Roe, and I decided that we could not vote on a Bill without knowing what was in the legislation and we decided to charter an aeroplane. We went to Camballin in about 1963 and had a look there, then went into the Kimberley and had a further look around.

From then on I have been particularly interested in the work at Camballin. I have made four or five trips up there. They have been critical trips and I have been horrified at times at what I saw. I could not understand why mountains of machinery were taken there and never used. I saw beautiful irrigation channels. Yet, sheep were allowed to graze on irrigated land without much shepherding or care and I saw them dying in the trenches.

I also remember very well the barrage dam. I am plucking figures out of the air now, but in 1964, just prior to the introduction of decimal currency, that dam cost the Government £36 000 a year for its upkeep. That was the Government's contribution to the water onto Camballin.

I remember the arguments with Go Go Station which was having difficulty in getting green hay off Camballin. There was a little bit of animosity generally, but in spite of all that, I give Jack Fletcher his due: He came back time and time again.

We passed other legislation somewhat later whereby the lands were to be extended and people would be given the opportunity to take up parcels of land for irrigated agriculture, as Hon. Norman Moore correctly referred to it. We saw feed lots magnificently constructed. What a pity it was that every move that was made seemed to fall by the wayside.

Co-operative Bulk Handling Ltd was approached to put a storage facility at Broome. We had seen so many disasters at Camballin that we could not become enthusiastic about spending $3 million on an installation up there. The policy of CBH was that no installations would be provided anywhere unless the district had proved itself. Camballin had never proved itself. Regrettably, we could not help the Government of the day in spite of the fact that we had assisted a cooperative group with a small facility at Wyndham some years before.

A Mr Hamilton, who used to be with the Public Works Department in Kununurra, together with Mr Jack Fletcher, was enthusiastic that something would come out of the north. He was a most enthusiastic officer. Consequently, with the enthusiasm of Mr Hamilton and Mr Fletcher, the Government built the $3.8 million structure at Broome which has never had sorghum or any other grain going through it. I have photos of that facility in my case upstairs. There is a beautiful ship-loader there. It is in the position it was in when it was first built. That is very sad. It is a magnificent structure. We saw in the newspaper not long ago that a certain group wanted the structure to be given to it so that it could be utilised for other purposes. Fortunately, the Government has kept a watch on it, hoping that some day the area will come good.

I commend AIL Holdings Pty Ltd for having another go at the area. However, I feel worried and concerned that it may experience some of the pitfalls that previous owners have fallen into. That concerns me because it seems to be so easy to make a mistake. One minute there were cattle everywhere in that area, and helicopters, and tractors. That was only a matter of two or three years ago. The clearing sale only three months ago virtually got rid of them as easily as they had gone in there.

I am sorry to see the far north towns such as Kununurra struggling. If ever there was a need for someone to make a go of it in the north, the need is now. Already I believe that, through failures—I am not blaming anybody for it—the area has slipped. People have been unlucky in Kununurra and Camballin. That is taking the

incentive away from people to use the vast and unlimited potential of that area. There is the magnificent Ord River Dam in the north and the magnificent barrage dam at the Liveringa site. If we do not do something about the area soon, and put our vitality to some good use, somebody else will go into the area and make a go of it. With all of that beautiful black soil, all that water and all that irrigation, something has to work.

Because we have only seen failures in that area, we should not turn our backs on it. We should encourage development and we should go out of our way in an endeavour to help, maybe not financially, but by assisting private enterprise to go into the area and not stand in its way. That is where our future lies. That northern area has everything. All it needs now is know-how. If we have to bring people in from Israel or Indonesia to teach us what to do, so be it.

That is our magnificent heritage. It has everything we need for the future. There is no future in sugar. However, the area has potential for some use. We can only wish AIL Holdings all the best with its new enterprise, especially now with a depressed world market. I hope it can engender some enthusiasm into the area. I endorse the proposal.

HON. D. K. DANS (South Metropolitan—Leader of the House) [1.39 a.m.]: I thank members who have supported the Bill. I have been to Camballin on three occasions, I think once with Mr Gayfer. I am sad that all of the money that was sunk into the project did not achieve different results for Mr Fletcher and his backers.

Without being too harsh, I suppose that that is now history. It is a sad history and I can only hope that this new venture is a success. I am very sure that this Government, or even any other Government, will do all in its power, by way of expertise or financial backing in the future, to see that the venture is a success. If those involved in the venture make a success of it, the breakthrough that Mr Gayfer talked about may well eventuate. The story that can be read into this agreement is the need to tackle the matter slowly. The project must not be tackled in haste. Perhaps in the fullness of time, the depressed world market for the product to come out of the area will improve.

Hon. H. W. Gayfer: It will have to.

Hon. D. K. DANS: I think that the world will want the produce and that the development may come to fruition just at the right time.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (Hon. P. H. Lockyer) in the Chair; Hon. D. K. Dans (Leader of the House) in charge of the Bill.

Clauses 1 to 6 put and passed.

Schedule—

Hon. N. F. MOORE: In clause 2 of the schedule there is a definition of "associated company" which states—

> "associated company" means Camballin Farms Pty. Ltd. a company incorporated in the said State and any other company approved by the Minister for the purpose of this definition;

In clause 23 of the schedule, under the heading "Assignment", it states—

> 23. (1) Subject to the provisions of this Clause the Company may at any time:—
>
> (a) assign mortgage charge sublet or dispose of to an associated company . . .

I raise this matter because the Opposition is concerned about the activities of a company called Exim Corporation in the Kimberley. While the Minister in another place has indicated that he does not see an associated company under this schedule as relating to Exim, I indicate that the Opposition will continue to look very closely at what the associated company might happen to be. We will certainly keep a very close eye on whether Exim Corporation decides to get itself involved in the activities at Camballin, bearing in mind that next door it is very heavily involved in the pastoral leases which were formerly owned by the Emanuels. We give notice to the Government that the Opposition would not support any involvement by Exim in this particular project.

Schedule 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 Hon. D. K. Dans (Leader of the House), and passed.

ADJOURNMENT OF THE HOUSE: SPECIAL

HON. D. K. DANS (South Metropolitan—Leader of the House) [1.44 a.m.]: I move—

That the House at its rising adjourn until Wednesday, 6 November 1985 at 2.30 p.m.

Question put and passed.

House adjourned at 1.45 a.m. (Wednesday).

QUESTIONS ON NOTICE

BUSINESSES: SMALL BUSINESS

Drought-affected: Carry-on Loans

308. Hon. A. A. LEWIS, to the Minister for Employment and Training representing the Minister for Small Business:

(1) Has the Government finished its consideration of carry-on loans to small business in drought declared shires?

(2) If not, when is it expected a decision will be made?

Hon. PETER DOWDING replied:

(1) and (2) Cabinet yesterday approved a drought relief package to assist small businesses which have been clearly affected by drought.

ABATTOIRS

Lambs: Details

309. Hon. A. A. LEWIS, to the Leader of the House representing the Minister for Agriculture:

(1) What has been—

(a) the weight and number of lambs handled by the Lamb Marketing Board from March 1976 until the present time;

(b) the monthly cost of running the Lamb Marketing Board for each month since March 1976?

(2) Will the Minister list the variability of the cost for this period?

(3) What profit or loss has been made on the purchase of lamb from interstate in the last 12 months?

Hon. D. K. DANS replied:

(1) (a) 12 369 015 lambs weighing 279 694.3 tonnes were handled by the Lamb Marketing Board from 1 March 1976 until 30 September 1985.

(1) (b) and (2) Annual reports of the Lamb Marketing Board, which have been tabled in Parliament, list the costs of running the board on an annual basis.

(3) The Lamb Marketing Board has not engaged in interstate trade in the past 12 months.

WATER RESOURCES

New Norcia: Improvement

312. Hon. MARGARET McALEER, to the Leader of the House representing the Minister for Water Resources:

(1) Is the Minister aware that the town of New Norcia's water supply is in a critical position this year and is only expected to last until the beginning of January?

(2) Would the Minister advise me what steps are being taken in the short term and for the future to improve the water supply for New Norcia?

Hon. D. K. DANS replied:

(1) and (2) The Water Authority is not responsible for the private water supply at New Norcia.

ROAD

Coastal: Lancelin-Cervantes-Jurien

313. Hon. MARGARET McALEER, to the Minister for Employment and Training representing the Minister for Transport:

Would the Minister advise me as to the progress in planning for a coastal road between—

(a) Lancelin and Cervantes; and

(b) Cervantes and Jurien?

Hon. PETER DOWDING replied:

(a) A concept for an alignment between Lancelin and Cervantes has been developed for a possible roadway in the long term;

(b) an alignment between Cervantes and Jurien has been accepted by the Environmental Protection Authority, and survey work to enable the design of a road to be prepared is nearing completion.

315. *Postponed.*

TRANSPORT

Hovertrak Overhead Vehicle Transit System

317. Hon. N. F. MOORE, to the Minister for Employment and Training representing the Minister for Transport:

(1) Is the Minister aware of the Hovertrak Overhead Vehicle Transit System devised by Mr Lloyd Nolan?

(2) If so,

(a) has the Government evaluated the proposal; and

(b) if so, what conclusions were reached?

Hon. PETER DOWDING replied:

(1) and (2) Like the previous Government, this Government has received letters from Mr Nolan in which he claims to have devised such a system.

His proposal has been expressed only in the very vaguest terms and supported only by assertions. No substantial information has been given on which to make an evaluation.

QUESTIONS WITHOUT NOTICE

INDUSTRIAL RELATIONS COMMISSIONER

Mr John Negus

291. Hon. G. E. MASTERS, to the Minister for Industrial Relations:

(1) Is he aware that the Industrial Relations Commissioner, John Negus, is still an office bearer of the WA Teachers Credit Society Limited?

(2) If so, is it proper for the commissioner to hold such a position if it interferes with his work as a commissioner?

Hon. PETER DOWDING replied:

(1) and (2) I have no evidence of any of the facts of the assertions the member made, but I will make some inquiries.

GAMBLING

Casino Control Committee: Report

292. Hon. NEIL OLIVER, to the Minister for Racing and Gaming:

In view of his reply to me during the adjournment debate last Thursday evening, 31 October, did he made a Press statement later that evening, as reported in *The West Australian* on Friday morning, to the effect that he was aware of the problems and he was awaiting a report from the Casino Control Committee before making a decision on a proposal to raise some of the shortfall by *pro rata* issue of additional units to unit holders?

Hon. D. K. DANS replied:

Yes, I did make a statement to the Press.

PRISON

Maximum Security: Location

293. Hon. P. G. PENDAL, to the Minister for Prisons:

Why is the Government proposing that the maximum security prison be constructed at a place other than Canning Vale where adequate land is available and central services have been provided at considerable cost?

Hon. J. M. BERINSON replied:

There is a whole range of factors which go to the selection of an appropriate site for this prison, and they are not all necessarily met by the availability of space at Canning Vale.

PRISON

Maximum Security: Leda

294. Hon. P. G. PENDAL, to the Minister for Prisons:

(1) Is it correct that the Government contemplated the construction of the new maximum security prison on land at a place named Leda, a new residential subdivision near Kwinana?

(2) Is it further correct that Leda was ruled out as a place for the new maximum security prison because of advice from the Health Department of the likely effect of industrial airborne pollution on prison officers and prisoners?

Hon. J. M. BERINSON replied:

(1) and (2) I have previously indicated to the House that a number of sites have been under consideration, and that pending a final decision on the site of this prison I would not propose to enter into discussions which might encourage speculation.

PRISON: CANNING VALE

Security: Resolution

295. Hon. P. G. PENDAL, to the Minister for Prisons:

Is the Minister satisfied that the problem of security recently reported at Canning Vale Prison when prisoners

were found after hours in workshop areas with duplicate keys has been resolved?

Hon. J. M. BERINSON replied:

Yes.

PRISON: CANNING VALE

Security: Status

296. Hon. P. G. PENDAL, to the Minister for Prisons:

Is the Minister satisfied that security at Canning Vale Prison is in order and that there is no imminent likelihood of an escape attempt?

Hon. J. M. BERINSON replied:

The first Minister for Prisons to guarantee that there will not be an escape or an attempted escape from any prison will be heading towards the end of his career. There is no possibility of providing the sort of implied guarantee for which the honourable member is asking. I can say I am satisfied that the security at Canning Vale is at a very high level and that it is appropriate for the class of prisoners in that institution.

PRISON: PRISONERS

Canning Vale: Telephone Use

297. Hon. P. G. PENDAL, to the Minister for Prisons:

I thank the Minister for that assurance.

(1) Is it correct that prisoners at Canning Vale are now permitted virtually unlimited access to the use of the telephone?

(2) When did this policy, if applicable, come about?

Hon. J. M. BERINSON replied:

(1) and (2) I do not have that information with me. I ask the honourable member to place the question on notice.

GAMBLING: CASINO

Burswood Property Trust: Meeting

298. Hon. NEIL OLIVER, to the Minister for Racing and Gaming:

Further to my earlier question about his Press statement to *The West Australian*, I ask whether the Minister met representatives of the Burswood Property Trust on Friday morning, 1 November?

Hon. D. K. DANS replied:

No, I did not. One of the member's colleagues would know why, because I was on my way to Meckering. I have not met anyone from the Burswood Property Trust. I have no need to meet anyone from the Burswood Property Trust.

PRISON: CANNING VALE

Security: Cameras

299. Hon. P. G. PENDAL, to the Minister for Prisons:

Did it cost of the order of $200 000 to install a camera system at Canning Vale on the removal of armed guards from gun towers?

Hon. J. M. BERINSON replied:

Again I have to ask the honourable member to put the question on notice. The equipment was installed some time ago, and I do not think I can reasonably be expected to carry those details in my head.

GAMBLING

Casino Control Committee: Meeting

300. Hon. NEIL OLIVER, to the Minister for Racing and Gaming:

Has he met the Casino Control Committee, and when was the meeting held?

Hon. D. K. DANS replied:

I meet regularly with the Casino Control Committee. I think the information Mr Oliver is really seeking is that I received the committee's final report about 4.00 p.m. last Friday afternoon after I had returned from Meckering.

PRISON: CANNING VALE

Security: Cameras

301. Hon. P. G. PENDAL, to the Minister for Prisons:

Is he aware that the camera system at Canning Vale Prison does not work satisfactorily?

Hon. J. M. BERINSON replied:

Without some indication from the honourable member as to the alleged difficulties with that equipment, I am not in a position to provide a clear answer.

PRISON: CANNING VALE

Security: Centrex System

302. Hon. P. G. PENDAL, to the Minister for Prisons:

(1) Is he aware that as a result of the unsatisfactory operation of the $200 000 camera system at Canning Vale Prison consideration is being given to the installation of a Centrex ground detection system for security?

(2) Would the Minister agree that instead of pursuing an expensive extension of electronic surveillance the restoration of armed guards on gun towers at Canning Vale Prison would provide the security expected by the public in relation to a prison occupied by serious offenders?

Hon. J. M BERINSON replied:

(1) and (2) The question indicates a degree of confusion on the proposals for the prison. The Centrex system is proposed in addition to the cameras and not in the place of them.

ADJOURNMENT DEBATE

Reply

303. Hon. NEIL OLIVER, to the Minister for Racing and Gaming:

In view of the Minister's previous replies, why were other members of the House and I denied the courtesy of a reply from the Minister during the adjournment debate similar to that extended to *The West Australian*?

Hon. D. K. DANS replied:

Simply because the member was out of order.

COMMUNICATIONS

Television Programme: "Anzacs"

304. Hon. P. H. WELLS, to the Minister for Employment and Training:

I draw the Minister's attention to his statement on page 1768 of *Hansard* in which he referred to Hon. Phil Pendal's statement as an attempt to politicise the issue and contended that it was like actions of Opposition members trying to politicise the programme "Anzacs". In view of the Government Party's sponsorship of that programme, will the Minister admit that he was wrong, out of touch, and that his statement was political nonsense as it related to that worthy programme?

Hon. PETER DOWDING replied:

I made my position quite clear. I made a comment in this House which I thought was entirely appropriate. If, as a result of the introduction of changed mores on this issue, other people have made decisions, so be it. However, I have made my position clear.

GAMBLING: CASINO

Project Management Agreement: Amendments

305. Hon. NEIL OLIVER, to the Minister for Racing and Gaming:

I was not aware that the Minister had the right to decide whether a member was out of order.

(1) In view of the Minister's Press statement and replies this afternoon, will he advise me of the variations being proposed to the project management agreement?

(2) When does he propose that he will approve those amendments?

Hon. D. K. DANS replied:

(1) and (2) I have already told the member that they were approved at four o'clock on Friday.

If the member had listened on Thursday night he would have heard me say that questions should not be asked during the adjournment debate. There is an appropriate time for questions to be asked, and he did not use that time. If the member had put his question on notice, I would have

answered his questions today. I also will endeavour to answer the questions without notice.

I have read the questions in *Hansard* and, with your indulgence, Mr President, I will endeavour to answer them. The first question asked, during a purported speech in the adjournment debate, was whether consideration had been given to the variation of the original agreement and its tabling in the Parliament in accordance with the Act. My answer is that there is no requirement to alter the original agreement as power exists within the original agreement for all complementary agreements to be varied with the approval of the Minister.

The second question asked was whether the project management agreement had been substantially varied or whether the Minister had been consulted about a new agreement. The answer is "No".

The third question was whether the Minister's approval had been granted in accordance with the Act, and whether the trust deed had been varied accordingly. The answer is "Yes", that is up to the trustees. There are more parties to the agreement than the Government.

Hon. Neil Oliver: You are the responsible Minister.

Hon. D. K. DANS: Yes, but I only give the okay.

The fourth question related to the design and construction programme being in accordance with the Minister's original approval as required by the Casino (Burswood Island) Agreement Act. The answer is "Yes".

The fifth question was whether I had approved the programme for the design, documentation, construction, completion fit out, and commissioning of the resort in accordance with the Act. The answer is "Yes".

Hon. Neil Oliver: You answered "No" previously.

Hon. D. K. DANS: I did not. The member asked what substantial amendments, if any, may apply to the management agreement, or whether a new agreement is required. The answer is none.

The seventh question related to the effect this would have on the trust deed. Ministerial approval has been given to vary the trust deed to raise the extra capital required to finance the project.

The PRESIDENT: For the sake of the record, the answer by the Minister is given in answer to the last question without notice asked by the member. That is the way it will appear in *Hansard.*

LAND

Mortgagee Sales: Committee

306. Hon. E. J. CHARLTON, to the Leader of the House:

Is it a fact, as announced today, that a committee will be set up to negotiate mortgagee sales?

Hon. D. K. DANS replied:

I cannot answer the question. It is outside my area of responsibility.

The PRESIDENT: The question will be placed on notice.

COMMUNICATIONS

Television Programme: "Anzacs"

307. Hon. P. H. WELLS, to the Minister for Employment and Training:

In view of the Minister's comments about political advertising on the programme "Anzacs", has the Minister expressed the same views to the Premier, Cabinet, and his party?

Hon. PETER DOWDING replied:

I expressed the view to a number of people. I had the opportunity of asking Hon. Mark Nevill whether it was a fact, as alleged by the member, that the Labor Party sponsored the show in Kalgoorlie. I am told—perhaps the House ought to be informed—that the Liberal Party apparently ran out of puff when it got to Merredin and it decided it would not sponsor the programme in that region.

Hon. Mark Nevill: And Esperance.

Hon. PETER DOWDING: Yes, Esperance also. The Labor Party indicated that it would fill the breach. Not only has it filled the breach but also I am informed that it donated two nights of its sponsorship to local charitable groups, which is a most commendable action on its part and places it well above the Liberal Party in terms of any political kudos.

COMMUNICATIONS

Television Programme: "Anzacs"

308. Hon. P. H. WELLS, to the Minister for Employment and Training:

In view of the fact that the Minister did not make his views known to the Premier, his party, or his colleagues, did he make them known to anyone else?

Hon. PETER DOWDING replied:

I have indicated my answer to that question.

COMMUNITY SERVICES: ADOPTIONS

Parent Search: Medical History

309. Hon. MARGARET McALEER, to the Attorney General:

Will the Minister advise me, if a mature aged adoptee applied to know the name of his or her natural parents to establish a medical history, and that request was refused by the Registrar General, what conditions would the Minister require in order to direct the Registrar General to make the search?

Hon. J. M. BERINSON replied:

I have not had such a case brought to me in practice and I have, therefore, not had any occasion to establish criteria. On the presentation of any such real application, I would consider what appropriate steps should be taken.

ELECTORAL ROLLS

Closure

310. Hon. P. G. PENDAL, to the Attorney General:

I refer the Attorney General to his answer to my question without notice 263 of Tuesday, 29 October, where he undertook to take an early opportunity to discuss with his colleague, the Minister for Parliamentary and Electoral Reform, the appearance of an inaccurate statement made by that Minister in relation to actions allegedly taken by this House.

(1) Has he taken the matter up with the Minister for Parliamentary and Electoral Reform?

(2) If so, with what result?

Hon. J. M. BERINSON replied:

(1) and (2) I am surprised that the member should ask that question. Having undertaken to consult the Minister, of course I did consult the Minister, the result of which is that I have an indication that his reported statements are correct. Because the explanation of the position involved some small complication, I asked the Minister to provide me with a written indication of the background. His advice is as follows—

Clause 19 of the Bill was constructed to meet the Government's proposed changes in the minimum time schedules for elections.

The clause also introduced the term "close of the roll" to enable this function to appear in the right place in the Act. Previously no such term appeared in the Act. The picture was completed by consequential amendment to section 53 in clause 14. The consequential amendment removed the term "issue of writ" in connection with roll closure and substituted it with the term "close of the roll". Further less significant consequentials were made in clauses 10 and 48.

Section 53 of the existing Act does not use the term "close of the rolls" but refers to an effective closure of the rolls by saying "no addition to or alteration of the roll shall be made between the time of issue of the Writ . . . and the closing of the poll . . .".

The Opposition removed clause 19 entirely but left clauses 10, 14, and 48 intact. This had the effect of introducing the term "close of the rolls" but removing all reference to a specific time of closure.

This is a fundamental flaw that could not be overcome within the Electoral Act as no guidance is given as to when the rolls are to close.

GAMBLING: CASINO

Minister's Dealings

311. Hon. NEIL OLIVER, to the Minister for Racing and Gaming:

In his deliberations since approximately 10 October when the Stock Exchange was told that the casino complex was $60 million short of the estimated cost, and his statements made in the Press last week about his dealings with the Casino Control Board, has he had any dealings with other people, associated with Burswood Management Ltd?

Hon. D. K. DANS replied:

It has not been necessary or appropriate for me to have dealings with Burswood Management Ltd. Certainly discussions were held between the Casino Control Committee and Burswood Management Ltd, the banks, the trustees, and the Commissioner for Corporate Affairs.

COURTS

Bail Act: Use

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

(1) Is it correct that the Bail Act has been dropped by the Government as unworkable in its present form?

(2) If so, will the Attorney General advise what are the problems and what are the Government's proposed solutions to these problems?

Hon. J. M. BERINSON replied:

(1) No, the Act is still under consideration in respect of measures required for its implementation.

(2) Not applicable.

COURTS

Bail Act: Discussions

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

Can the Attorney General indicate whether discussions with the Police Force in connection with the workability of the Bail Act have broken down or are still continuing?

Hon. J. M. BERINSON replied:

In the first instance the use of terminology like "broken down" is misplaced. What has happened is that there have been consultations, at my request, between the Crown Law Department and the Police Department. My memory is that I have received at least one, and perhaps two, reports arising from those discussions. Frankly, at the moment I am not in a position to say whether the discussions are continuing or whether the matter is with the Crown Law Department for preparation of further advice to me.

To the extent that consultations are necessary, they will continue; and terms like "breaking down" are not appropriate in these circumstances.

COURTS

Bail Act: Amendments

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

Can the Attorney General advise whether there are any suggestions that as part of his discussions in connection with the Bail Act proposals have been made to bring forward further amendments to it to enable those problem areas to work better?

Hon. J. M. BERINSON replied:

I am sorry, but I missed the point of that question. Perhaps Hon. Peter Wells could repeat it.

COURTS

Bail Act: Amendments

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

I have been led to believe that certain clauses in the Bail Act create some problems and that there is some

interest to amend it to make it workable. Has there been any suggestion of amendments to the Bail Act to make it workable?

Hon. J. M. BERINSON replied:

I have no recommendations before me at this stage to that effect.

HEALTH: DRUGS

Federal Police: Shortage

316. Hon. P. H. WELLS, to the Leader of the House:

During the adjournment debate on Thursday, 24 October, I raised my concern about a report of the Federal Police which indicated a shortage of police was causing a number of drug leads in the Eastern States not to be followed up. Has any attempt been made by the Government to gain access to that report to ascertain if the same thing applies to Western Australia?

Hon. D. K. DANS replied:

It is not my role to undertake to do those things. However, what I always do when a question is asked or a point is raised in this House is to have the "greens" examined straight away and sent to the appropriate Ministers. That has been done in this case, but as yet I have not received a reply.