Legislative Council

Tuesday, 16 April 1985

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

BILLS (4): ASSENT

Message from the Governor received and read notifying assent to the following Bills—

1. Control of Vehicles (Off-road areas) Amendment Bill.
2. Artificial Conception Bill.
3. Poseidon Nickel Agreement Amendment Bill.
4. Railways Discontinuance Bill.

LEGISLATIVE COUNCIL CHAMBER

Photographs and Television Camera

THE PRESIDENT: Honourable members, I have received a letter from the Audio Visual Education Branch which says, amongst other things, that the branch is producing a set of prints for social studies for the Distance Education Centre. One of the photographs is to be of the Legislative Council during a sitting. I have given approval for this photograph to be taken at the commencement of tomorrow's sitting on the normal conditions; that is, if anyone has any reason that we should not do it I will consider the matter.

Just after the bells had commenced ringing today, I received a phone call from Channel 2 asking for approval to update its film library. I have indicated that approval will be granted for the Channel 2 crew to come in at the beginning of tomorrow's sitting, at whatever time that happens to be. Unless any honourable member knows some reason that we should not allow that, I intend to grant that permission.

ROAD: DOUGLAS AVENUE

Closure: Petition

The following petition bearing the signatures of 53 persons was presented by Hon. P. G. Pendal—

> TO:— The Hon. The President and Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled. WE, the undersigned citizens of Western Australia:
>
> Being residents of Douglas Avenue, South Perth, and its environs, respectfully request that the Minister for Town Planning review the decision to excise the closure of Douglas Avenue from the road rationalisation plan of the City of South Perth. Without such a closure our homes are subject to an inordinately heavy volume of traffic which is adversely affecting them through vibration and pollution.
>
> Your Petitioners, therefore, humbly pray that you will give this matter earnest consideration and your Petitioners, as in duty bound, will ever pray.

(See paper No. 561.)

GAMING AND BETTING (CONTRACTS AND SECURITIES) BILL

Second Reading

Debate resumed from 3 April.

HON. G. E. MASTERS (West—Leader of the Opposition) [4.37 p.m.]: This is another Bill dealing with gambling brought in by the Government. On my calculation the Bills in Orders of the Day Nos. 1 and 2 are the nineteenth and twentieth Bills dealing with gaming and gambling matters that the Government has brought in since it took office in 1983. That must be an all-time record.

This Bill is different from the others in a number of ways, more particularly as regards the second reading speech. When the House is presented with a Bill, a second reading speech is normally made to explain to members and to the public what the Bill is all about. But the second reading speech in this case was so complicated that I had to read the Bill to understand the second reading speech. For the information of members, I took the trouble to ring up the Minister and talk to him, and he had the same trouble.

Hon. D. K. Dans: I have to agree.

Hon. G. E. MASTERS: It was an extraordinary second reading speech; it certainly did not make much sense to me. The Minister started off by saying that the main objective of the Bill was to enable bookmakers to recover gambling debts—debts incurred in the course of their business.

It seemed to me that was only one reason. I may be wrong in my reading of the Bill; I have spoken to the Minister on a couple of occasions about the Bill and tried to get some information.

Hon. D. K. Dans: I think that was needed.

Hon. G. E. MASTERS: It seems to me that one of the reasons for the Bill's introduction is the establishment of a casino. I could be wrong, but that is how it appears to me.

The Minister did say in his second reading speech that the proposals were recommended by the Law Reform Commission and by the Royal Commission into Racing and Trotting. For a moment I shall dwell on the second reading speech,

and perhaps the Minister could explain a few matters; he might even have a rewritten speech for members.

On page 2 of the Minister's speech notes can be found the following—

> Although that Bill also repeals section 841 of the Police Act, the subject matter of section 841 is re-enacted in clause 4 of this Bill. However, prescribed bets, including bets with bookmakers, are exempted from its provisions.

It later goes on to say—

> As already explained, clause 4 contains a re-enactment of section 841 of the Police Act. This clause will also clarify the law in relation to the enforcement of cheques and other securities.

I do not read clause 4 of the Bill to mean that, and I believe there must be some mistake in the second reading speech. The sidenote to clause 4 reads—

> Certain contracts and agreements relating to gaming and betting to be unenforceable.

However, the second reading speech refers to the enforcement of cheques and other securities. I think the Minister's second reading speech should have referred to clause 5 because that relates to contracts related to prescribed gaming or betting which may be enforced.

The Minister's speech went on as follows—

> Section 1 of the Gaming Act 1835 declares that instead of a security given in respect of a bet being void, as was previously the law, it was deemed to have been given for an illegal consideration. This means that although the winner cannot enforce the cheque himself, a third party could do so, provided he gave value for the cheque without knowing that it was given in satisfaction of a gaming debt.

I really do not understand the first sentence. I suppose there is a difference between "void" and "illegal". If a bet is declared void the cheque could be declared void as well. Perhaps the Minister could explain later.

Further on in the Minister's second reading speech we find the following—

> In relation to gambling debts which are not gaming debts, although the winner cannot enforce the cheque himself, a third party can do so, whether or not that third party knew the cheque was given in satisfaction of the gambling debt.

It mentions "gambling" debt not "gaming" debt. That means not a prescribed debt. Is this an illegal debt? Obviously I am not a gambling man and I do not fully understand the terms used in gambling. Nevertheless, the second reading speech refers not to a "gaming" debt but to a "gambling" debt. The second reading speech goes on as follows—

> This is a distinction which has long been the law. The rationale is that it helps to discourage a person from "rigging" a game, collecting a cheque from the loser, and endorsing it to an accomplice.

I referred earlier to a part of the second reading speech which indicated that "although the winner cannot enforce the cheque himself, a third party could do so" .and now we have this second piece which says "although the winner cannot enforce the cheque himself, a third party can do so".

It goes on to say that the rationale is that it helps to discourage a person from rigging a game, collecting a cheque from the loser, and endorsing it to an accomplice, who can then cash the cheque.

That seems contradictory. First we are told that a third person cannot cash the cheque and then we are told a third person can do so. The second reading speech goes on to say—

> This opportunity for fraud is not present in the case of debts which are not gaming debts, for example, a bet between two persons as to which footballer won the Sandover Medal in a certain year.

Again, because I am rather ignorant of gaming procedures, I would like the Minister to tell me whether during a game of cards played between persons in a club or in a home, where one of them writes out a cheque, that would be a recoverable debt. The Minister is shaking his head and I guess my example is one of illegal gambling. I think the Minister sees my point that there is conflict in his speech. I would be very interested to know exactly what is meant.

I will move now to consider what is in the Bill, because the second reading speech is much harder to follow. Clause 5 relates to contracts relating to prescribed gaming or betting, which may be enforced, and the schedule gives a list of Acts of Parliament which legalise betting. They are as follows—

Totalisator Act

Totalisator Regulation Act

Totalisator Agency Board Betting Act

Lotteries (Control) Act

Lotto Act

Soccer Football Pools Act

Casino Control Act

Casino (Burswood Island) Agreement Act

Police Act

Race Meetings (Two-up Gaming) Act

It would also cover others prescribed in regulations outlining other legalised betting.

This seems to cover the area where a contract is deemed to be made and where a person may sue—where a bookmaker or anyone else may sue for a bet not paid—in cases involving prescribed, or legal, gambling. I cannot understand how there could be proof in certain circumstances that a bet has been made.

I understand that many people who attend race meetings bet by the nod. I understand that they lay bets with certain bookmakers by means of some sort of nod or signal, usually in the case of substantial bets of perhaps $1 000 or $2 000. It could be that a person lays a bet of $1 000 by scratching his nose or winking at a bookmaker and then moves on. If he loses the bet and the bookmaker finally catches up with him, the bookie could say, "You owe me money because you made a bet of $1 000 with me a while ago and didn't pay". The person could say, "I didn't". How can that bet be proved? How could the bookmaker ever sue a person who has made a bet by a nod or by some other such method? I do not think it would be possible. The only way a person could sue for non-payment of a debt was where substantial proof could be shown, where there was some written proof or some witness. I would like the Minister to indicate how such a bet could be collected.

Clause 3 covers prescribed bets. These are bets that are laid with a person such as a bookie, who is legally carrying on such a business, or with a person authorised to accept bets, and these people are covered under an Act specified in the schedule. These are legal or prescribed bets.

Clause 6 allows money loaned or advanced to be recoverable; in other words, moneys advanced on credit.

My understanding is that this certainly can be recoverable if there is a form of credit on the racecourse—and I am sure there is with bookies—which can be followed up and proved to be a bet.

Let us take as an example the casino now under construction. Is my understanding correct that if I were to walk into a casino with $50 in my pocket and started gambling and then found I had not enough money and wanted to raise another $400 or $500, provided the management of the casino agreed I was worth the risk of $500 and they could trust me for that amount or much more—and I am sure many people gamble tens of thousands of dollars—the casino could sue for the amount owed and the credit given? I think that is obvious. If I am right, that is one of the main objectives of the Bill—to make sure that when the casino now under construction is completed betting will be done to a major extent by credit.

I guess one could make arrangements to use one's credit card to gamble at the casino. I do not know whether that is right, but that is how I read the legislation. Credit betting would be used to a great extent and I could see people getting into a great deal of trouble through betting at casinos and racecourses as well. There may be a ready availability of credit at casinos through the use of credit cards or whatever. I think people could gamble much more than they could afford and those who suffer will be those people and probably their families.

The Bill itself is fairly straightforward in many ways but there seems to be a number of loopholes or matters which need to be questioned. I will not raise them now because I think the Committee stage is the appropriate time to talk about them. They leave me with a great deal of concern. I point out again that this is the nineteenth or twentieth Bill the Government has introduced relating to gambling. People can afford to spend only so many dollars on gambling and the encouragement being given will disadvantage many people and their families. It is a matter of concern to the community, and people are becoming more and more worried.

I agree this is a tidying up measure, and in the Minister's words it consolidates the laws to a stage where perhaps they are a little more easily understood. However, there is every justification for people to be concerned about more legislation being churned out by the Government to make it easier for people to gamble and lose money which possibly they can ill-afford.

I will deal with the question of bookmakers and casinos in the Committee stage. I am not suggesting we will oppose the Bill, but the Minister should take note of his appalling second reading speech. It was obviously prepared for him and I know it caused him concern. It was the worst second reading speech I have ever read; it did nothing for the Bill. The only way to understand it was to read the Bill and then refer to the second reading speech. That is not a good way to present a Bill to the House.

HON. TOM McNEIL (Upper West) [4.54 p.m.]: I rise to support the measure before the House, and in so doing say that I think it has been required for a long time. People have been able to place credit bets and then welsh on those bets. The Leader of the House would be aware of a case recently in which a bookmaker at one of the Western Australian tracks was owed a considerable

sum of money by a punter. The bookmaker took off on holidays and found the punter on the same plane going to greener pastures, leaving behind him a considerable bet which he had wagered and obviously had no intention of settling.

This measure will certainly balance the ledger so that bookmakers have a chance to sue for the recovery of credit bets. A bet is a matter of honour. If it is good enough to accept a wager it is beholden on betters to maintain their honour and finalise their commitment.

This is another recommendation which came forth from the inquiry into racing and trotting conducted by this House. Hon. Norman Baxter, Hon. Fred McKenzie and Hon. Graham MacKinnon served on that committee. It is pleasing to think that the Government is taking some notice of the recommendations of Select Committees. I do not know whether Mr Dans was involved in this but somebody must be reading those reports. It is a pity that the report submitted by my Select Committee did not receive more care and concern from the relevant Minister. He decided to use a hatchet on it with reckless abandon and chop it up from the day it was laid on the Table of this House without reading the report.

I want to refer now to a situation which Mr Dans would know something about, of a punter who had a bet owing to him by a bookmaker who has since ceased operations. I understand that bookmakers have instituted a fidelity fund so that if a bookmaker cannot meet his commitment a punter can go to the Bookmakers Association which will make restitution of the bet laid. I know several punters who have been caught by a bookmaker who is no longer in operation; the bets were on the nod and therefore those punters were not too sure of their standing.

Hon. D. K. Dans: I know the case.

Several members interjected.

Hon. TOM McNEIL: If I were a betting man I would probably be in that sort of situation, but as Hon. Graham Edwards knows I am not a betting man to any great extent.

I look forward to the Minister's reply in relation to punters who have money outstanding from a bookmaker who has ceased operations. I would be interested to know how those punters would go about getting their money.

HON. P. H. WELLS (North Metropolitan) [4.57 p.m.]: I last said we were on the slippery dip when we were dealing with another gambling Bill, and at that stage I thought that the Government had introduced five gambling Bills. Since then I have been informed that I made a terrible error.

Hon. D. K. Dans: This is not a gambling Bill.

Hon. P. H. WELLS: We have gone past the slippery dip when we get to the stage of 20 such Bills having been introduced; the foundations are probably shaking.

I wonder where responsibility starts and stops in this area. The Liquor Act contains provisions which make it an offence for a person to serve liquor to someone who is intoxicated. That Act imposes certain responsibilities on the industry. We have a Police Force to go around and enforce that particular law. Where is the responsibility in the proposition now before us in terms of the person accepting the bet? Where is his responsibility to ensure that the person placing the bet can pay? Are we going to get to the situation where we expect the court to take away the widow's home? That principle is being enshrined if one says that these matters can be taken to law. If a bet is enforceable in law like any other debt and a person cannot pay it his home can be sold. If that is all right why have we accepted that we should protect people? Why have any regulations at all in relation to gambling—why not lift the lid altogether?

Hon. D. J. Wordsworth: They are.

Hon. P. H. WELLS: That is right, and that is where we are on shaky ground.

Hon. Kay Hallahan: Are you saying that widows gamble more than other people?

Hon. P. H. WELLS: No, I am not. The member should have an interest in this Bill in terms of those women who may lose their housekeeping. I have been confronted with cases of women who have been caught up and lost their money and got themselves in all sorts of problems. I am asking the Minister what requirement there is on the group of people affected by this Bill to take some responsibility and provide some protection for those placing bets. The Government expects many other regulated industries to take responsibility for their actions.

It would appear that this Bill is suggesting that this group of people could be irresponsible.

[Questions taken.]

I am saying that there should be some requirement in this Bill to ensure that people are made to be responsible. I suggest that without regulations of this kind we will be legislating to bring irresponsibility into the industry.

Hon. Graham Edwards: Are you talking about bookies?

Hon. P. H. WELLS: No, I am talking about those people who bet; for instance, in connection

with the game of two-up which must involve people who book up their bets. I refer in particular to the two-up game which is played at Kalgoorlie.

The PRESIDENT: Order! I remind honourable members that it is completely out of order for audible conversation to be carried on in this House while a member is on his feet. Certainly, the constant interjections are out of order. I suggest that Hon. P. H. Wells direct his comments to the Chair and I will give him the assurance of my protection.

Hon. P. H. WELLS: Mr President, it is with pleasure that I direct my comments to the Chair. I was giving as an illustration an example of what occurred in regard to the game of two-up. It is my understanding that a group of people took the law into their own hands and said that no two-up was to be played on pay day. That rule was not made by the Parliament, but by a group of men who wanted to make certain that the pay packet would go into the home and would not be gambled. They realised there was a problem and it was a decision they took unto themselves.

It seems if that is the kind of example that betting people set, the House should not be looking at a way to provide the industry with the ability to take away the assets of gamblers. A person who inadvertently decides he can win a game of chance and continues to bet will find that the only asset he has, which may be his home, will be taken from him. The foundations of this State will be shaken because this Bill will provide the mechanism to take away his home.

Point of order

Hon. JOHN WILLIAMS: I do not wish to be discourteous to my colleague, but he has a penetrating voice in its natural state and amplified, as it is at the moment, it almost becomes intolerable to listen to and I want to listen to what Mr Wells is saying. Mr President, can you instruct your staff to control the resonance of the microphone?

The PRESIDENT: I suffer in exactly the same way as other members. I would have expected that the operator of the recording equipment would make absolutely sure there was only one microphone on at one time and I would hope that that is the situation. I suggest to the honourable member that perhaps he lower his voice or push the microphone to one side.

Debate Resumed

Hon. P. H. WELLS: I want to ensure that every member in this House hears every word of my contribution!

I reinforce the point that this legislation is providing a mechanism which has not existed before.

Last time I was in New South Wales I learned of a person who had lost his home through playing the one-armed bandits. It is well known that a gambler believes his next bet will be successful. I wonder if, by this legislation, we are taking away a responsibility which gamblers have imposed upon themselves.

I am not a specialist in relation to this Bill, but I refer to section 24 of the Betting Control Act which reads as follows—

> No bookmaker, and no person employed by a bookmaker, shall receive or agree or promise to receive, as the consideration for a bet, delivery, or an agreement or promise to deliver, property other than money.

Hon. D. K. Dans: He cannot pay you out in potatoes.

Hon. P. H. WELLS: My understanding is that it requires money. People cannot pay using houses or jewellery. They can give nothing but money.

Hon. D. K. Dans: That has nothing to do with this Bill.

Hon. P. H. WELLS: Under the Betting Control Act, a bookmaker cannot take anything but money, but that is inconsistent with the Bill before us because the section we are talking about provides that a person can give any valuable thing.

I wonder if the valuable thing would be recoverable in a court, and if this is inconsistent with what the Bill provides. We are allowing people in the community to bet using their houses and their valuables when, in the past, we said they could not do that. That is the change we see. I may be totally wrong in raising this question, but that is the way I read the Bill and I find it inconsistent. I am sure that the Minister, with his wide experience in gambling, will be able to correct me.

I believe that the great changes we are seeing in gambling in this State create a great danger. When I last spoke on this subject, I was challenged that my views were inconsistent with my actions. However, I was paired on that occasion. My duties as a member of Parliament cause me to accept engagements at the trots, and it is suggested that that is inconsistent with my stand. Well, I say that I also do not drink, but I have a history of forming a number of associations involved in hotels. The fact that I frequent a hotel does not mean that I have decided to drink. I abstain from liquor. I do not place a bet, although I went into a TAB agency on one occasion; but that does not mean that a person becomes a gambler.

Hon. Tom McNeil: Did you win?

Hon. P. H. WELLS: I said I did not bet. I went there as part of my responsibility. It would appear that, all of a sudden, for some reason or other, we as legislators have had a complete turnaround on the subject of gambling. I cannot see why that great change has taken place. In other words, I cannot see why we should open up this great area of gambling.

We should treat this Bill with a little bit of caution because there will be a cost to pay; and that cost will be paid by the Government.

HON. JOHN WILLIAMS (Metropolitan) [5.13 p.m.]: I rise to disabuse some people of some of the illusions they have about the gambling world. This legislation has come into this House because of a new phenomenon in the gambling field. The creation of a casino involves certain things to be done in the gambling field.

Hon. David Wordsworth is a native of a State which, 10 years ago, pioneered casino gambling in Australia. If a member of Parliament went to that casino or if you, Mr President, as the President were to go to any of the legal casinos—Wrest Point, or what have you—and you had a pocketful of money and it ran out, there is no way in the world you could get credit, because you would not be known in that place.

The same applies to the very casual attitude that some members take to what is called "betting on the nod". One does not actually bet on the nod; one goes up and tells the bookmaker that one wants to bet so much money; and if one has the prearrangement with the bookmaker, one can nod at him and he knows one means $10 each way on something or other. Betting on the nod involves the bookmaker, as a businessman, in examining one's credit background. I know of people who go to the races with no more than $2 on them but they bet $10 000 in an afternoon's racing. They do not want to carry a large amount of money around with them, and they certainly do not want to walk off the racecourse with a bundle of money in their pockets, because there are people of ill repute on racecourses around the world. I might add that does not apply as much in Western Australia. Those people like to make their mark on a person who is a big winner. Therefore, the bookmaker provides a service that he would pay out by cheque, if necessary, on the course; or, better still, if one goes to a settlement place, payment is made there. In Perth, settling day is on Monday at 12 noon at Tattersall's Club.

Hon. P. H. Wells: Young and Jackson's in Melbourne.

Hon. JOHN WILLIAMS: Yes, I think so, and it is Tattersall's Club or the Jockey Club in the United Kingdom.

The point is that gambling is a two-way street. Nobody could ever persuade you, Sir, to go out and put $10 000 on a horse. Of that I am absolutely sure. However, if you were of a mind to do so and you could afford it, you would do so. Of that I am absolutely sure.

If one wants to take the credit argument even further, over the last two years it has been possible to arrange for an amount of money to be put in a deposit account under one's name, encoded to a certain number at the Totalisator Agency Board. One can bet to the limit of one's credit by telephone. However, when one's credit runs out, the saving grace is that one cannot bet any further because one does not have sufficient funds.

Hon. Peter Wells raised one or two questions, and I want to tell him a thing or two about illegal gambling and illegal casinos in this fair city. I know that with some operators one can put up almost anything on a bookmaker's pledge. I have seen rings, watches, lumps of gold, Mercedes, Rolls Royces, and the like, pledged on betting. That does not happen in the racing fraternity with bookmakers.

The bookmaker is well aware of whom his clients are. The clients are business, professional people who are known to the bookmakers. If any members wish to test the veracity of what I am saying, let them go next Saturday to the racecourse, not talk to the bookmaker beforehand, but go up and ask if they can get credit from him.

Hon. D. J. Wordsworth: Why do they want this Bill?

Hon. JOHN WILLIAMS: They want this Bill because there are people who will punt with them and they do not have the money. They have lost, and they will not pay what I consider to be a debt. All the bookmakers are asking for is the same protection as that given to any other person providing a service.

Hon. D. K. Dans: As bookmakers have had in all the other States for many years.

Hon. JOHN WILLIAMS: The bookmakers appear to be second-class or even third-class citizens in this State because of the reputation that has flowed traditionally from SP bookmakers.

Strangely enough, recent reading of reports indicates that the State of Western Australia is the least affected by SP bookmaking. It is the cleanest-run gambling State in Australia. Those are not my words, but they are taken from the

many reports on gambling and gaming compiled from time to time.

I support the Bill, because it is fair for a bookmaker who makes a business commitment to be entitled to have that business returned to him. After all, he balances up his books on the understanding that the money owing to him will be paid. In turn, if he does not pay up, he is thrown out of the association. Let us not forget that the number of bookmakers in this State is dropping by the week, and not many people now want to run a book. The number is dropping because, in racing particularly, other modes of betting have come in. They include such things as the TAB, which influences the punters as to how they should go.

It is not a question of bookmakers being very wealthy; they have wonderful winning days and wonderful losing days too. However, the Bookmakers Association will ensure that, if one of its members defaults, its trust fund will make up the deficiency. Indeed, the association will quickly pull into line any bookmaker who is a little reckless with his money on or off the course.

I have only one question to ask the Minister. I know it does not relate to the contents of the Bill, but I thought that perhaps he might be able to prevail upon the Parliamentary Draftsman to do something about it by way of amending the Bill. I refer to the way in which bookmakers have been legislated against up until now.

Did you, Sir, know that a bookmaker may employ 10 or 12 staff and once a year he may want to go away on holiday or visit another part of the world to pursue various business interests and, if he does so, he must close down his bookmaking business? A bookmaker is not allowed to say to his manager, "Carry on in my absence". Such a prohibition is punitive.

A simple analogy can be drawn between a bookmaker and the managing director of a company. If a managing director wants to go away on holiday, he is entitled to do so. If he wants to go away for three months, three weeks, or three days, he may say to his colleagues or his manager, "Run the business as well as you can and stand the risks in the same way as I do".

Perhaps the Minister, if not in this Bill, in some future Bill aimed at tightening up the laws in relation to credit and gambling, could give consideration to bookmakers who are affected in that way, so that they may employ their managers and agents to act in their place.

If one wishes to establish a line of credit at a casino, one can be sure the operators of a casino will be as keen as any credit company to ensure that one can meet one's just debts.

I assure Hon. Peter Wells that it would be a retrograde step if furniture and the like could be confiscated. However, that is not the case. The only action that can be taken in respect of bookmakers is that they can sue for money, which is the commodity in which they deal.

With those few remarks, I support the Bill.

HON. D. K. DANS (South Metropolitan—Minister for Racing and Gaming) [5.23 p.m.]: I thank the members who have spoken on the Bill. I particularly thank the Leader of the Opposition for his contribution. I agree with him that it was the most difficult second reading speech I have had to deliver and it is a very difficult Bill to understand.

Some of the questions raised in connection with a Bill of this nature are better answered in Committee. It is a small Bill, but it is very complex.

I make the point that this recommendation was made by the Law Reform Commission in 1977. As I understand it, the requisite Bills were drawn up, but, because of their complicated nature, they were not proceeded with. I do not have any argument with that, but we have decided now to proceed with this legislation to bring our laws into line, at least to some extent, with those of other States.

Briefly, in June 1983 a review committee was established to consider problems encountered by bookmakers in the course of operating their businesses. Bookmaking is a legitimate business and bookmakers are licensed and pay taxes to the State.

Many matters have been attended to as a result of the committee's work, and the proposed change to the law to allow licensed bookmakers to recover debts which arise from on-course credit betting is one of the outstanding matters to be cleared up.

I appreciate some of the points raised by Mr Wells, but he strayed from the point.

I thank Mr Williams for his fine explanation of how credit betting is attended to, because I had been snowed by the term "betting on the nod". Indeed, I wondered how one would get on if one said, "When I walked past the bookie, I nodded". I wondered how one would prove that in a court of law, and I doubt that it could be proved.

However, this Bill is aimed at people who establish credit with a bookmaker. Before one can do that, one must be rather well heeled. The provisions of the Bill will provide some protection for the bookmaker from the dishonest person who bets on credit and takes his winnings—perhaps they

could be to the tune of $100 000—and then goes back to the bookmaker next week, makes a similar kind of bet on credit, then says to the bookie, "I am sorry; I am not paying". That might sound crazy, but it happens from time to time. From my examination of the legislation in this State, I do not believe it is possible for anyone to have his house repossessed, or the like.

The existence of legislation which allows a bookmaker to recover debts incurred at law is enough to dissuade people from offending in that way. It would have been wrong simply to clear the way for bookmakers to recover unpaid debts without clarifying all the law in the area—we could simply have said, "This is how you can recover unpaid debts"—especially as in 1977 the Law Reform Commission made extensive recommendations to achieve this clarification.

I will not weary members by reading pages of the report of the Law Reform Commission. Suffice to say it is a very good report. It uses terms such as "welshing" and the like, and it appeared to me that the members of the commission knew what this was all about.

As concisely as I can, I shall summarise the effect of the two Bills which result from the report of the Law Reform Commission. These Bills will clarify the law so that licensed bookmakers may recover debts which arise in the ordinary course of their business. Punters will also be able to recover debts arising from betting transactions with bookmakers.

I know a fund exists into which bookmakers pay, but a bookmaker must have a record of the bet. Recently I discussed this matter. Without giving names, in the case referred to by Mr McNeil, no records were available. The Bookmakers Association is very worried, because some money was outstanding. Indeed, I believe the case found its way to law. However, that is another issue which I shall take up in an endeavour to have that area tightened up.

A bookmaker or punter can enforce a cheque given in payment of a debt resulting from a bet. I refer there to a case in which a cheque is made out, but the person who made out the cheque then says, "You have the cheque, but I shall cancel it".

Where a borrower gives a cheque or other security to the lender in settlement of a loan for gaming or for the payment of a gaming debt, the cheque or security will be enforceable if the gaming was lawful.

Hon. G. E. Masters: This is what will happen now, is it?

Hon. D. K. DANS: Yes. It is of no use one trying to do that at a two-up game. I have never known people participating in a game of two-up to borrow. Indeed, I doubt whether anyone would welsh on a bet in that case. However, the point is made that the betting must be lawful. In other words, in respect of the case about which one read in the paper the other day, because the bet was unlawful, there was no case to answer.

Money lent for betting will be recoverable if the bet was lawful.

An anomaly is removed which allows a punter who pays a betting debt by cheque to subsequently sue for recovery of the value of the cheque. I believe that has happened, because no law existed to protect the bookmaker.

The Law Reform Commission's report was concerned to make enforceable only those bets specially authorised by Statute and in particular those bets made with bookmakers pursuant to the Betting Control Act.

However, the Gaming and Betting (Control and Securities) Bill, while fulfilling this recommendation of the Law Reform Commission, goes further by empowering the Governor to make regulations prescribing the bets or class of bets which can be made enforceable.

That is a perfectly sensible approach to the matter. Nothing sinister is contained in the Bills. Their object is simply to allow lawful bets and securities given in consideration of them to be dealt with in the same way as other contracts entered into by persons conducting businesses. The House would be able to follow that matter fairly clearly, but it becomes difficult in regard to the Acts that have to be managed and, as the papers rightly said, one or two of those Acts go back 150 years.

To deal with another area, over the weekend I read in the newspaper an article written by a journalist which was quite misleading because it used the term "regulate all SP bets". With all due respect, starting price bookmaking is illegal, so that article was very misleading.

Hon. Gordon Masters commented on this matter and I discussed it with him because this is one of those Bills about which we must show some discretion. He raised with me, as he has also done quite correctly in the House tonight, the question of the casino and how this legislation would affect casino credit betting. We had a discussion about this matter and we were not quite clear on it. It is not the case that this Bill will deal with the casino question. The Bill, although difficult to follow, simply attempts to clarify the law relating to the enforceability of lawful bets—nothing more, nothing less. The legislation will allow lawful bets

and securities given in consideration of them to be dealt with as contracts at law.

Clause 21 (d) of the schedule to the Casino (Burswood Island) Agreement Act provides that the casino gaming licence when issued will be subject to a condition that credit shall not be extended to any person without the prior consent of the Casino Control Committee. This condition was imposed at the request of the developers of the casino complex. That is a rather strange requirement for a casino because nearly all casinos around the world provide facilities for credit betting. Before credit betting is allowed with a bookmaker certain procedures are followed. A bookmaker will have an arrangement similar to that of the TAB. A person must lodge a sum of money to be drawn upon. He says he is going to the casino and that his name is so and so and, if necessary, he wants some credit. The bank records are then checked out.

However, in this case no credit betting will be allowed unless it is first authorised by the Casino Control Committee. That condition was inserted into the Casino Control Act at the insistence of the people who at that time intended to obtain the licence. I think I can understand why they insisted on that provision. It would allow them to keep going when the only legal tender was cash in hand.

I do not want to mislead the House. At some stage down the track if the Casino Control Committee were to decide that under certain circumstances credit could be extended to certain people, of course credit would be allowed under the conditions that I have just outlined to the House, where one's credit is established before visiting the casino.

I was a bit amazed with that provision. Perhaps due to an abundance of caution by the draftsman, the Casino Control Act has been included in the schedule to the Gaming and Betting (Contracts and Securities) Bill. However, not all the Acts mentioned in the schedule may in the future be amended or repealed. The Bill currently before the House will leave a residual law to carry on in the case of an Act not covering every situation which may arise.

I have had very careful discussions on this Bill and for the benefit of members of the House I will read a very short note from the head of the department, and place on record some of the difficulties that have been associated with this Bill.

Hon. G. E. Masters: Could I just interrupt you there? Do you say that where one of the Acts in the schedule lays down that certain conditions prevail, when no conditions are laid down this Bill will apply? Is that what you are saying?

Hon. D. K. DANS: That is virtually what I am saying. The note reads as follows—

> I refer to your request for a concise summary of the effect of the Gaming and Betting (Control and Securities) Bill and the Act Amendment (Gaming and related provisions) Bill 1985.
>
> These Bills touch on a complex and obscure area of the law and it is difficult to be brief due to the complexity. However, a summary is attached for your information together with a copy of the Law Reform Commission Report on Section 2 of the Gaming Act the recommendations of which are the basis for the amending legislation.

It is a difficult Bill and I have taken into account many of the matters that have been put to me by Hon. Gordon Masters but, in all fairness, in order to achieve some clarity and to be as concise as possible, those matters will be better addressed during the Committee stage when hopefully I will have the assistance of people who are better versed than I am in the legal complexities of the legislation.

Before I sit down, I point out that the Law Reform Commission recommended this course in 1977 and it is quite obvious that because of the complexities in regard to repealing some legislation, it was not proceeded with. The time has arrived, for some of the reasons I have outlined, when legislation such as this, which will protect the bookmaker who, after all, is paying a tax to the State and who is not acting illegally—he is a legal entity—deserves some protection. That protection, of course, when enforced from time to time, has the effect of stopping people welshing on people.

I support the Bill.

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 (Minister for Racing and Gaming) in charge of the Bill.

Clauses 1 and 2 put and passed.

Clause 3: Interpretation—

Hon. I. G. MEDCALF: I ask the Minister to inform me in relation to the definition of "prescribed gaming" which is contained in this clause whether playing the game of poker is legal or illegal, and whether poker is one of the games which may be played or may be prescribed, and whether it depends on where the game is

played—whether it is played in a hotel, a club or a private house.

Hon. D. K. DANS: I am informed that poker could be a prescribed game under the legislation. I will read my notes and return to my expert who may be able to fill me in on this matter.

Historically, there are many types of gambling; for instance, a game of cards which is not an unlawful game by Statute. "Gaming" is defined in the Police Act as the playing of a game of chance.

Quite often people bet on games which are not games of chance but are games of skill; for example, a golf match.

Hon. P. G. Pendal: That is certainly a game of chance.

Hon. D. K. DANS: Fair enough. It has been said that the playing of blackjack, which is a form of poker, is a game of skill. The short answer is that it could be a prescribed game, but not in one's home.

Hon. G. E. Masters: I thought you said that a game of cards at home is now unlawful.

Hon. D. K. DANS: If it is prescribed, it could be in the home.

Hon. D. J. WORDSWORTH: Do I take it from that, that the playing of poker is illegal, at the present time, unless one plays it at home, or is it illegal wherever it is played?

Hon. D. K. DANS: The playing of poker for money is illegal at present. However, if it is played in a private home, it is not illegal unless the place is established as a common gaming house.

Hon. I. G. MEDCALF: Perhaps I could ask my two questions now. I take it that the playing of poker in a club which is open only to club members would be perfectly legal at the present time. Is that so? I understand it would not be legal if it were played in an hotel. My second question is: If the playing of poker is now illegal, generally, does the Minister propose that poker will be one of the prescribed forms of gaming referred to in the definition in this clause?

Hon. D. K. DANS: At present it is illegal if it is played in a club. It would be deemed to be a common gaming house if that were to happen. The Government has no intention of prescribing poker.

Hon. I. G. Medcalf: So there is no intention of prescribing poker at the present time?

Hon. D. K. DANS: Not at present.

Hon. P. H. WELLS: Is it possible, under the definitions, for a game presently unlawful to become a prescribed game? In other words, would it be possible to make lawful what is at present unlawful?

Hon. D. K. DANS: It would not be possible, in the way the member is proposing, for the Government to change something unlawful to something that is lawful.

Hon. P. H. WELLS: The definition provides the mechanism for prescribing a game as lawful, and deals with prescribed bets. Following on from what the Minister said, is the definition of a lawful bet included in the definition of "prescribed gaming"?

Hon. D. K. DANS: Prescribed betting will not override anything that is unlawful under this law.

Hon. G. C. MacKINNON: I am getting more confused by the moment. Would the Minister advise me whether the 200-kilometre rule applies?

Hon. D. K. DANS: The member would be well advised to read the casino control legislation. The games played in the casino cannot be played within a 200-kilometre radius of the casino.

Hon. G. C. MacKinnon: They will be played; poker will be played for sure.

Hon. D. K. DANS: Some forms of poker. The only games that will be allowed to be played inside the 200-kilometre limit are two-up or those games generally not played in the casino.

Hon. I. G. MEDCALF: It seems that the Government has the opportunity of prescribing any game of chance or skill under the definition of "prescribed gaming" by prescribing it under clause 7 of the Bill. I cannot really see that the Government will be limited. I note that most sections of the Police Act will still apply and therefore, presumably, the Government will not prescribe the game of thimblerig. That might be a relief to many people who like to play that game illegally. However, it seems that the Government will have an open slather to prescribe any game which is a game of chance if it wishes because this Statute would seem to override any previous one.

Hon. D. K. DANS: Clause 5 states that we cannot prescribe any game that does not have a lawful bet.

Hon. G. E. Masters: A lawful bet is a prescribed bet, which goes back to prescribed gaming.

Hon. D. K. DANS: Not really.

Hon. I. G. MEDCALF: There seems to be some divergence of view here, because if a game is prescribed, under clause 4 the contract is enforceable and the cheques and so on can be sued upon. There seems to be a problem about a bet made under clause 5. I draw attention to this, because I see that this will provide some future field for litigation.

Hon. D. K. DANS: I apologise for the wrong information I was given. Yes, it could be

prescribed, but I do not think that the Government would make a wholesale assault on prescribing this, that, and the other thing. That is too much even to contemplate as this Bill is fairly precise in its aims.

Hon. I. G. Medcalf: You will not prescribe thimblerig, I hope.

Hon. D. K. Dans: I doubt it very much.

Hon. G. E. MASTERS: I refer again to the game of poker played in the home for money. Mr Dans said that that is not unlawful, but neither is it prescribed.

Hon. D. K. Dans: That is right.

Hon. G. E. MASTERS: So it is not unlawful and it is not prescribed. Let us presume that I play a game of cards with Mr Dans and money is lost. It is not an unlawful game, but neither is it a prescribed game, and I collect a cheque from Mr Dans. Am I able to enforce that cheque?

Hon. D. K. DANS: No, that cheque cannot be enforced at present or under the Bill.

Hon. G. E. MASTERS: In other words, although the game is not unlawful, neither is it prescribed. One can only enforce a cheque under a prescribed game or through a prescribed bet. The only way one can enforce cheques, debts and credits—in other words, legally get back the money—is when those credit bets are undertaken under a prescribed game, as a prescribed bet. Is that right?

Hon. D. K. DANS: That is as I understand it.

Hon. G. E. MASTERS: Many people play cards at home and I am sure that many of them bet fairly large sums of money and give cheques as payment for debts. The loser would pay the winner by cheque quite often. I am simply asking whether those cheques are enforceable. I understand the Minister to have said that they are not enforceable because although the game is not unlawful, neither is it a prescribed game. I just wonder whether clause 5 applies to the collection of that bet.

Hon. D. K. DANS: A cheque cannot be enforced by the winner, but if that cheque is given to a third party who did not know what it was for—

Hon. G. E. Masters: This is for a game of cards?

Hon. D. K. DANS: Yes, a game of cards in someone's home. The member has drawn a very extreme case. If that third party took the cheque along to a bank and did not know it was for a gambling debt, the bank could enforce the cheque.

Hon. G. E. Masters: It sounds very complicated to me.

Hon. D. K. Dans: It is very complicated, I assure you.

Hon. I. G. MEDCALF: I think that this situation may be cured when we pass the Bill, because it will repeal section 84(1) of the Police Act, which declares these bets to be unenforceable.

Hon. P. H. WELLS: If I am correct in my understanding of what the Minister said, it would be possible for the Government to prescribe any game as a lawful game, despite the fact that some other Act said it was unlawful. If that is correct, why should we not include in that particular definition that "prescribed game" means gaming except unlawful gaming? The Government surely does not intend to cover unlawful gaming or to allow the prescription of any of those games that are currently unlawful by some other Act because of a definition of "unlawful gaming". It seems to me that the definition of "prescribed gaming" gave the Government the ability virtually to make such games lawful by that definition and other definitions.

Hon. D. K. DANS: Mr Medcalf referred to section 84(1) of the Police Act. That provision is re-enacted in clause 4 of this Bill.

Hon. P. H. WELLS: I return to the question I have asked the Minister. I am asking whether under the definition of "prescribed game" a game which is now illegal by some other Act can be prescribed and become lawful just by announcing it in the *Government Gazette*. If that is the case, why should not the definition of "prescribed gaming" be such as would mean gaming except unlawful gaming conducted under and in accordance with the authorisation of the Act? Why should those words not be included in the definition of "prescribed gaming" to make it clear that there is no power to bring up any other game covered by another Act?

Hon. D. K. DANS: Both my adviser and myself found it very difficult to follow what the member said. The answer would have to be that any regulation that needed to be put would be disallowed by the House.

Clause put and passed.

Clause 4 put and passed.

Clause 5: Contracts relating to prescribed gaming or betting may be enforced etc.—

Hon. P. H. WELLS: I ask whether the Minister can give me some idea of what is meant by—

> Subject to the provisions of an Act specified in the Schedule or to any prescribed provision relating thereto . . .

What type of prescribed provision is likely to be put upon the particular things referred to in the schedule? Has the department thought of any at this stage? What type of provisions can we expect?

Hon. D. K. DANS: It would be a prescribed provision or section of an Act—the Police Act, for instance. To give the member a better rundown, to which he is entitled, I will give a fuller explanation of clause 5. It provides that a person making a lawful bet or wager in the course of prescribed gaming or betting shall be deemed to have made a contract for the wager or bet and may sue and be sued on that contract as if the contract did not involve gaming or betting. In other words, the normal process of law would apply. Such a contract shall not be deemed to be illegal or void only because it arises out of betting or gaming. This clause will alter the existing situation by making all the bets, including wages, enforceable where those bets had been prescribed as defined. I do not know whether that helps clear up the member's query—I am not quite sure what it was—but if it does not he can reply and I will do my best to answer him.

Hon. P. H. WELLS: I am trying to get an understanding of the prescribed provisions. I ask the Minister whether it is possible under clause 5 to declare that a certain person should not be able to get provisions. Is it possible that the Minister can make provisions that ensure that on certain days those particular things are out of the question? Is it possible under the prescribed provisions to put certain limitations against various categories that are found within the schedule? In other words, could the prescribed provision in connection with soccer and football pools, for example, relate only to the weekend?

Sitting suspended from 6.00 to 7.30 p.m.

Hon. P. H. WELLS: During the tea suspension, was the Minister able to work out any possible prescribed provisions that might be proposed in relation to the second line of the clause and in relation to those Acts listed in the schedule? Was he able to establish whether the limitations I was suggesting were possible?

Hon. D. K. DANS: I am finding it fairly difficult to answer Hon. Peter Wells and to follow the questions he is asking, and this is no reflection on him. This is not unexpected, because my briefing during the suspension indicated that judges and senior members of the Bar were also unclear about this legislation. All they know is that they want the old legislation out and the new one brought in.

I think what he has asked is: If I prescribe something under this Bill and it is something covered by another Act, what will happen?

Hon. P. H. Wells: Why do you want prescribed provisions?

Hon. D. K. DANS: The reason is that some Acts do contain some of this very old legislation. We will be able to prescribe those sections of those Acts rather than the whole Act.

Hon. NEIL OLIVER: The Minister seems to be saying that he can prescribe whatever game may be covered by the Acts in the schedule, even though a game may be illegal under the Police Act. The Minister may prescribe any game of chance or skill irrespective of whether it is illegal under the Police Act. Is that so?

Hon. D. K. DANS: Let us take as an example the game of thimblerig. I could prescribe that for the purpose of perhaps allowing the Red Cross to play it at a social function at a local hall. However, although I might prescribe it, it would still be covered by the Police Act and it would be up to the police to decide whether to take action, because it would still be unlawful under the Police Act. Unless some tolerance was shown by the police, the game would still be unlawful.

However, it is most unlikely that I would do that. I could say that Hon. Neil Oliver was going to hold a charity function and I, as Minister, would prescribe that game for the purposes of this Act. Surely members would understand that it would involve two Ministers. I would be a very game person indeed to do that, because the Police Act has certain sections which cover the playing of this game. While I could prescribe it, I would have to rely on the tolerance of the police. This used to be the order of the day in lots of areas.

Hon. G. E. MASTERS: I do not know whether I am going mad slowly or rapidly. The Minister has just said that he could prescribe a game for a charitable function. Surely he could do that only by regulation, which would have to be tabled in the Parliament and passed by the Parliament. The Minister seems to be saying that the legislation provides him with the ability simply to prescribe a game for a particular purpose on a particular day without using a regulation. If that is so, I cannot say that I read that in the Bill. It would seem to me that whatever game was prescribed, a regulation would be required.

Hon. D. K. DANS: I said before the tea suspension that regulations would have to be tabled in the House.

Under the Police Act, the Minister for Police and Emergency Services has the power to give exemptions and this, of course, would have to be

done by regulation. I think it would be bowling the hoop a little too fast to suggest that I would prescribe a game to allow the Salvation Army to conduct that game in its citadel because it was running short of funds, and I would table the regulation in the Parliament to allow that to happen. If I did, I would have to hope that the Minister for Police and Emergency Services would provide a similar exemption or that the police themselves would show some tolerance. But that is not likely to be something that would happen.

Hon. P. H. WELLS: It was interesting to hear the Minister say he was having difficulty understanding my questions; I am having difficulty understanding his Bill.

Hon. D. K. Dans: So is everyone else.

Hon. P. H. WELLS: I wonder whether we should be considering the passing of this Bill when its contents are not clear to us. I have been led to believe that it virtually totally changes the method by which unlawful games can be prescribed. The clause indicates that a game may be prescribed subject to provisions of certain Acts, which are specified in the schedule, and one Act is the Police Act. So we are talking about a game which can be prescribed by way of a regulation.

I gather that any sort of wording can be used in a regulation. The Minister referred to the Red Cross being allowed to play a prescribed game. I assume that the Minister therefore could exclude Aborigines and provide that they could not bet.

It excludes people who have previously been charged with an offence under this particular Act from being able to book up bets. How wide can the provisions go? I gather the Bill could prescribe that investments on soccer pools could only be booked up at newsagents or at a list of gazetted premises The clause refers to "prescribed provision". That means whatever is published in the *Government Gazette* and tabled in this Chamber related to those Acts listed in the schedule.

Hon. Graham MacKinnon asked earlier about the 200-kilometre limit. We are dealing here with booking up bets. Say that only applies to two-up within a 100 or 150-kilometre radius.

Hon. Neil Oliver: It cannot.

Hon. P. H. WELLS: This Bill refers to the "Schedule or to any prescribed provision". Surely "any prescribed provision" is open-ended. It could be the Red Cross or the Salvation Army, as the Minister mentioned, or any group of people who can get credit betting and be required to go to court and pay the debt.

The provision is very wide and relates to any of the Acts listed in the schedule and places some limitation or extension on the Acts to exclude or include certain people within or without certain premises. That is my understanding of this Bill and I would like someone to say whether my interpretation is right. If not, can anyone give a better explanation?

Hon. D. K. DANS: This Bill deals with enforceability of gambling debts, nothing more and nothing less. To take an absurd situation, I could perhaps prescribe something and make some regulations. That would mean those games would not be able to be pursued unless those other Acts were amended or regulations were made to allow it to happen. I refer to the Acts listed in the schedule, including the Police Act and the Casino Control Act. It just could not happen that way.

Hon. P. H. Wells: Why could there not be provision to exclude something that is already illegal under the Police Act which is in the schedule?

Hon. D. K. DANS: If the member reads clause 5 from the top he will see that it states—

> Subject to the provisions of an Act specified in the Schedule or to any prescribed provision relating thereto, where in the course and for the purposes of prescribed gaming or prescribed betting a person makes a lawful bet with any other person the person making that bet—

That is all we are talking about. Where does the member want to go from there?

Hon. P. H. Wells: You make a lawful bet—

The DEPUTY CHAIRMAN (Hon. P. H. Lockyer): Order! One at a time will make it much easier for those who are vitally interested in the Bill, particularly me.

Hon. P. H. WELLS: I do not know which matters are illegal under the Police Act, but I understand thimblerigging is illegal. Is it not possible for the Minister to prescribe under this provision that any bets incurred while playing that particular game are redeemable at law? The act of playing thimblerig is illegal, but we are not dealing with the illegal act. We are dealing with getting the amount of money won or lost as the result of a bet. It has nothing to do with the game; it has nothing to do with whether the police stop the game or not. Let us say a person made a bet and the loss is being claimed. Is there anything to stop the Minister prescribing that that type of action can come under this Bill although it is illegal under another Act?

Hon. D. K. DANS: Nothing, I suppose, except the exercise of commonsense. I do not believe anyone in his wildest imagination would think any Minister, no matter from what Government,

would prescribe thimblerigging because it would still be unlawful under the Police Act and the person would not be able to recover any bet. No Minister in his right mind would prescribe thimblerigging, to use an example, when at the same time the Minister for Police and Emergency Services would have to be a party to that action to make it lawful under the Police Act. That is not on; it could not happen.

Hon. G. C. MacKINNON: I am getting a bit confused. The way I read clause 5 it is almost useless. It refers to Acts specified in the schedule such as the Totalisator Act which authorises gambling on racing. The Minister can prescribe gambling on racing. He referred to the pea and thimble trick and that is specifically made illegal under the Police Act. The Minister cannot prescribe it because this Bill says in clause 5, "Subject to the provisions of an Act specified in the Schedule".

Hon. D. K. Dans: That is only talking about enforceability. I was using an absurd situation. No-one is going to prescribe those things.

Hon. G. C. MacKINNON: That is why we are getting confused.

Hon. D. K. Dans: I have to answer questions and I am trying to give examples.

Hon. G. C. MacKINNON: Unless a game is specifically made legal in one of the Acts in the schedule the Minister cannot prescribe that game. If it is illegal under an Act listed in the schedule and the Police Act makes certain it is illegal—and two-up will be illegal inside the 200-kilometre limit—how can the Minister prescribe it, because he has to operate subject to the provisions of an Act specified in the schedule?

The Minister said the other day when Mr Lewis and I asked him about it that there was no way under the casino Act that he could allow two-up at the Bunbury or Collie races. Now he is saying he can prescribe it.

Hon. D. K. DANS: One gets asked some extreme questions; but everyone is entitled to ask them. I was trying to give an extreme answer to a situation that will never arise. Mr MacKinnon has been here long enough to know that. This has been hanging around since 1977 and the Acts which are causing the problem are 150 years old. It is a blot on our conscience that we have fooled around with this kind of legislation for so long.

When one starts talking about Charles II and Queen Anne it makes WA look like a Crown colony. We are talking about enforceability. For instance, the Totalisator Act and the Totalisator Regulation Act might prescribe that one cannot enforce a bet. What this Bill is doing in those circumstances is enabling us to enforce a bet and it is as simple as that. In all the existing Acts there are certain exclusions. This Bill will not make the parent Act or any other Act redundant.

We must have commonsense in debating this matter. I can give extreme answers to extreme questions all night. We must go back to the intention of the Bill which I outlined carefully in my second reading speech. I cannot go beyond that, but I have warned the Chamber that there are problems in tidying up this matter; the reason being that the Acts we are trying to exclude are so old that the language in them has long since disappeared from use. It is a very difficult task.

There would be no member sitting in this Chamber tonight who would not know the intention of the Bill, but the problem is getting it into some sensible order.

With due deference to Mr Wells—I mentioned the Salvation Army Citadel, but I should have mentioned St Marys Cathedral—I know that no-one will ever get into that situation.

All we are looking at is the enforceability of legally made bets—nothing more and nothing less. I used some extreme examples, but unless the other Acts were changed considerably they simply would not apply.

Clause 5 simply states that in the other Acts there is a provision which says that one cannot enforce a bet, but under this Bill one can enforce a bet.

Hon. P. H. WELLS: I am sorry if my questions in leading to the examples I gave mislead the Minister. I am trying to arrive at the power of the Minister in connection with the prescribed provision.

As a result of the explanation the Minister gave to this Chamber I understand the Minister will not have the power in connection with the prescribed provision, but that this power exists in other Acts. I expect that the Minister does not have any power under this clause to prescribe anything. However, prescribed provisions exist relating to other Acts.

Does the Minister have the power under this provision to exclude people who have previously been charged for an offence of non-payment of bets under the existing Acts? If a person has been before the court for the recovery of bets it seems desirable to exclude that person from booking up further bets.

Does clause 5 give the Minister the power to prescribe anything or does it mean that he is taking over prescribed provisions which already exist? If the Bill does give the Minister the power to prescribe anything, will it exclude those people

who have previously been before a court in respect of a betting offence?

Hon. D. K. DANS: Is the member saying that this Bill will become retrospective?

Hon. P. H. Wells: No, I will explain it again.

Hon. D. K. DANS: I am sorry, but I must be very dense.

Hon. P. H. WELLS: I will take it step by step. If this Bill were to come into force and I took a credit bet at a race meeting or at a two-up game and did not meet the debt, under clause 5 the bookmaker may sue me for non-payment and the case would go before the court and would be registered as an offence. If after three months I went back to the racecourse and again booked up bets and did not meet the debt the bookmaker would sue me again for the recovery of the debt. Does the prescribed provision relating to this Bill give the Minister the power to say that a person who has been charged several times—in other words he is a habitual gambler—is not allowed to book up bets? Is there any provision in the Bill to exclude that person from the racecourse in a similar manner as an alcoholic is excluded from an hotel?

Hon. D. K. DANS: We are dealing with a Bill aimed mainly at the racing fraternity and the short answer to Hon. Peter Wells's question is, "No". The Bill certainly does not allow the Minister to prescribe a person or put some kind of restriction on him.

If a person was a continual offender the racing club would warn him off the racecourse—this would occur with or without this Bill. Most racecourses have their own detectives and if a person is warned off a course—I do not know if a person can be warned off a course for booking up bets—he is warned off all courses not only in Western Australia, but also in Australia. I suppose it would be difficult for him to be recognised in Cairns! I am not talking about a $10 offence.

To use a hypothetical example, if I had a bet with Gordon Masters for $100 000—and that sort of bet is a regular occurrence these days—

Hon. G. E. Masters: With me it is not.

Hon. D. K. DANS: Mr Masters might be able to bet that sort of money, but I could not and I do not think we would be so silly as to have such a bet. However, if I did have such a bet with Gordon Masters and I did not pay him and he took me to court and sued me for the recovery of the debt and presumably I paid the debt in cash, it would appear that Mr Masters or any bookmaker would be stupid to entertain me again. If he were to entertain me again, firstly I would have to re-establish my credit rating and I do not know whether I could do that.

Where this law operates in other States and the Commonwealth—I am not sure about South Australia, but I think it would operate in that State—the provision has not been used. It acts more as a deterrent. Most of the people in those positions are people of standing in the community and to be dragged before a court for a gambling debt is sufficient incentive to say, "If I do not have the money, I will not bet".

What has been happening here is that smart alecs from other parts of Australia, knowing full well there is no provision in this State, have drifted here. As the Hon. Tom McNeil quite rightly said this evening, it was hinted in the paper recently that a punter had been here and run up a big debt. He was hopping on the plane to go to Bali for a holiday. That is the kind of thing we are trying to prevent. We are dealing with businessmen who pay a fairly hefty tax and who are entitled to some kind of protection.

To return to the member's question, this Bill will not prescribe a person; in other words, there is nothing in this Bill that would allow me to say that a certain person was not allowed to bet with the member. Surely commonsense would prevail and the bookmakers themselves, who form a close-knit community, would say that such a person was a bad risk. A bookmaker might say to another, "I had him last week. I would not take his bet".

Let us consider the other course. A punter who is a bad risk might book up a bet. The bookie might not take him to court because he does not want to go to court, but he might say, "Old Fred Sproggs over there, watch him. He welshed on me last week for $10 000". That seems a realistic figure. The bookie would then suggest that if he came knocking at another's door he should be turned down because he was a bad risk. Bookmakers belong to an association and they do not want that sort of person around. That may satisfy the question of the position of such a person.

I do not know what the position is with respect to alcoholics these days. There used to be a notice prohibiting the supply of alcohol for inebriates, known as the "Dog Act". When I first came into this Chamber members were debating the Dog Act. I facetiously thought that they were referring to the one in respect of alcoholics, but it was actually about dogs. That was some time ago now. In answer to Mr Wells' question, that is not envisaged in this Bill.

Hon. NEIL OLIVER: I take the matter of the Acts specified in the schedule and any prescribed provision relating thereto a little further. If a

game is deleted from the prescribed provisions, where does the person taking the bets stand in relation to a bad debt? Let us say, for example, that the schedule has been changed and no longer is poker prescribed. If that is removed from the schedule there will be problems. I put it to the Minister that when I think through clause 5 I find it becomes extremely complicated, especially in anticipation of the way in which it can be administered. I see a tremendous problem in the administration of this clause. I will allow the Minister to answer that point, because I have only one final question to put to him after that.

Hon. D. K. DANS: It is strange that we are nearly a century behind the rest of the world in this kind of legislation. None of the kinds of examples that have been put up has plagued anyone in other places. The member has suggested that if I decided to chop out the provision in one of these Acts, and there was a bet—

Hon. Neil Oliver: A series of bets.

Hon. D. K. DANS: If there were a series of bets, I am informed that the person's rights would prevail. In other words, if at the time the bet was made the Act was in operation, all the provisions protecting the person making the bet would apply.

Hon. NEIL OLIVER: Finally, I make a point in relation to the casino. I know that the casino legislation is included in the schedule. That means that any game that is prescribed here and is exclusive to the casino under the Casino (Burswood Island) Agreement Act cannot be prescribed inside the 200-kilometre radius of the casino. That would mean that any of the games that are played at the casino can be played outside the 200-kilometre zone and would be enforceable under the schedule to this Bill. They would become enforceable outside the 200-kilometre zone, along with the Totalisator Agency Board, racing and all those other things that are allowed within the 200-kilometres. I am sorry to labour it, but the thing that concerns me—

Hon. D. K. Dans: I answered this question earlier tonight, before tea.

Hon. NEIL OLIVER: Let us consider a club similar to the Toodyay club, which is inside the 200-kilometre zone and therefore cannot be part of it. How does the Minister propose to administer that 200-kilometre zone? At least with Albury-Wodonga there is a definable geographical feature with Echuca, Moana, Tocumwal and Barham, but what happens if one is at one end of the town and the other at the other end or if the 200-kilometre boundary goes through the premises of the gambling parlour? The Minister previously told me that this 200-kilometre zone posed a problem to him in that he did not know whether certain towns, such as Collie, were in or out. Surely the Minister's advisers must have thought this clause through in relation to its effects on the casino Act. We are now talking about enforceable gambling debts. We have to define where they are made. Has the department considered how it is possible to administer this clause, or will it be an administrative nightmare?

Hon. D. K. DANS: It will be a very easy Act to administer because in the first instance the Casino Control Act does certain things. The member is a little muddled to the extent that all we are talking about at the 200-kilometre range is two-up. Games generally played in the casino or derivatives of these games are excluded all over the State. A lot of games can still be played.

Hon. G. C. MacKinnon: Except bingo.

Hon. D. K. DANS: Bingo is different altogether. Bingo will not be played in the casino. We have settled that question. Kino will be played, which is a different game.

Hon. G. C. MacKinnon: It is a derivative of bingo.

Hon. D. K. DANS: Yes, but we have settled that question. I believe that anyone playing two-up on this side of the street when it was legal on the other side of the street would have enough sense to move. That is not a problem. I would like Mr Oliver to understand that we are not dealing with playing two-up every day of the week. We are dealing with a race club in the outback which has one or two race meetings a year and which applies for a permit to have a game after the last race which finishes at a certain time. If the club applies it will be given a permit and that will be the end of it. I do not see any conflict of interests there.

Clause put and passed.

Clause 6: Money or security lent for lawful gaming or betting recoverable—

Hon. G. C. MacKINNON: I refer the Minister in charge of this Bill to another Bill. He will remember his colleague, Hon. Donald May, who introduced the Door to Door (Sales) Act. That was one of the early Acts dealing with consumer protection. It was always said that some poor defenceless person could succumb to a door-to-door salesman selling encyclopaedias, saucepans or whatever. Over the years we have built up a host of protective legislation, and such a person is given time to cool off.

The people going from door to door selling are really quite honest citizens trying to make an honest crust rather than going on unemployment benefits, particularly those who live in the country

areas; yet here we have a Bill which gives no protection to the poor devil who gets sucked in. He loses what he has in his pockets. He can make some credit arrangements, whatever they might be. Do not tell me it is not possible because it is. I can give factual cases involving not only one or two dollars but in some cases several thousand dollars. Before one knows where one is one has mortgaged one's house. Every debt is collectable. There is no talk of any cooling-off period here, or any protection for the poor gullible gambler who might be as sick as an alcoholic.

Hon. W. N. Stretch: There is more protection if you buy books.

Hon. G. C. MacKINNON: One has more protection if one buys encyclopaedias. Under this Bill one has no protection.

Hon. W. N. Stretch: They can take your house away.

Hon. G. C. MacKINNON: Is it reasonable that gamblers be thrown to the wolves? Do not tell me bookmakers are not pretty shrewd fellows—of course they are. I was on the inquiry which made the recommendation that bookmakers should be allowed to recover their debts. However, I was absolutely staggered that the so-called sympathetic Labor Party put something like this in the Bill. It is evidence of the party's obdurate nature. It has given no consideration whatsoever to the consumers in the gambling field, yet it has allowed all sorts of restrictions on any fellow who runs a shop. Small businessmen are now looking almost at a new set of laws. They call them the Fletcher laws. I was in a shop the other day and I was told they were not interested in what I had to say; they were interested in what Fletcher said.

People involved in gambling receive no consideration at all. They have to look after themselves. If one mentions the principle of *caveat emptor* in regard to legitimate business, people go through the roof saying that is the dirty side of capitalism. Under this Bill the poor consumer has no protection whatsoever. I would like the Minister to tell me on what philosophical basis he thinks this should operate.

Hon. D. K. DANS: There is a fairly simple answer to this, and I am surprised at Hon. Graham MacKinnon's comments, with all his long experience in this Chamber and also as a Minister. There is nothing novel about this clause. All it does, for the purposes of this Bill, is to restate the common law.

Hon. G. C. MacKinnon: Why did you not leave that for the door-to-door sales?

Hon. D. K. DANS: The Door To Door (Sales) Act is not one of mine. We are debating the Bill before the Chamber at present. Is the member going to suggest to me that we change the common law?

Hon. G. C. MacKinnon: We are changing the common law; we are putting it in the Statute law.

Hon. D. K. DANS: All we are doing in this Bill is stating the common law. I do not know where one goes from there. There is nothing novel about it. I can say no more than that; that is all it does, nothing more and nothing less.

Hon. G. C. MacKINNON: When we bring up the matter of protection of the ordinary citizen, all the Minister does is shrug his shoulders. When we suggest that ordinary shopkeepers ought to be given protection with regard to people who come into their shops—

Hon. D. K. Dans: Do they not have protection under the common law, the same as everyone else?

Hon. G. C. MacKINNON: No, because it has been taken out of the common law and put in the Statute books. When people actually get caught up in gambling it bugs me how the money they have worked for pours out of their pockets. They are not in their own houses where they can tell the person to get out of the house, that they do not want to buy the encyclopaedias or saucepans. They are in a gambling frenzy. All the coloured lights blaze in the casinos, and they are being fed free liquor.

Hon. D. K. Dans: I have not seen anything in the casino Bill which says they will get free liquor.

Several members interjected.

Hon. D. K. Dans: Only if one is playing at the tables.

Hon. G. C. MacKINNON: Absolute rubbish! I was playing a one-armed bandit and I had a jolly good scotch. Under this Bill there is no protection for the poor devil. The woman who goes into a shop has no protection, and all the Minister can do is shrug his shoulders.

I was happy with allowing bookmakers to collect legitimate bets. This will get rid of the constant fear that people will not pay their gambling debts for very good reason.

Anyhow, it is obvious we are not going to get anywhere. I would point out this protection of the citizen, the actual user of credit, has resulted in more complicated laws. This is to the disadvantage of business, yet here no thought is given to another user of credit. He is given no consideration whatsoever.

Clause put and passed.

Clause 7 put and passed.

Schedule put and passed.

Title—

Hon. P. H. WELLS: Despite what the Minister claims—that this is the last piece of this type of legislation—I would have thought it was the best example of legislation one cannot understand.

The Minister says there has been a lot of difficulty. There has been plenty of time since 1977 to have found the correct words. For the first time we are taking away from the Parliament the right to decide whether we are consciously to take what is currently unlawful and make it lawful. Now it is to be done by regulation, which this Bill allows to be prescribed. I think the Bill should be sent back to the Minister to be redrafted, and I urge members to vote against it.

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 (Minister for Racing and Gaming), and transmitted to the Assembly.

COMMERCIAL TENANCY (RETAIL SHOPS) AGREEMENTS 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) [8.21 p.m.]: I move—

That the Bill be now read a second time.

This Bill is the culmination of concerted efforts by the Government and industry groups involved in this issue, to find a genuine workable solution to the complex and far-reaching issues involved in commercial tenancy agreements.

When this Government came to office in 1983 a number of serious and unresolved conflicts existed between retail shop owners and tenants regarding certain lease provisions and commercial practices which were seen to work against the commercial interests of the small business sector in Western Australia.

The Government's election commitment was to resolve these issues in order to ensure a stable and secure base for small business growth and development.

The Government's commitment specified that an independent inquiry would be held to determine the need for legislation in this area. At the same time the Government indicated its preference for non-legislative solutions if that were possible.

In October 1983 an independent barrister, Mr Nigel Clarke, was commissioned to conduct the inquiry into commercial tenancy agreements. Clarke's work was most thorough and his contribution to the solution of the problems is a significant one.

The report of Clarke's inquiry was released on 29 February 1984, coincidently with the launch of the Small Business Development Corporation.

Clarke's report, in essence, suggested legislation as the only long-term solution. He then went on to make some 13 specific recommendations.

Under the chairmanship of the Small Business Development Corporation, the retail liaison committee then held an extensive round of meetings to discuss Clarke's recommendations and determine those areas where industry consensus was possible.

It is interesting to note that there is in fact fundamental consensus on the issues raised by Clarke and these were identified by the retail liaison committee and have formed the basis of the Government's action in this matter.

As a result of the inquiry and the industry group deliberations co-ordinated by the Small Business Development Corporation, the Government decided, on the weight of overwhelming evidence, that to legislate was the only real means of achieving a lasting solution.

Of course, other States have experienced similar problems, and in fact the Queensland Parliament proclaimed a Retail Shop Leases Act on 12 March 1984. This Act and its operation have been used as a guide throughout in the Government's deliberations.

At this time, the South Australian Parliament has before it similar legislation, and the Victorian Parliament is currently assessing the results of a parliamentary committee which also considers legislation.

This Bill is framed in such a way as to ensure that the problems created by lack of awareness on the part of tenants are eliminated. It is not intended that the Bill in any way interfere with market forces at play in the industry.

Consultation with involved industry groups continued up to and during the drafting of the Bill, and advance copies of the Bill were distributed to six business organisations involved in the retail industry and to the Law Society. As a result of

input from those organisations the Bill was further refined.

I now turn to the main features of the Bill.

It is intended to cover all but major retail shops, plus all similar tenancies in shopping centres. It is not intended that the provisions of this Bill should be retrospective. There shall, however, be the facility to refer to a mediator, disputes on leases entered into prior to the date on which this Bill becomes law.

An innovative feature of this Bill, and one which has evinced unanimous support, is the introduction of a disclosure statement which will contain a full disclosure of all material agreements made during negotiation and essential features not included in the lease. It is intended also to ensure that in the documentation appears a provision, in the strongest possible terms, that professional advice should be sought, prior to entering into the agreement. To this end all documentation is to be in the hands of tenants seven days prior to signing. In this way tenants will have every opportunity possible to understand the often complex agreements into which they are entering.

With respect to turnover-based rent, the Bill specifies in detail a number of items which are to be excluded from turnover. Once again tenants shall have full disclosure of formulae used to determine the rental base prior to signing any agreement. Turnover-based rent must be requested, in writing, by the tenant, prior to it forming the basis for rent determination.

Unless turnover-based rent is used, tenants will not be required to furnish turnover figures to the landlord. Key money and goodwill payments will be outlawed.

The basis of formula on which rent reviews are to be calculated is to be included in lease documentation. Where a dispute arises, it shall be determined using licensed valuers and, if necessary, will be finally resolved by the tribunal.

Full disclosure of all variable outgoings and apportionment formulae are required to be a part of lease documentation.

It is intended that a tenant shall be given an implied option to extend his lease period to a minimum five-year period. This measure will give the small business tenant the initial security necessary to establish his or her business.

The establishment of an arbitration system to determine disputes is seen as a central figure of this Bill. To this end, the mechanism of the Commercial Tribunal is seen to provide the appropriate medium for this activity. The system uses a two-tiered approach; that is, the commercial registrar, being legally qualified, is appropriately vested with the function of mediator.

Where mediation is not possible, disputes will pass to the Commercial Tribunal for arbitration. The Commercial Tribunal will draw from a panel of individuals representative of the interests of both parties in dispute.

This process fits neatly into the Commercial Tribunal functions, and will provide the necessary quick and cost-effective mechanism for dispute resolution.

It is appropriate to note that to this time, after some three months of operation of the Queensland legislation, some four mediations have taken place, all amicably resolved, and without need for reference to arbitration.

The Act in operation will be closely monitored to ensure it continues to fulfil the needs of industry groups, and in any event it has review provisions included to cause a complete review after five years.

Explanatory material is to be widely available, and industry groups, which await anxiously the passage of this Bill, will assist greatly in the dissemination of this information.

The Government sees this Bill as a further measure in its programme of worthwhile support to small business. As such the Bill will provide a firm basis on which commercial tenancy agreements may be made and will provide a basis for harmony essential to the growth of this sector.

I commend the Bill to the House.

Debate adjourned, on motion by Hon. V. J. Ferry.

TRANSPORT 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) [8.30 p.m.]: I move—

That the Bill be now read a second time.

The transport industry is a dynamic force that must be sufficiently flexible to meet the ever-changing needs of the world of business and commerce. It is equally important that the Government's transport policy and requirements are also appropriate to meet the needs of the State, the transport user, and the industry.

This Bill proposes a number of amendments to the Transport Act. The major changes are designed to strengthen or clarify the Commissioner of Transport's authority in administering the State's transport policy, while others are to accommodate slight changes of terminology, or to close loopholes which have been discovered and are being exploited by an increasing number of operators. All of the amendments have the aim of facilitating the efficient operation of the Government's transport policy and improving transport services generally for the benefit of users and operators alike.

While I will explain the proposed amendments in greater detail at a later stage, it is appropriate that at this time I give a broad outline of the proposals for the information of honourable members.

One of the more important amendments will more accurately reflect the commissioner's role in monitoring and maintaining an overview of transport services, and ensuring the reasonable transport needs of users are met. This is in contrast to his former prime functions which were of a regulatory and enforcement nature.

To date the Act has been restrictive in that it permitted the commissioner to call tenders for road services, but not for other modes of transport such as air services, nor did it permit him to call for applications or proposals to operate services. These restrictions have inhibited the commissioner's actions, and meant that the most effective methods of implementing new transport services are more difficult to employ.

As it stands, the principal Act permits the Minister for Transport to grant exemptions from licensing under the Act, but not to revoke exemptions already made; likewise the Act limits the granting of exemptions to classes of vehicles but not to the purposes for which the vehicle is being used. The amendments proposed will address and rectify both anomalies.

Further amendments relate to the licensing of long distance coaches. My colleague, the Minister for Transport, has had many views expressed to him on the pros and cons of the method of operation of long distance coaches. One school of thought favours the system where relief drivers are stationed at strategic points along the route, whilst others favour the second driver being carried on the bus, and resting in a curtained-off area in the rear. Although I am aware the Minister does not have strong views favouring one system over the other, he does see that in certain circumstances it may be advantageous and in the public interest to require operators to station their drivers at set points along the route. Conversely, in other circumstances it may be more realistic to use the two-driver system with both operators travelling in the coach. It is proposed that the principal Act be amended to enable the Commissioner of Transport to condition licences requiring drivers to be stationed along the route, but this will be a discretionary power that will be used as appropriate depending on the circumstances of individual cases.

For many years farmers have enjoyed exemptions from the licensing provisions of the Transport Act, but it has been found that some carriers and others have joined forces in an endeavour to thwart the intent of such exemptions. Amendments are proposed that will close such loopholes; however, I would stress that such action will not alter the rights and privileges currently enjoyed by farmers, including bona fide share farmers under the present exemptions.

Another proposal is to amend that section of the principal Act which relates to the number of hours an operator may drive a truck. It is designed to overcome a problem that has recently come to light, wherein the interpretation of this section by some employers has been used to deprive drivers of wages morally due to them. I am sure honourable members will agree that the present provisions of the Act were not designed and should not be used to deprive drivers of wages properly due to them. I would add that it is understood that very few truck owners have used the Act in this way, but nevertheless it requires appropriate action to correct the situation.

As I mentioned earlier, the proposed amendments in this Bill are designed in the main to provide for easier implementation of the Government's transport policy. Other amendments will close certain loopholes that are being exploited by a minority of operators, clarify certain terminology to make the intent of the principal Act much clearer, and increase penalties to a more realistic current-day value.

The purpose of these amendments is to ensure the State is able to implement its transport policy in the most efficient and resources-effective manner, with sufficient flexibility to meet the ever-changing demands placed on it. I am sure honourable members will agree that these are most worthwhile aims.

I would also take this opportunity to advise honourable members of the Government's proposal to amalgamate the functions of the office of the Co-ordinator General of Transport, and the Transport Commission. Whilst I will not delve into the reasons behind this move at this time,

suffice it to say that the newly formed Department of Transport—which will result from this merger—will provide a much stronger base for transport administration and policy development in the State in future.

A Bill to provide for the proposed amalgamation will be presented to the House in due course. In the interim the Bill now before the House to amend the Transport Act is considered necessary to ensure the proper functioning of activities that will continue under the new department.

I commend the Bill to the House.

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

LAND TAX ASSESSMENT AMENDMENT BILL

Receipt and First Reading

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

Second Reading

HON. J. M. BERINSON (North Central Metropolitan—Attorney General) [8.36 p.m.]: I move—

That the Bill be now read a second time.

The Bill proposes to reduce land tax assessments, including metropolitan region improvement tax, for the 1985-86 financial year by 10 per cent.

It is also proposed that penalties for late payment of tax be reduced from 10 per cent to five per cent, and that the period for payment be extended from 30 days to 45 days.

It is estimated that the proposed concessions will benefit over 100 000 land tax payers and will cost about $7 million, $6 million for land tax and $1 million for the improvement tax.

The proposed reductions are interim measures pending the completion of the Government's full-scale review of the land tax system. They will have the effect of keeping the increase in revenue from the taxes to about 5.9 per cent, which is broadly in line with the projected inflation rate.

The Government recognises that there has been a disproportionately high increase in the burden of land tax as compared with other forms of State taxation and this reflects a major problem inherent in the present system.

When land valuation is increased, even if only moderately, there is a magnified effect on the tax payable as a result of the progressive tax scale, which has remained unchanged since 1968.

As a result, the Government has been reviewing the operation of the land tax system with a view to eliminating inequities and reducing its impact. Submissions have been invited from interested organisations, but it has not been possible to complete the current review in time for the issuing of land tax assessments for the 1985-86 financial year.

It will take some considerable time to address the variety of issues arising from the submissions received. The fundamental problems associated with the tax schedule itself also need to be addressed.

The measure proposed by the Bill will therefore provide relief, pending completion of the above review.

Clauses 2 and 3 effect the 10 per cent reduction in the amount of tax payable. Clause 4 extends the period for payment of the tax to 45 days. Clause 5 reduces the penalty for late payment by five per cent.

The proposed changes apply automatically to the metropolitan region improvement tax by virtue of section 41 of the Act.

I commend the Bill to the House.

Debate adjourned, on motion by Hon. G. E. Masters (Leader of the Opposition).

BILLS (2): RETURNED

1. Financial Institutions Duty Act (Revival of section 76) Bill.
2. Race Meetings (Two-up Gaming) Bill.

Bills returned from the Assembly without amendment.

RURAL RECONSTRUCTION AND RURAL ADJUSTMENT SCHEMES AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon. D. K. Dans (Leader of the House), read a first time.

Second Reading

HON. D. K. DANS (South Metropolitan—Leader of the House) [8.41 p.m.]: I move—

That the Bill be now read a second time.

The purpose of this Bill is fourfold—

(1) To reconstitute the Rural Adjustment Authority as the Rural Adjustment and Finance Corporation of Western Australia;

(2) to provide in the form of the new corporation a more suitable vehicle for the

overall management of schemes of assistance to the rural sector;

(3) to incorporate the provisions of the Rural Industries Assistance Act 1975-80 into the Rural Adjustment and Rural Reconstruction Schemes Act; and

(4) to facilitate the transfer of existing loans to farmers made under the Government agency section of the Rural and Industries Bank Act to the corporation.

By far the most important of these aims is to create a corporation with the expertise, flexibility and powers necessary to meet the needs of the industry and the effective co-ordination of all forms of financial assistance existent or to be initiated.

With this in mind, the Bill allows for a corporation membership of five, two of whom shall have wide experience in rural industry or financial matters or possess other special qualifications appropriate to the function of the corporation.

The chairman shall have wide experience in financial matters relevant to rural industry and if necessary may be appointed on a full-time basis to become chief executive officer as well as chairman. The remaining two members will be Government officers—one from the Department of Treasury and one from the Department of Agriculture.

The chairman's appointment will be for a period of five years while other members will hold office for three years. Any or all may be re-appointed. There is provision for the corporation to utilise accumulated funds in the various trust accounts under its administration and also power to borrow in order to finance schemes of assistance to the rural sector.

In these ways will be created a rural finance body whose effectiveness will be noticeably enhanced and which will be in a position to marshall and employ available funds for the benefit of agriculture.

Incorporation into this Act of the Rural Industries Assistance Act is a matter of legislative housekeeping. There are no changes to the provisions of the latter Act.

The matter of consolidating all Government lending to farmers into one management is addressed in the Bill. The benefits of borrowers having to deal with only one lender are as obvious as they are considerable.

Other changes incorporated in the Bill are of a general nature. The more important of these are the formulation of the corporation's ability to hold property and bringing accounting and audit requirements into line with Government policy.

I commend the Bill to the House.

Debate adjourned, on motion by Hon. C. J. Bell.

ACTS AMENDMENT (ENVIRONMENTAL LEGISLATION) BILL

Receipt and First Reading

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

Second Reading

HON. J. M. BERINSON (North Central Metropolitan—Attorney General) [8.44 p.m.]: I move—

That the Bill be now read a second time.

This Bill proposes amendments to the Clean Air Act 1964, the Mines Regulations Act 1946 and Noise Abatement Act 1972.

These amendments are part of the Government's announced rationalisation of responsibilities for occupational health matters. With the establishment of the Occupational Health, Safety and Welfare Commission, the functions of the occupational health division of the Health Department of WA will no longer be part of that department, and as a consequence the environmental components of its air and noise control responsibilities will be transferred to the Minister for the Environment.

With the transfer of responsibility to the Minister, it is important that there is a direct link with the skilled and representative advisory group. It is proposed to establish in each of the Clean Air Act and Noise Abatement Act an advisory committee to assist the Minister in carrying out his functions under the Acts.

The advisory committees will replace the previous Air Pollution Control Council and Scientific Advisory Committee under the Clean Air Act and Noise and Vibration Control Council and Noise Abatement Advisory Committee under the Noise Abatement Act. The functions of the two councils will be transferred to the Minister who will be advised by the representative committees.

The membership of the two committees has been broadened to include representation from the Conservation Council of Western Australia, retains the representation of the Confederation of Western Australian Industry and the Trades and Labor Council and reduces the number of Government department representatives.

I commend the Bill to the House.

Debate adjourned, on motion by Hon. G. E. Masters (Leader of the Opposition).

PARLIAMENTARY COMMISSIONER FOR ADMINISTRATIVE INVESTIGATIONS: ADOPTION OF RULES

Council's Resolution: Assembly's Concurrence

Message from the Assembly received and read notifying that it had concurred in the Council's resolution.

WORKERS' COMPENSATION AND ASSISTANCE AMENDMENT BILL

Introduction and First Reading

Bill introduced, on motion by Hon. Peter Dowding (Minister for Industrial Relations), and read a first time.

Second Reading

HON. PETER DOWDING (North—Minister for Industrial Relations) [8.47 p.m.]: I move—

That the Bill be now read a second time.

The current workers' compensation legislation in this State has its origin in the judicial inquiry conducted by Hon. B. J. Dunn, OBE in 1978.

As a result of this inquiry, a Bill was introduced into Parliament in late 1981. After substantial amendment, particularly at the instigation of His Honor Mr Justice Howard Olney, then a member of this Council, the Workers' Compensation and Assistance Act 1981 was passed and came into operation on 3 May 1982.

At the time the Act was passed, an undertaking was made to review the operation of the Act after it had been in operation for one year. This Government honoured that undertaking and commenced a comprehensive review of the Act in May 1983.

In the course of the review, all organisations which had previously expressed an interest in the workers' compensation area were invited to participate and a substantial number of submissions were received as a result. These varied in extent from the single-issue cost aspects which cause concern to small business to comprehensive evaluations of the total workers' compensation scene by larger firms and umbrella organisations.

All submissions received were reviewed by the Workers' Assistance Commission and the commission's recommendations were submitted to the then Minister. As the Government had established the Tripartite Labour Consultative Council, a statutory body, to review all legislation in the industrial relations field, the commission's recommendations were referred to the council to enable a further assessment and identification of those areas where consensus existed.

The Bill before the House comprises substantially those amendments which were unanimously endorsed by the Tripartite Labour Consultative Council and therefore enjoy the support of the major interest groups in the workers' compensation field. There are, in addition, a small number of amendments which reflect Government policy in this area.

The amendments fall into three broad categories: those which are purely administrative and are designed to facilitate the operations of the Act; those which benefit both workers and employers; and those which have been included due to special circumstances.

The administrative amendments in the Bill are contained in clauses 1 to 3, 17, 22, 24 to 27, and 29 to 40.

Among the more significant of these clauses are those which ensure both the Registrar and Deputy Registrar of the Workers' Compensation Board have the power to conduct pretrial conferences and preliminary hearings. This will facilitate the determination of claims and add to the success already achieved by the board in providing a resolution of disputes with the minimum of delay.

The amendments also remove certain anomalies which make it extremely difficult in practice to prosecute an employer who fails to obtain a policy of insurance as required by the Act. The Bill provides that a complaint can be lodged at any time within two years from the date the alleged offence occurred. Failure to produce a policy of insurance in force at the specified date when requested to do so in writing will constitute prima facie evidence that the employer was uninsured.

This amendment will assist the Workers' Assistance Commission in its inspectorial function and facilitate a reduction in the cost of all employers resulting from the currently increasing number of claims by injured workers on the uninsured fund where their employer has not carried out his responsibility under the Act and obtained an insurance policy.

Direct benefits to both workers and employers are provided for in clauses 4 to 9, 13 to 16, 18, 20, 21, 23, 28 and 41 to 44.

The proposed amendment to section 74 of the Act will provide a significant improvement in the situation of both workers and employers. Under the Act members will be aware that lengthy delays in the payment of compensation can occur when a worker suffers a disability or a recurrence of an old disability which results in a dispute between insurers as to which is liable to indemnify the employer. This amendment will provide that the insurer at the time of the latest disability is liable

to indemnify the employer until the Workers' Compensation Board has determined which insurer is liable or the extent of joint liability. The amendment conforms with the existing provision which deals with employers as to liability where there is no dispute as to the workers' entitlement.

The industrial diseases medical panel is currently restricted in the area in which it can diagnose. This amendment extends the scope of the panel to enable it to determine whether a worker is suffering from lung cancer associated with working with asbestos, in addition to its existing power to determine pneumoconiosis or mesothelioma. This provision will enable workers who are the unfortunate victims of lung cancer resulting from employment in the asbestos industry to have their condition appropriately determined by the panel.

The Bill also makes some appropriate adjustments to the range of individuals who may claim compensation under the Act. As a result of a submission on behalf of jockeys and apprentice jockeys and discussions with the Western Australian Turf Club, any jockey riding in a race conducted by a racing club registered with the WA Turf Club, or carrying out his usual duties for a trainer licensed by the WA Turf Club is deemed to be a worker within the meaning of the Act. The WA Turf Club is likewise deemed to be the employer.

As a result of proposals made by the Public Service Board, persons holding judicial or other statutory offices who are not currently deemed to be workers will be deemed to be workers employed by the Crown. This is consistent with provisions existing in other States.

A major area of concern on benefits relates to the situation of working directors and their dependants. Working directors by their position have two clearly defined roles—as a director with obligations and as a worker with entitlements. In the past many working directors have ignored the first aspect but claimed entitlement when injured. This result is an unfair charge against all employers. This is obviously inequitable and the proposed amendment removes entitlement for the working director and his dependants unless the responsiblity of obtaining a policy of insurance has been fulfilled.

I turn now to a special series of amendments relating to noise-induced hearing loss. During the tripartite discussions preceding the drafting of the present Act, the former Government gave an undertaking to introduce lump-sum compensation for noise-induced hearing loss on a similar basis to that existing in other States. The inclusion of suitable provision in the Act for this type of compensation was deferred in order to permit examination of the issue by a special tripartite working party specifically appointed for this purpose.

The Government now intends to honour the commitment of the former Government by introducing a provision in the Act for compensation for noise-induced hearing loss. The amendments are substantially based on the recommendations made by the tripartite working party to the former Government.

The position adopted by that body provided for lump-sum payment based on the existing second schedule entitlement where loss of hearing did not result in incapacity for work. The consensus of the recommendations made by the working party included—

> pre- and post-employment audiometric testing with confidentiality for the worker;
>
> entitlement to compensation for work-related hearing loss to be prospective from the date of proclamation of the amendments; and
>
> a discount of 10 per cent to be applied to any measured hearing loss with the discounted figure to apply from the base level set by the first testing.

The Government has accepted the above proposals, with the modification that instead of a discount of 10 per cent a threshold of similar magnitude will apply, before which no compensation will be payable. Once a worker's loss of hearing exceeds 10 per cent, the whole of his hearing loss will be compensable.

In order to protect employers from undue administrative costs, the Bill precludes workers from lodging claims for this type of compensation at excessively frequent intervals.

The Government believes that the provision of compensation for noise-induced hearing loss based generally on the consensus recommendations made by the working party has the support of all major interest groups and will overcome a significant omission in workers' compensation legislation in this State.

The Bill before the House fulfils the Government's commitment to review the Workers' Compensation and Assistance Act and reflects a spirit of consensus rather than confrontation.

I commend the Bill to the House.

Debate adjourned, on motion by Hon. G. E. Masters (Leader of the Opposition).

ACTS AMENDMENT (GAMING AND RELATED PROVISIONS) BILL

Second Reading

Debate resumed from 3 April.

HON. G. E. MASTERS (West—Leader of the Opposition) [8.58 p.m.]: The Bill before the House is consequential on the previous Bill with which we dealt at some length, so I do not propose to go into great depth in debating it because the Minister has already said that the Acts proposed to be repealed are very difficult to understand and go back to the days of Their Majesties, King Charles II, and further back to King William IV. I do not really expect the Minister to explain to the House in detail the wording of that legislation. It is interesting to read the title of the Bill, and I quote—

> A BILL
>
> FOR
>
> AN ACT to clarify the effect in the State of, and to repeal, certain provisions of the Statutes of the Realm and Acts relating to gaming and wagering and matters incidental thereto. . .

I draw attention of the House to the words, "An Act to clarify the effect in the State. . ."

In relation to the debate that took place earlier in the evening on the other Bill introduced by the Government, this is anything but a clarifying Bill and I do think that in years to come people who look at the Bills we have dealt with tonight will find them as mysterious as we find these outdated Statutes we are now proposing to repeal. Changes are to be made to the Police Act and the Betting Control Act which again are consequential. There are a number of changes to the Casino Control Act. I cannot recall when that Bill was introduced in the House, but it seems that as an Act it has come back for amendment regularly over the past few weeks. Nevertheless, the changes are consequential to the changes that have taken place over recent times, and to the amendments we have passed tonight.

I do not think the Opposition has any reason to oppose the legislation and I would not consider asking the Minister to explain in detail the Acts we are repealing.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

Third Reading

Bill read a third time, on motion by Hon. D. K. Dans (Minister for Racing and Gaming), and transmitted to the Assembly.

ABORIGINAL LAND BILL

Second Reading: Defeated

Debate resumed from 2 April.

HON. N. F. MOORE (Lower North) [9.02 p.m.]: The Aboriginal Land Bill 1985 is perhaps the most significant Bill to come before the House, certainly during my time in Parliament. It must be remembered that this obnoxious Bill represents the Government's bottom line in the land rights debate.

It represents the minimum position of the Burke Government on the question of Aboriginal land rights. Mr Burke repeatedly said during the drafting period of this legislation that he was seeking a Bill that would be acceptable to the Legislative Council. A Bill has been drafted which he considers meets that objective; in other words it is his bottom line with respect to this matter. Therefore, we must see the Bill in the light of its being the beginning of the Government's land rights programme and not the end of it. My attitude to the Bill is totally justified because Mr Burke has been prepared to compromise his initial stand on land rights with the sole aim of having the legislation passed, and once the legislative basis has been established he will go the whole hog.

This legislation, which seeks as its primary aim to have the Parliament of Western Australia accept the principle of Aboriginal land rights, will become the springboard for subordinate legislation which will go a long way towards achieving the aims of the Labor Government on this subject. I am justified in my argument that this is just the beginning when we consider some of the comments made by Labor Party officials on the subject.

I quote from the *Daily News* of 11 October 1984 from a letter to the editor written by the assistant State secretary of the ALP, John Cowdell. He said—

> While Cabinet's statement only goes part way towards the ideals as set out in our platform, it can nevertheless be seen as a step in the right direction.
>
> We do not expect all our ideals to be achieved immediately.

That statement is from a letter written by Mr Cowdell and, therefore, he has not been misquoted. He clearly points out that this legis-

lation is just the beginning of what the ALP has in mind for land rights and this is certainly not the end of the matter.

Mr Burke has constantly raised the spectre of the Commonwealth Government's potential action if this legislation is defeated. I suggest that the future of Western Australia is equally uncertain if the Bill is passed. It does not matter much how appealingly or how often Mr Burke asks the people of Western Australia to trust him on the subject of land rights. We have seen him appearing on television at great expense to the Western Australian taxpayer trying to impress upon people that they should trust him.

It ultimately comes down to the ambitions of the Labor Party in toto on land rights. The ambitions of the Labor Party, which I suggest are the ambitions of the Premier, are clearly outlined in the ALP platform, both at Federal and State levels. The Federal platform is probably more appropriate in this debate because we know that the ultimate situation with regard to the Labor Party's activities rests with the Federal platform. The State platform is subordinate to the Federal platform.

It is important that we know what is contained in the Federal platform of the ALP on the subject of land rights. I want members of the House to realise that the Federal platform was determined at the Federal conference last year and Mr Burke was a delegate from Western Australia to that conference. As a delegate from Western Australia he supported the platform of the ALP on land rights. I quote from that platform, which is the ultimate position of the Labor Party in Australia on the question of land rights. Let us make no mistake about that; it is not what we hear Mr Burke telling us on television; it is not what we see in Labor Party advertisements; it is not what is contained in the Bill.

Hon. Peter Dowding: You will be getting to the Bill in due course, I suppose.

The DEPUTY PRESIDENT (Hon. P. H. Lockyer): I remind members on both sides of the House that I will not tolerate interjections of any kind while I am in the Chair. That applies to all members, including Ministers of the Crown.

Hon. N. F. MOORE: The Government's position is bound by the Labor Party's Federal platform and I advise the House, by quoting from the 1984 platform of the Federal Labor Party, exactly what is its position—

> A Labor Government will—
>
> LAND RIGHTS
>
> 1. Grant land rights and compensation to Aboriginal and Islander communities, using the principles and recommendations of the Aboriginal Land Rights Commission (Woodward Report) as a basis for legislation, subject to a continuing review.

The Woodward report was set up by the Whitlam Government and formed the basis of the Northern Territory legislation. It is interesting in the context of this debate to know that the Labor Party at the time was strongly opposed to the legislation of the Fraser Government because it was considered too soft. The Government is now saying it will be moderate and do the right thing in this matter. Paragraph 2 states the following—

> 2. Ensure that Aboriginal and Islander people in each state or territory have access to land grants held under secure title in accordance with The Woodward principles by seeking complementary state or territory legislation and where this is not introduced use Commonwealth constitutional powers and legislation to achieve these objectives.

Once again I interpolate to indicate that there is some doubt as to whether the Commonwealth has constitutional powers but clearly the Federal Government intends to have its way if it can and that is clearly indicated in this platform.

I quote from paragraph 6 of the platform because it indicates a complete extension of what this argument is all about. It takes the matter beyond the question of land rights and to the ultimate ambition of certain people in this issue. It reads as follows—

> 6. Fully investigate the principle of a Treaty of Commitment as negotiated on other continents to set out the legal and cultural relationships between the Aboriginal and Islander peoples and the wider Australian community.

The Makarrata is not dead, as some people would have us believe; the Makarrata is part of the Federal ALP's platform which, as I have said, is binding on the Labor Party. That is the Labor Party's ultimate position: Land rights based on the Northern Territory model for the whole of Australia; and the Makarrata at the end of the track.

But let us look at the State ALP platform, because it illustrates what the State ALP thought at its last conference, held last year. I indicate for the benefit of Mr Hetherington that this is the latest

edition. Under "D: Land Rights", which is part of the ALP's Aboriginal platform, we find the following—

D LAND RIGHTS

Labor asserts that—

it is committed to the granting of land rights to Aborigines and Islanders and believes that the principles and recommendations of the Aboriginal Land Rights Commission (Woodward Report) should form a pattern for legislation.

Accordingly, a Labor Government will—

13. Introduce legislation to apply to Western Australia provisions similar to those of the Northern Territory Aboriginal Land Rights Bill initiated by the Federal Labor Party.

They even claim credit for the Northern Territory model, a model which Mr Burke says is not acceptable. It is the basis of the ALP's platform at both State and Federal level.

It is quite clear what the Labor Party's ultimate ambition with land rights really is. Quite clearly what is contained in this Bill does not comply with all aspects of Labor's platform. I might say that it goes remarkably close to doing so when we look at the specifics, but I accept that there are still some areas of conflict between the Bill and Labor's platform.

I come back to my initial point: This is the beginning of the ALP's programme for land rights, not the end of it. It is as I said in my initial comments: The State Labor Party's bottom line on land rights legislation is just the beginning of land rights in Western Australia. While some members of the Labor Party would be very happy for this legislation to be defeated, the Government is very anxious for it to be passed, because it would provide the basis for further Government action in this area. This further action would fulfil the ALP's platform on land rights.

I wonder whether at this moment the Labor Party's Bill would have contained what it does had the Legislative Council not been controlled by the non-Labor parties. Mr Burke has said constantly that he has amended his attitude on land rights in the hope that he can get the Bill through the Legislative Council.

Regardless of whether it is the bottom line or just the beginning of land rights, the Bill itself is a diabolical document. It is totally unacceptable to me. A detailed evaluation of it has led me clearly to that conclusion.

The title of the Bill is Aboriginal Land Bill. This to me is the most obnoxious part of the legislation—the actual title of it. It is blatantly and obviously racist.

Let us imagine the consequences of this legislation having been introduced under another title, perhaps the "Non-Aboriginal Land Bill" or the "White Australian Land Bill". Let us assume that everything else in the Bill was exactly the same except that whenever "Aboriginal" was used in this Bill the wording was changed to "non-Aboriginal" or "White Australian".

What would be the reaction of the community and particularly the Labor Party if we had introduced such a piece of legislation? There would have been screams of "racism" and "discrimination". The unions would have been on strike. The newspapers would have been indignant. The community would have been up in arms about this dreadful piece of legislation, which was totally and clearly racist because it discriminated against one race of people.

The legislation before us does exactly that: It discriminates in favour of one racial group. By extension it must discriminate against all other racial groups. Racism does not just mean discrimination against black people. Regrettably, discrimination against black people in many parts of the world has led some people to assume this, but it is not restricted in that way and it is not a strict or adequate definition of what racism means. Racism means discrimination against any race of people on the basis of their race. In this case it is discrimination by the use of legislation.

It is argued by some people that positive discrimination is not racist, yet it clearly follows, as I have just pointed out, that if a Government legislates or makes laws which discriminate in favour of one race, it is by necessity, by extension, discriminating against every other race. That is what this Bill does.

The very title of it, Aboriginal Land Bill, shows it is a Bill for one race only, and therefore it discriminates against every non-Aboriginal race in Australia.

If we come back to my imaginary Bill, the "Non-Aboriginal Land Bill", which was to make land available only to non-Aborigines, it would quite rightly be attacked, because it would be giving land only to non-Aborigines, and not Aborigines. It would be discriminating against Aborigines, and we would not find that acceptable.

This Bill is just the reverse of that: It discriminates against every non-Aboriginal by making

land available to Aborigines only, based on their race.

Those who argue in favour of the Bill argue that the Opposition is taking an extreme position on this whole issue of Aboriginal land rights.

Hon. Fred McKenzie: And they are.

The DEPUTY PRESIDENT (Hon. P. H. Lockyer): Order! I remind the honourable member that only recently I made it very clear that I would not tolerate interjections. This is an important debate and I want to hear the honourable member speaking. Every other honorouble member will have his chance to speak in due course.

Hon. N. F. MOORE: Mr McKenzie will realise when the debate continues that the position adopted by the Opposition is a very moderate, middle-of-the-road point of view. What this legislation represents is an extreme position on the issue of land rights.

We have consistently and constantly argued that the land tenure system in this State should not discriminate on the basis of race. We believe that is how it should continue. We have always said that all people, regardless of their race, should have equal access to land and equal opportunity to acquire land.

Hon. Peter Dowding: Is it always so?

The DEPUTY PRESIDENT: Order! I remind the Minister that he cannot ask questions. For a start it is unparliamentary. He has not got the floor and his interjecting is in contravention of precisely what I said a moment ago.

Hon. N. F. MOORE: I am not prepared to be an apologist for Governments from 1829 to whenever. What has happened in the past has happened in the past. In many cases, had I been there when those things happened, I would not have approved of them.

This Opposition has argued the point consistently and constantly that there should not be laws on land tenure in this State which are based on race. In other words, we have argued that all people of all races should have equal opportunities to own and to acquire land. That is the most moderate point of view I can imagine. It is totally moderate. It means that everyone should be treated equally.

What this Bill does is to seek to treat one race differently from every other race. The Premier calls that moderate. To me that is the most extreme position in the argument. The Opposition's point of view is totally moderate and always has been. We have never wavered from the basic principle that all land should be granted equally to people regardless of race.

This Bill seeks to introduce a system of land tenure based solely on race. The only people who will be able to make claims and obtain vast areas of land are those who by definition in the Bill are members of the Aboriginal race of Australia. This definition of "Aboriginal" in the Bill further exacerbates the problem. It defines Aborigines as members of the Aboriginal race of Australia. I want to know, and perhaps the Minister can explain when he answers, who is a member of the Aboriginal race of Australia? Does one have to have 100 per cent Aboriginal blood; or 50 per cent; can it be any percentage; or is it somebody who calls himself an Aboriginal? Perhaps if one were to be trite about this one could say that if someone does not have more than 50 per cent of Aboriginal blood he is actually a member of the other race of his majority blood.

This definition is very vague. I know there are difficulties in legislative terms in providing an adequate definition of "Aboriginal". If one looks at the Aboriginal Affairs Planning Authority Act one sees an attempt has been made, albeit a rather poor attempt when one looks at it closely, but at least it is more precise than the definition in this Bill. Section 4 of that Act defines an Aboriginal as a person pertaining to the original inhabitants of Australia and their descendants and goes on to say—

> "person of Aboriginal descent" means any person living in Western Australia wholly or partly descended from the original inhabitants of Australia who claims to be an Aboriginal and who is accepted as such in the community in which he lives.

That is not a particularly good definition but it goes further down the track towards a practical definition of an Aboriginal than that contained in this Bill.

What this Bill boils down to is that any person who is a member of the Aboriginal race of Australia, and we are not sure who they are, will have certain rights with respect to land which will not be available to anybody else. It is important to know to whom the definition relates. I want to refer to the comments of Mr Bridge who took exception to some remarks made in another place by members who suggested he may benefit in some way from this legislation. Mr Bridge said that because he had chosen a lifestyle which bore no relationship to a traditional Aboriginal lifestyle he was not eligible for land grants under this legislation. That is not the point; he has missed the whole point. Whether he will or will not be granted land is entirely irrelevant. The relevant point is that he is entitled to claim land by virtue of his race. I am not entitled to make a claim

because I am not a member of the same race as Mr Bridge. That is the difference between Mr Bridge and myself on this issue. For as long as Mr Bridge is an Aboriginal he is entitled to make a claim. Whether the tribunal gives it to him is beside the point.

With the greatest respect to Hon. Peter Dowding because his family has been mentioned in this matter—

Hon. Peter Dowding: I trust you will not.

Hon. N. F. MOORE:—the same argument applies in his case.

Hon. Peter Dowding: That is rubbish!

The DEPUTY PRESIDENT (Hon. P. H. Lockyer): Order!

Hon. N. F. MOORE: The members of his family who have been mentioned in this debate—

Hon. Peter Dowding: That is rubbish!

The DEPUTY PRESIDENT: Order! I will not remind the Minister again. I refer him to Standing Order No. 106. If he is going to carry on interjecting perhaps he should get some other Minister to handle the Bill.

Hon. N. F. MOORE: The Minister's wife and two of his children—

Point of Order

Hon. PETER DOWDING: I take the strongest exception to the member's personalising this debate to bring it down to a discussion about my family. I take the strongest exception to his action and I ask him to withdraw those references.

The DEPUTY PRESIDENT: There is no point of order. I remind Hon. Norman Moore to stick to the Bill in front of him. Personalised references are not part of this debate.

Debate Resumed

Hon. N. F. MOORE: I bow to your judgment, Mr Deputy President, and leave the point I am trying to make to the public comments of Mr Bridge. He missed the whole point of the argument. While he may not be granted land by the tribunal he is certainly entitled to make a claim provided he can find six people who are prepared to lodge a claim with him.

The Bill provides one law for the Aboriginal people and one for all others. The fact that the Minister gets upset is beside the point. The legislation provides for certain things to occur for Aboriginal people which will not occur for everyone else.

I want the Minister to understand why I am concerned about this. It means that huge areas of Western Australia are involved and can be granted to a very small proportion of the population. That is why the Bill is so important; huge amounts of land are involved.

Many people do not know that the Aboriginal population of Western Australia is approximately 31 000, or 2.4 per cent of the total population. The Aboriginal people of Western Australia represent a very significant minority within the society of the State. That figure of 31 000 was arrived at in the 1981 census using the rather dubious definition of Aboriginal to which I referred earlier. Members ought to realise also that the total Aboriginal population of Australia is approximately 160 000. This represents about 1.1 per cent of the Australian population—a tiny minority of people. Yet these people already have 899 176 square kilometres set aside for their use under various State and Federal Statutes. So 1.1 per cent of the population have 11.7 per cent of the Australian land mass. That has been set aside for Aboriginal people before Mr Burke's massive land grab represented by this Bill. Every Aboriginal in Australia—man, woman, and child—has 5.6 square kilometres or 560 hectares of land already set aside for him or her before we add the 46 per cent of Western Australia which Mr Burke proposes to give them. They are the sort of figures one must clearly understand to get the Bill in the right context.

The Bill seeks to set up nine Regional Aboriginal Organisations. The boundaries are not specified in the Bill but one can presume they will be the same as those contained in the Seaman report with the exception that the east and west Kimberley are divided in this Bill whereas Mr Seaman talks about a Kimberley region on its own.

These regional organisations have no taxing powers but in my judgment they are remarkably like a new tier of government; in other words, Aboriginal local government. I suggest to members they read the part of the Bill closely which deals with regional Aboriginal organisations. While there is no provision in the Bill which allocates funds to those organisations it is quite clear they will need funds to carry out their functions. We are not told where the money will come from, but presumably like most money for public purposes it will come out of the taxpayer's pocket via State and Federal Governments.

A close reading of what the Bill says about Regional Aboriginal Organisations will indicate to members that they will have considerable power and influence. The Opposition had an opinion on the Bill prepared by a Queen's Counsel. I want to quote what Mr Robert Anderson QC has to say about certain aspects of the Bill.

In respect of Regional Aboriginal Organisations he had this to say—

> It can be seen that those in control of the regional organisation will have considerable power and influence, especially as the regional organisations will control such funds as are provided and will have the authority to decide disputed land claims. There would seem to be much potential for bureaucratic growth and for the development of elitist ruling groups.

That comment could apply to any of the land councils of the Northern Territory—that dreadful legislation we are frequently told about—those massive bureaucracies that have been established in the Northern Territory; those huge employers of activists from across Australia, white and Aboriginal, which have been set up under the Northern Territory legislation. These Regional Aboriginal Organisations sound remarkably like those councils and the opinion of Robert Anderson, QC, suggests that may be what will result.

Very little has been said about these organisations in general public debate on this issue, and that is unfortunate because they have the potential to change the whole structure of local government in this State. They have the potential to set up separate Aboriginal local governing authorities with direct State and Federal funding which will be involved in all sorts of activities in relation to Aboriginal matters. This could create a division within local government on a racial basis—Aboriginal and non-Aboriginal—in this State and to me it represents a most serious threat to the existing system of government in Western Australia.

The Bill provides for the setting up of Aboriginal Land Corporations comprising seven Aboriginal adult persons. These land corporations will be the ultimate owners of land which is either given under this legislation or granted under the tribunal. Interestingly enough, individual Aboriginal people will not be entitled to own land under this Bill because the title must be held by a community or a corporation. I ask what is wrong with individual Aboriginal people owning land?

The first area of land that is involved in this legislation is the existing Aboriginal reserves, and these reserves that have been set aside for community welfare purposes in respect of Aboriginal people. These reserves will be automatically given to appropriate regional Aboriginal organisations upon the Bill becoming law, and then will be distributed to appropriate Aboriginal Land Corporations.

Schedule 1 of the Bill lists all the land involved, and I suggest to members, particularly members on the other side of the House, that they have a good look at the schedule and obtain a list from the Government in regard to the number of hectares that comprise each reserve, and I am sure they will find out what this Bill is about. Practically all the towns in Western Australia, including parts of the metropolitan area, have some land involved.

This land, based on our calculation, represents about eight per cent of the State or about 200 000 square kilometres. That is the amount of land which will be automatically and immediately given to Aboriginal people the moment this Bill is passed and is proclaimed. That is what the Bill does first up—eight per cent of the State and 200 000 square kilometres will be automatically given to the Aboriginal people.

To get this particular land grant in perspective, the total area of freehold land in Western Australia comprises about six per cent of the State, yet this Bill proposes as a first step to give more land to the Aboriginal people than all the freehold land that currently exists in the State. It proposes to give Aborigines that land under a freehold title. All the urbanised, farming and agricultural land in WA is less than the amount of land that will be given to Aborigines under this Bill.

In addition to the land which will be given to the Aborigines, an enormous amount of land will be claimable.

The first type of land which is claimable is mission land; in other words, land which has been given in the first place to missions as a special grant to Aborigines will be claimable. My colleague, Hon. Phillip Pendal, proposes to discuss this matter in greater detail later in the debate, but suffice for me to say that I believe this Bill will give Aborigines the opportunity to gain ownership of the five Catholic missions which currently operate in the Kimberley. I believe that the Bill will provide for the expropriation of the mission land, and let us be clear that the land includes the buildings on it.

I happen to be one of those people who believes that the missions have done a good job over the years in respect of Aboriginal people. I will not suggest that all of their attitudes and activities have been spot on, but they have done a good job in the main, and it is a pity that there are people who would prefer to see missions completely disbanded and removed from the area of Aboriginal welfare.

This Bill provides the basis for the removal of Catholic missions, which are the only missions

left, from the ownership of their land in the Kimberley. The Opposition is committed, upon its return to Government, to provide some sort of security for church lands on mission sites to the extent that it is necessary for them to maintain their operation.

The second type of land which is available for claim is unallocated Crown land and this means vacant, unused or unalienated Crown land not being a road reserve, stock route, or any land for any other purpose but for Aboriginal use or benefit. By virtue of the Government's refusal to provide exact answers to questions on this matter, the Opposition has not been able to assess accurately what land is involved. However, it has made an assumption based on the cartographic knowledge of the mining and other industries in the community, and it came up with a figure of one million square kilometres of Western Australia being unallocated Crown land, and that, based on the figures we had at that time, represents 40 per cent of the State. We repeatedly asked the Government to provide maps showing the percentage of the State which was unallocated Crown land, but the answer was not given until Mr Burke unintentionally mentioned 38 per cent. He has not denied that statement and we can only presume that the unallocated Crown land in Western Australia represents 38 per cent of the land mass of this State. If the Minister can say that that is not correct, I will be happy to hear what is the actual amount of land involved. Let us presume that it is 38 per cent, because that is what the Premier said.

It means that 38 per cent of Western Australia will be claimable by Aborigines who band together as seven adult Aborigines and form an Aboriginal Land Corporation.

Another interesting piece of information is contained in an answer given to a question I asked of the Minister for Lands and Surveys concerning unallocated Crown land. About 18 months ago I asked the Minister how much unallocated Crown land existed in the South-West Land Division and whether he would provide a map.

In his generosity in providing the answer he did not perhaps check with his superiors to find out whether he was allowed to give me the map. I now have a map showing the unallocated Crown lands of the South-West Land Division. I also asked how many square kilometres were involved. There were about 12 100 square kilometres of unallocated Crown land in the South-West Land Division. This Bill makes that land, less the land now called potential agricultural land, available for claim. So much for the argument that the land available for claim is all desert, because 12 000 square kilometres of the South-West Land Division, less that bit which represents potential agricultural land, is available for claim. Who could tell me with any seriousness that the South-West Land Division represents desert? It certainly does not.

On the question of potential agricultural land, it is interesting to note that the only time the Government said anything about agricultural land and decided it would be excepted from claim, was after we made the point very clearly around the countryside that that was what we feared from the Bill. Everywhere we went people asked what would happen to that land outside of Dalwallinu and Esperance as it is vacant Crown land. We told them it was claimable under the Government's proposed legislation. The Government then got the shivers. It realised that it was getting itself further and further into the political mire and it tried to compromise. It has compromised all the way down the track. This is one area of compromise; potential agricultural land is not to be claimable. However, there is then a proviso that the Minister can change his mind on this land if he wishes.

The point of this whole exercise is that 12 000 square kilometres or thereabouts of the South-West Land Division is claimable. The Bill does not limit the number of claims or the amount of land that can be claimed by any individual Aboriginal Land Corporation, so land corporations can go for the whole lot if they wish. The only limitation on the granting of this land is the requirement for the Aboriginal Land Corporation to satisfy the tribunal in two areas. Firstly, it must have a prescribed association with the land. Secondly, and alternatively, it may have a specified proposal for the use of the land. Either of those requirements must be acceptable to the tribunal. Prescribed association with the land means that Aborigines either have an entitlement to the land in accordance with local Aboriginal tradition, or a long association with the land through either residence or use by those members. Thus it relates to traditional ownership, but is certainly full of all sorts of—

Hon. Peter Dowding: Read on!

Hon. N. F. MOORE: That is the definition I have in front of me. The Minister can expand on it if he wishes. The prescribed association aspect of the Bill means that if an Aboriginal Land Corporation can establish before the tribunal that it has an entitlement to the land in accordance with local Aboriginal tradition or has a long association with the land and can satisfy the tribunal, it can have the land granted.

The other criterion is that it can provide a specified purpose. The specified purpose must relate to the provision of social, economic, or other benefits to the members of the Aboriginal Land Corporation. Thus, if the Aboriginal Land Corporation can convince the tribunal that it has a specified use to which it seeks to put the land, the tribunal can recommend to the Minister that the land be granted. The amount of land that is actually granted—that is, the amount of land that the tribunal recommends to the Minister to be granted and the Minister then grants—is impossible to quantify. Thirty-eight per cent of the State will be available for claim. The amount that will be given is anybody's guess. To a very large extent it will depend on the disposition of the tribunal, on the attitude of the Aboriginal Land Commissioner, because the tribunal which will make all these decisions consists of a Supreme Court judge sitting independently and alone. The judge's interpretation of the language used in the legislation will determine to a large extent how much land he is prepared to give to Aboriginal applicants. The legislation, by virtue of the language it uses, requires him to make countless value judgments in respect of all sorts of matters. Thus, the attitude of the Supreme Court judge, who happens to be the Aboriginal Land Commissioner, will be very important in deciding just how much land is granted. There is no doubt in my mind that every square inch of land that is claimable will be claimed. That is the Northern Territory experience and there is no doubt that it would be the Western Australian experience in the event that this legislation was passed.

The Bill also has certain provisions in respect of the sea—Aboriginal sea rights, if members like. The Bill purports to recognise and protect traditional use of the sea. Seas between low-water mark and the three-mile limit contiguous to the Aboriginal reserves in the Kimberley will be protected. When I read this particular part of the Bill, I took the trouble to have prepared a map which showed the amount of coastline involved. The map showed all the reserves that existed in the Kimberley. The coast which is contiguous to those reserves is claimable under this legislation. Approximately two-thirds of the Kimberley coast from the Northern Territory border with Western Australia around to Broome is contiguous to Aboriginal reserve. In other words, two-thirds of the Kimberley coast will be set aside as protected Aboriginal seas. That is an enormous amount of the coastline of Western Australia. To get some indication of the significance of sea rights, I quote again from Mr Robert Anderson, QC, who has an opinion about the sea rights aspect of this legislation—

> The regulations cannot prevent the bona fide transit of vessels through the protected sea, but subject to that, the regulations may go so far as to prohibit entry by all or a specified class (e.g. white) persons or persons intending to engage in a specified (e.g. fishing) activity.
>
> The power exists therefore to exclude all white people from an extensive area of coastal waters, for all purposes except transit and to set aside those waters for exclusive Aboriginal use. The opportunity exists for the Commonwealth to broaden the band of coastal waters thus protected.

What an indictment of what this Bill seeks to do to two-thirds of the Kimberley coast of Western Australia! That is an enormous amount of water, yet according to an eminent QC, the power exists to exclude all white people from that extensive area of coastal waters. That is absolutely disgusting and one of the very good reasons why this Bill ought to be rejected.

The Bill also provides for the excision of land from pastoral leases for living areas. It provides for one excision from sheep pastoral stations and two excisions from cattle pastoral stations. Claimants must go to the tribunal and satisfy the Aboriginal Land Commissioner that they have a prescribed association with the land and a need for the land. Admittedly, there are several restrictions before the grant can be made, one of which is that it must not unreasonably affect the operation of the pastoral lease. The word "unreasonably" means that it can affect the operation, but it must not affect it unreasonably. Deciding what is unreasonable calls for another of those value judgments that the Bill is chock-a-block full of. The tribunal has to decide what effect is unreasonable. Of course, that allows for some effect to take place. There is no suggestion in the Bill about how big the excision can be or whether provision will be made for access.

Hon. Kay Hallahan interjected.

The DEPUTY PRESIDENT (Hon. P. H. Lockyer): Obviously Hon. Kay Hallahan was absent when I made a ruling that I will not accept interjections.

Hon. N. F. MOORE: It could mean that the station roads which are at the present time private property may have to be made public roads. Whilst this part of the Bill clarifies some of the *ad hoc* situations which have arisen in recent years in respect of excisions from pastoral leases, I still find it difficult to work out why the Pastoralists

and Graziers Association has accepted it. Surely there are other and better ways to resolve the problems in relation to excisions from pastoral leases than to clothe those amendments in an Aboriginal land rights Bill. That is not what it is, but that is what it does. There must be other ways to solve those difficulties which the pastoralists have complained about. I cannot understand why they are prepared to accept this Bill as a means of achieving that end.

Hon. Peter Dowding: It is embarrassing.

Hon. N. F. MOORE: It is not embarrassing, because later I will read to the Minister a resolution passed at the recent Pastoralists and Graziers Association conference and he may be smiling on the other side of his face.

If one looks at the tenure of the land granted under this Bill, the land will be granted under the terms of this legislation for an estate in fee simple. In other words reserve lands—that is the Aboriginal reserves and the community welfare reserves which are given to regional Aboriginal organisations and the unallocated land and the mission lands granted to Aborigines by virtue of a claim by an Aboriginal Land Corporation, or the excisions of pastoral leases—will be granted under a form of freehold title.

It is important to understand what this title is all about, because it is not quite freehold title; it is limited in many ways. If we closely examine what the title means, it makes an absolute mockery of the Premier's argument that in some way the continuation of the Aboriginal reserves system is paternalistic. Nothing could be more paternalistic than the form of title proposed under this Bill. As I go through the conditions attached to it it will become obvious, even to the Minister, that this is paternalistic in the extreme.

The title first of all is not capable of grant to an individual. What is wrong with an individual Aboriginal person? Why does this Bill say land cannot be granted to an Aboriginal? Why does he have to be part of a group? Perhaps it bears some relationship to the mentality of members opposite.

Ordinarily, land will be vested in perpetuity. It cannot be bequeathed or inherited. These are all aspects of the title which do not apply to normal freehold property—freehold which "ordinary" Australians are entitled to have. Secondly, grants may contain certain conditions as to the use and management of the land. Thirdly, land owned by a defunct land corporation will be vested in the Regional Aboriginal Organisation and will not revert to the Crown. Fourthly, Aboriginal land cannot be mortgaged or sold without the approval of the Minister. That is paternalistic in toto.

The proceeds of any sale will go to the Regional Aboriginal Organisation. Fifthly, no creditor can take the land by way of court execution for nonpayment of debts, judgments or for overdue rates and taxes. In the event of the land corporation becoming bankrupt, the land would revert to the Regional Aboriginal Organisation for redistribution. This is paternalism again. There is nothing in this Bill which would prevent those bankrupt individuals from then forming another land corporation and applying for the same land.

The land is not subject to State land tax, but it is subject to shire rates. How interesting that the land is subject to shire rates! This was one of those so-called compromises that the Premier made in trying to con people into supporting his legislation. He tried to con the Country Shire Councils Association into supporting the Bill by giving local government the right to rate Aboriginal land.

But if the land cannot be resumed for nonpayment of rates, the money has to come from somewhere else. We are told that the money will come from the Government. The Bill says it has to come from the Regional Aboriginal Organisation, but if that organisation decides not to pay, the Government pays.

On the other hand, who gives the money to the Regional Aboriginal Organisation in the first place? The Government does. So the taxpayer of Western Australia is to be asked to pay the rates for Aboriginal landowners. That is totally unacceptable as far as I am concerned.

The tenure proposed is paternalistic, and the Premier's talk about the continuation of the Aboriginal reserves system as being paternalistic pales into insignificance in the light of what is proposed in this Bill.

I must quote again from what Mr Robert Anderson has to say about the title, because it is very succinct and to the point. He says—

> The title which is derived from the grant is expressed to be a title "in fee simple". It is to be doubted whether that is an apt expression having regard to the many restrictions pertaining to the title. Most of the restrictions are protective in nature but in the end the practical effect of them is that sale or other disposition of the land by its owners would be very difficult to effect.

That is paternalistic.

Turning now to the question of access by non-Aboriginal people to Aboriginal land, the Bill provides for a five-year period to phase out the necessity of obtaining a permit to go onto Aboriginal reserves. That is something I strongly agree with.

But in respect of land which is given to Aboriginal people—all other land apart from these reserves—the general laws of trespass will apply. In simple language it will be necessary for non-Aborigines to obtain permission from Aborigines to enter up to a maximum of 46 per cent of Western Australia. Aboriginal owners can deny the right of access by refusing permission. So Aboriginal owners could exclude non-Aboriginal people from entering that land, except those who have special rights conferred upon them by the tribunal.

In effect this provision of the Bill which requires a person to obtain permission to gain access to land will effectively put into practice the division of the State on racial grounds. It has the potential to make up to 46 per cent of Western Australia out of bounds to the vast majority of Western Australians.

The Bill also includes a section in relation to Aboriginal people having access to certain lands for hunting and fishing purposes. I have explained that up to 46 per cent of the State could be out of bounds to all Western Australians except Aboriginal Western Australians. On the other hand the Government is saying special rights will be given to Aboriginal people to go onto land classified as public land. The Bill provides special rights for Aboriginal people to hunt and fish on public land.

We need to understand what "public land" means in this context. Public land may be allocated land; that is land which is not vacant, unused or unalienated Crown land but which is public in the sense it is owned by a public authority or under the management of a public authority. The land therefore includes State forests, nature reserves, and national parks.

Once again the claimants must demonstrate and prove to the satisfaction of the tribunal that they have a traditional connection with the land. Nevertheless, it is only Aboriginal people who can go to the tribunal to seek these special rights to hunt and fish in national parks, nature reserves, and State forests.

On top of that, the Bill provides also for the setting up of special management areas, and these can encompass or be within national parks, nature reserves, marine parks, or the like.

Provision is made for Aborigines to be involved in the joint management of these special areas. The Bill provides also that some of the land within national parks can be leased to an Aboriginal Land Corporation. The presumption I make on this aspect is that it relates to places like Bungle Bungle where it is the Government's intention to have a proposed national park managed jointly by Aboriginal and non-Aboriginal people. I hate using the word "non-Aboriginal" people, but it seems to be the only term one can use which will stop people jumping up and down.

I do not believe, and I have said so, that national parks like Bungle Bungle should be treated in any way different from the treatment accorded any other national park in Australia or, in particular, in Western Australia. All national parks should be managed by the people best capable of managing them. If those people happen to be Aborigines, that is fine; if they happen to be half Aborigines and half non-Aborigines, that is fine; of if they all happen to be non-Aboriginal people, that is how it should be.

The management of those places ought to be in the best interests of the protection of those places and not based on some racist attitude on the part of the Government.

The Acts Amendment (Aboriginal Land) Bill associated with this legislation provides for the appointment of two Aboriginal people to the Conservation and Land Management Authority. This is a clear example of the Government's racist thinking on a whole variety of matters. Members of the Conservation and Land Management Authority ought to be those best suited for the job, by virtue of their expertise and the contribution they can make to the management of land in Western Australia. Such people should not be appointed on the basis of race. It is possible, on the one hand, that one could not find two Aboriginal people who should be appointed to the authority. On the other hand, one might find six suitable Aboriginal people. However, one should not introduce legislation which says, "Two Aboriginal people must be appointed to the authority".

In respect of mineral exploration and mining, much has been said about the so-called acceptance of this Bill by the mining industry. There is no doubt in my mind that the mining industry's point of view can best be summed up by the argument that, "It is better the devil you know than the devil you don't". In other words, those involved in the mining industry are prepared to accept legislation which will not cause them too much trouble rather than take the risk of having something much worse forced upon them.

The simple fact of the matter in respect of mining is that provisions still exist in relation to Aboriginal land which are different from the provisions which relate to land owned by other Australians.

I now go back a step to examine what happened prior to the introduction of this Bill. I refer to the publication of the Seaman report. A great deal has been said and written about the Seaman report

and, indeed, much was written in the Seaman report. I do not know whether members have seen the latest version of it, but the first publication of the report was done in a big hurry, on poor quality paper, and it was not very inspiring from the point of view of presentation. However, the new version of the Seaman report is a glossy-covered publication with coloured photographs of Mr Seaman and coloured maps of Western Australia. It is a professional and excellent publication, apart from the recommendations that it contains.

Hon. Kay Hallahan: On which you—

The DEPUTY PRESIDENT (Hon. P. H. Lockyer): Order! I remind Hon. Kay Hallahan that not only is it unparliamentary to make interjections, but also that it is doubly so when the member is out of her seat. I ask Hon. Kay Hallahan to resume her seat and remain silent.

Hon. N. F. MOORE: When one looks at this latest version of the Seaman report, one can accept that it is what one would expect, bearing in mind that $1 million of taxpayers' money was spent on its production. Some people say the Seaman inquiry was a waste of time, because the Government did not accept everything in the report which came out of it, but I think Mr Seaman would be well pleased with the Bill we are debating tonight. He would find enough from his report in this Bill to give him the feeling that it is the beginning; it sets the trend in the right direction; and he will find eventually that, using this Bill as a basis, all the recommendations contained in his report will be achieved.

However, the great tragedy of the Seaman inquiry was the opportunity which the Government missed. Instead of giving the inquiry terms of reference which said, "There will be land rights; tell us how to go about introducing it", the Government should have said, "Here is a magnificent opportunity to have an inquiry throughout Western Australia to find out if people want land rights. Go and ask them whether they want land rights. Find out if that is what the people want. If it is what they want, then give us the proposal for achieving land rights".

What a magnificent opportunity, with $1 million which the Government found without much trouble, to conduct an in-depth and total inquiry into the whole matter of land rights and whether or not they should be introduced. Regrettably the Government did not do that. That is regrettable, because, had that occurred, tonight we might be debating a Bill in quite different circumstances.

As it is, Mr Seaman's recommendations bear no resemblance at all to what the vast majority of Western Australians want. They are totally out of touch with the feelings, aspirations, and beliefs of the vast majority of Western Australians, and that is the great tragedy of the Seaman inquiry. Without these loaded terms of reference, the Seaman inquiry could have provided a much-needed report on this very vexatious issue, but the Government was determined, because its platform said that it had to be determined, to bring in land rights come hell or high water, so it went through the process of having the inquiry.

It is interesting that, when Mr Seaman's report was unleashed on the public, the Government also provided its statement of principles. It realised that what was contained in the report was what I have just said; that is, something which Western Australians do not want. So out came the statement of principles which the Government hoped would satisfy some of the vested interest groups and get them off its back. I refer here especially to the mining industry, because that industry has a great deal of money and is prepared to spend it, as it has shown with its television campaign designed to prevent land rights. What better way to get the most affluent of the pressure groups off one's back than to give in to its demands? That is what the statement of principles did, and the mining industry got off the Government's back. Of course, it had to come out publicly and say that the Bill was good; that was part of the deal.

It was suggested then that Mr Seaman's report was something which we could ignore, because the statement of principles now represented the Government's thinking on the matter.

However, as I said before, if one looks at the Bill and the Seaman report one sees there is much of the Seaman report in the Bill and Mr Seaman would be well pleased.

The Government then—and I must give it credit for this—very cleverly set up a committee to draft the legislation. It invited all sorts of interest groups to be part of the drafting committee. It even invited the Opposition, which I must confess I thought was rather strange.

What the Government sought to do was what we predicted at the time; that is, it sought to compromise the Bill in such a way that it gave in to some of the demands of the special interest groups so that they would then stop opposing the Bill. Therefore, compromises were made and the Bill was changed to cater for the various objections of the interest groups.

As we predicted, at the end of the drafting period, these vested interest groups supported the Bill, because they had got what they wanted and

so they were prepared to accept the legislation as it did not do them any harm.

They became the defenders of the Bill, so our predictions at the time of the setting up of the drafting committee were proved to be correct. It is important to know the real attitude of these various interest groups. As I promised the Minister a while ago, I will quote to him the motion passed by the Pastoralists and Graziers Association. This motion is binding on the Pastoralists and Graziers Association executive because it was passed at their conference of 13 February of this year. It reads as follows—

> The Pastoralists and Graziers Association rejects the concept of land rights as proposed by the Federal Government or any other agency but supports in its present form the proposed legislation contained in the WA Government Aboriginal Land Bill 1985 in so much as the proposed legislation within the Bill affects the interests of the rural industry in Western Australia. . .

That is the proviso, the qualified support for the Bill. I repeat, "in so much as the proposed legislation within the Bill affects the interests of the rural industry in Western Australia . . .". The motion then talks about reserving the right to influence the Parliament and to propose amendments if necessary. The Pastoralists and Graziers Association support is totally qualified, to the extent that it affects that industry only. The association said as a preamble that it was opposed to the concept of land rights.

Hon. Peter Dowding: Read it again, Mr Moore.

Hon. N. F. MOORE: Let us look at the Chamber of Mines news release of 11 March 1985 under the name of Keith Parry, President of the Chamber of Mines of Western Australia (Inc.). It reads as follows—

> The W.A. Government's proposed legislation to grant land to Aboriginals and to amend the Mining Act to continue to allow access for mining has been discussed in great detail by interested parties and has addressed all of these issues.

It related to some issues mentioned earlier on. It continues—

> The Chamber of Mines supports the draft legislation insofar as it affects the mining industry.

I know from talking to mining personnel that they too are personally opposed to this legislation through and through. They regard it as being obnoxious and in some cases they regard it as being more obnoxious than I do. That is further qualified support that the Premier trots around the countryside as support for his Bill. It is all qualified.

I return to the point I made earlier. These people have been prepared to come out and give this qualified support to this Bill because they believe it is the only pragmatic way to go. As I mentioned before, it is better the devil you know than the one you don't. It is unfortunate that the media has not seen fit to publish the views of some other organisations in the community which are opposed to land rights. The Country Womens Association, for example, has come out as being opposed to land rights. The Country Shire Councils Association, as I mentioned earlier, has also said it is opposed to the concept of land rights. For some reason we read in the newspaper that a certain organisation supports land rights, but for some unknown reason these organisations which are opposed to it have not had their points of view widely publicised.

I come now to the question of Federal intervention because it is particularly important. There is no doubt in my mind that the Federal Government proposes at this time to legislate for national uniform land rights. The Federal Minister for Aboriginal Affairs (Mr Holding) has said there will be national uniform land rights. The Prime Minister has said there will be national uniform land rights. Senator Ryan has said there will be national uniform land rights. In fact, Senator Ryan, in answer to a question in the Senate—I think it may have even been today—again confirmed that it is the intention of the Federal Government at the present time to legislate for national uniform land rights legislation. With respect to this Western Australian legislation, the Federal Government has said it will not override this legislation provided the legislation complies with the Federal Government's preferred position. In other words, if the State legislation is the same as the proposed Federal legislation the Federal legislation will not apply. That is all the Government has got; Mr Burke has had no other assurances on this matter. It does not matter what he says. That is the basis of the relationship between the Federal and the State Governments.

Let us look at what is contained in the preferred model because it is important for more members to understand what the preferred model seeks to do. I quote from the preferred national land rights model of the Federal Labor Government under the heading "general principles" as follows—

> 1.1 Commonwealth legislation to:
>
> > be capable of operating concurrently with compatible State legislation:

be capable of embracing proposed as well as existing State laws.

What does "proposed as well as existing State laws" mean? Does that mean the Government has an undertaking under the table that once this Bill is passed it will fix it up a bit further down the track? To continue—

add rights to those accorded under State laws where necessary.

That is the crucial point. We return to the crucial point that the legislation must be compatible with the Federal legislation. To continue—

1.3 The Commonwealth not to seek to override State land rights legislation which is consistent with the Commonwealth's preferred model.

There it is again. The Commonwealth is not to seek to override State land rights legislation which is consistent with the Commonwealth's preferred model. That is what the Federal Government is all about in this matter. Mr Burke has had no assurances that anything has changed in regard to the contents of the preferred model. The Commonwealth will not override Mr Burke's legislation provided his legislation is compatible with the Commonwealth's preferred model.

The Premier's assertions that the Commonwealth will not legislate if we pass this Bill, are not supported by any of the facts. I mentioned previously the constitutional question. There is some doubt whether the Commonwealth has a constitutional power to legislate but, putting that question aside, the question is how to stop the Commonwealth from legislating.

The next best way for the Commonwealth to be prevented from legislating is for the people of Australia to get up and tell them what they think because the people of Australia have shown repeatedly in opinion polls that they are absolutely and totally opposed to the principle of land rights. They are overwhelmingly opposed to land rights. It is not a ratio of 55 per cent: 45 per cent but a percentage of the magnitude of 75 per cent, 85 per cent, or 90 per cent who are opposed to it, depending on which particular aspect of land rights one looks at. The people of Australia, by telling the Federal Government what they think of the land rights question, will be the most effective voice in preventing land rights from engulfing Australia. Fortunately the message is sinking through to the Federal Cabinet because it is not quite as adamant now as it probably was at the beginning of the reign of the Hawke Government.

We have no doubt that Western Australians will support us on this issue. We have no doubt that Western Australians will tell the Federal Government and put that Government out of office, for that matter, if it proceeds with national uniform land rights. The research we have done is absolutely conclusive; people believe land rights to be wrong in principle. Also, they believe it will have disastrous consequences for the future of Australia, not only for non-Aboriginal Australians, but for Aboriginal Australians.

What really is interesting when considering the question of the Federal legislation is Mr Burke's attempt to browbeat the public into believing this legislation is moderate and acceptable, whereas Mr Holding's legislation is in some way horrific or unacceptable. Mr Burke must take the blame and the consequences for being a member of the Labor Party, for being one of those people who attended the ALP National Conference last year, and for being one who supported the platform I quoted from earlier which provides for national uniform land rights across Australia, based on the Northern Territory land rights model.

I think Mr Burke believes that is what should happen, otherwise why would he go to Canberra to the national conference and support the platform? Mr Burke has gone through a massive and extremely expensive charade since this debate began. His media machine has been very active in portraying him as a great States' rights campaigner. He has been portrayed as a man who will stand up to centralist policies. Yet, when he goes to Canberra, as he did to the Federal conference of the ALP, he goes along with its proposals without even a whimper. There was not one word of opposition to the Federal platform decision which promised national uniform land rights on the Northern Territory model. He did not complain about it at all. We have to reach the conclusion, therefore, that Mr Burke supports that line. However, he has realised, like a good politician, that that line will put him out of office if he pursues it. What he has done, therefore, is to put up this great charade. He has introduced this Bill and used his media machine to wrongly portray him as moderate. He is using the bogyman of Mr Holding to try to portray himself as a great anti-centralist. Mr Burke supports land rights to the extent that he supported the Federal platform but he would rather Mr Holding took the political consequences.

I now wish to make some concluding remarks in relation to the reasons for this Bill. Apart from the obvious electoral advantage in remote areas that the Labor Party sought to gain, it really is rather difficult to understand why the ALP, at both the State and Federal levels, is so anxious to introduce land rights legislation. I have no doubt that many members of the ALP genuinely but mistakenly

believe that land rights will in some way solve many of the problems being experienced by many Aboriginal people in this State.

However, if one looks at the evidence of land rights in other parts of Australia, in the Northern Territory and in South Australia, one will find that there is no evidence of any significant improvements in the living standards of Aboriginal people in those States. Land rights have not proved to be a great bonus to Aboriginal people but, instead, have proved to be a great bonus to the land councils I talked about earlier and the dozens and dozens of public servants that they now employ. Huge bureaucracies are developing and many white lawyers have grown fat on the funds of land councils in arguing land claims and providing submissions to Mr Seaman, for example. Lawyers are getting loads and loads of money out of the whole Aboriginal industry. It has become an industry in the Northern Territory, particularly. I am not the only one who thinks this. I am supported by the Federal Labor member for the electorate of Kalgoorlie, Mr Graham Campbell. He wrote a letter to his colleagues. He represents the biggest electorate in the world. My electorate, which is quite small by comparison, is part of his electorate. He has many Aboriginal people in his electorate and, to give him his due, he understands quite a lot about what they do.

Hon. Peter Dowding: He supports this legislation.

Hon. N. F. MOORE: Maybe he does; he is entitled to make some mistakes and that is one of them. I wish to quote from the letter he sent to his colleagues because he was worried about the direction that the Labor Party was taking and did not want to be put out of office. Mr Campbell understands that the opinion polls are correct. He knows what the public are thinking. He said—

> The Northern Territory is a living example of this—

"This" refers to the problems amongst Aboriginal people. He continues—

> . . . while Mr Bjelke-Petersen obviously overstates the case when he says that mineral rights in the Northern Territory have created a class of black sheiks there is enough substance in the allegation to be uncomfortable. Mr Bjelke-Petersen could also have alluded to the many mediocre white lawyers who have grown fat on land rights.

It was not a Liberal member of Parliament who said that; Mr Graham Campbell, MHR and Labor member for Kalgoorlie said that.

This Bill provides the basis for that happening in Western Australia because all claims have to go before that tribunal. There could be hundreds of land corporations because there is no limit as to how many there can be. There is no limit to the amount of claims they can make or how much land is involved. They will all need lawyers and in most cases, because there are very few Aboriginal lawyers, white lawyers will be involved. They will get mediocre white lawyers who will make money out of this industry. They will see it as a good place to get a good, fat, cushy job. People in Darwin and Alice Springs will testify to that. The Philip Toynes of this world are making money out of the Aboriginal people.

Hon. Peter Dowding: Where is your evidence to support that?

Hon. N. F. MOORE: The Minister should ask Mr Toyne how much he charges mining companies to go and do a survey of a piece of land.

Hon. Peter Dowding: What is your evidence to support it?

Hon. N. F. MOORE: The Minister should ask him.

Hon. Peter Dowding: You are bereft of evidence.

Hon. N. F. MOORE: I do not have his figures but I know he earns hundreds and hundreds of dollars a day. The Minister's friend, Mr Vincent, charged the Kimberley Land Council $14 000 to put in a submission to the Seaman inquiry. He is a Labor lawyer who could not win a seat in this Parliament. He is growing fat at the expense of Aboriginal people and using taxpayers' money.

Hon. Peter Dowding: A bit of vindictiveness without evidence.

The DEPUTY PRESIDENT (Hon. John Willams): I warn the Minister that I will enforce the regulations put forward by the Chair this evening. There will be no interjections as far as I am concerned.

Hon. N. F. MOORE: I have absolute evidence of an amount of $14 000 or $16 000 being paid by the Kimberley Land Council for Mr Vincent to put in a report to the Seaman inquiry. That is in reply to a question asked in this House and one cannot get more substantial evidence than that. Other organisations which gave evidence to the Seaman inquiry have still not produced statements of accounts. They have not given Mr Bridge the final figures. I have asked questions for over a year and a half about detailed information of where the money went.

Hon. Tom Stepens: How much did you pay Anderson?

Hon. N. F. MOORE: It was paid by the Liberal Party out of funds raised by Liberal Party

members and not by the taxpayers of the State as the member's party is wont to do. It spent $130 000 on television advertisements to try to brainwash the people about Aboriginal land rights. That amount was for production costs, according to the Premier.

Hon. Tom Stephens interjected.

The DEPUTY PRESIDENT: Order! I warn the member for the last time that any further interjection will be dealt with by appropriate action.

Hon. N. F. MOORE: There is no doubt in my mind that there are people, as substantiated by Mr Campbell, who are making money out of Aboriginal land rights in the Northern Territory. This Bill provides a very good vehicle for that to happen in Western Australia. I therefore commend Mr Campbell's letter to members opposite. It is dated 28 March 1984 and begins, "Dear colleague" unlike some of his colleagues' letters which begin, "Dear comrade". I suggest that all members opposite read it because it has a very good understanding of the problems of Aboriginal people while I do not agree with all of the things Mr Campbell says about Aboriginal people in his electorate.

Since 1971, Federal Governments in Australia have spent $2 billion on Aboriginal affairs. To put that into its perspective, we are talking about a current Aboriginal population of 160 000 people. The Australian people, through their Governments, are happy and pleased to support Aboriginal people who have special or particular needs, to the tune of $2 billion since 1971. In this financial year, something like $2 000 will be spent by the Federal Government for every Aboriginal person in Australia, and that $2 000 is in addition to the funds to which the Aboriginal people are entitled by virtue of the fact that they may be receiving some welfare assistance.

The Australian people are prepared to assist people in need, and that has been demonstrated by the fact that they are prepared to support Governments which spend that sort of money. However, the Australian people are fast running out of enthusiasm as the demands become greater and greater, and they are running out of enthusiasm when the demands stretch to half of Western Australia and, when one looks at the map of Australia, a significant part of Australia as well. The people are fast running out of enthusiasm when they see the terrible waste of money spent on Aboriginal affairs—the fact that it achieves so very little. One only has to look around some of the Aboriginal communities in Western Australia to be horrified that so little has been achieved for so much money. Where is it going? It seems to start at the top, filter down through the bureaucracy, and stop just above the level of the Aboriginal people who need it. Members should get around and have a look if they do not believe what I am saying.

The people of Australia are prepared to spend the money necessary but they are becoming sick of the fact that they are getting no return for their dollar. They are fast running out of enthusiasm for the white activists who continue to push the line that we should live in a constant state of guilt because of the purported misdeeds of our forebears. We are constantly told that we should feel guilty because John Forrest did something. Hon. Tom Stephens once said to me that because I am like Alexander Forrest, and because he did something, I am supposed to feel guilty because of what he did. I do not accept that, and I am getting tired of being told that I should feel guilty constantly because the Aboriginal people do not continue to own the whole of Australia.

I do not feel guilty, because I pay taxes like everybody else; and significant amounts of money are going to Aboriginal people. What I hope might happen, though, is that in the future somebody will work out how to spend the money better so that at least some benefits can be accrued.

The problems of the Aboriginal people will not be solved by dividing the State or the nation on the basis of race. What is needed is a conscientious, cost-effective, dedicated programme to overcome the problems relating to health, education, housing, and employment. These are the problems faced, not by all Aboriginal people but by very many of them. Those problems will not be overcome by dividing this country on the basis of race. These sorts of programmes can only succeed if the Australian people give them their support; and nothing will do more to jeopardise the future of the Aboriginal people than the ill-conceived, discriminatory, and racist legislation represented by this Bill.

I quote from a letter to the *Narrogin Observer* of 3 April 1985 from an Aboriginal person named Revell Kickett of Narrogin. This is the view of an Aboriginal person—I am not saying it is the view of all Aboriginal people; but what Mr Kickett says is in line with what I am trying to say. Part of the letter reads as follows—

> We have been trying all our lives to overcome the problems of being different. At last, some of our children are beginning to overcome these problems.
>
> Please treat us as Australians not Aboriginals living amongst white Australians!

That is a plea by an Aboriginal person for Aboriginal people to be treated in the same way as everybody else. This Bill works in exactly the opposite way to that. It seeks to treat Aborigines differently from everybody else. It will create dissension and division in the community. It will create an attitude among the rest of the community towards Aboriginal people which will do them no good at all.

This legislation must be rejected by this House. Saying that it should be passed so as to prevent the Federal Government from legislating is akin to saying to somebody, "You have got a choice in jumping over a cliff. You can jump off the 1 000-foot cliff or the 900-foot cliff. Whatever happens, in both cases you will be dead at the finish". The State legislation and the Commonwealth legislation are equally abhorrent. Presuming that the Federal legislation is based on the preferred model, they both should be rejected by the people of Australia. We should not saddle this country or this State with a system of land laws based purely and totally on race.

We have the power in this House to defeat this Bill, and this is the power we should use. In fact, we must use it. We should show our abhorrence for this Bill. We should show our total opposition to this Bill, not just by opposing it as I am doing, but by also rejecting it. We should put our hands up and say "No" when we come to have a vote on this Bill. That will show the people of Western Australia that the Legislative Council is a most important and totally necessary aspect of the Parliament because, if it defeats this Bill, it will do what the vast majority of Western Australians want it to do.

Our survey showed that 70 per cent of Western Australians wanted the Legislative Council to reject this Bill. In that survey, 50 per cent of the Labor voters wanted the Legislative Council to reject the Bill. I suggest that members opposite ought to go and ask some of their constituents, some of their supporters, what they think about the Bill because, if they did, I would not be standing here arguing against them; they would be arguing on my side because they would know that what they are endeavouring to do with this legislation is totally unacceptable to the vast majority of Western Australians.

We should reject the Bill, and when we do it will not be just people like the former Labor Premier, but it will be the vast majority of Western Australians who will be saying, "Thank God for the Legislative Council!"

Opposition members: Hear, hear!

Tabling of Document

Hon. TOM STEPHENS: Utilising the provisions of Standing Order No. 151(b), I ask the member to table the document that he conveniently identified at the time as a legal opinion by the Queen's Counsel, Mr Robert Anderson.

Hon. N. F. Moore: I am happy to send you a copy, personally delivered.

The DEPUTY PRESIDENT (Hon. John Williams): Under the Standing Orders you should have asked for that at the time.

Hon. TOM STEPHENS: Point of order—

Hon. PETER DOWDING: Point of order—

The DEPUTY PRESIDENT: The document is being tabled.

Hon. PETER DOWDING: Do I take it you made a ruling then, Sir?

The DEPUTY PRESIDENT: You take it wrongly. I said it was being tabled.

Hon. Tom Stephens: Your earlier suggestion was wrong?

(See paper No. 562.)

Debate Resumed

HON. MARK NEVILL (South-East) [10.38 p.m.]: I will make a few comments on Hon. Norman Moore's speech. He made quite an issue of the Australian Labor Party policy regarding Aboriginal land, and I will just put forward a fairly simple explanation for that.

The reason the State platform was not changed at the August conference last year was very clear. The ALP chose not to alter that platform because the Government policy was under review, the Seaman inquiry was under way, and it seemed inappropriate to bring down a new policy when the inquiry was being conducted. That would have been seen as pre-empting the inquiry in some way, so the deliberate decision of the State party was made. It is no surprise to me that this Bill is significantly different from the model of the Northern Territory Land Bill. I see nothing wrong with that, and no inconsistency in it.

The member's claim that this is a racist Bill does not stand up to scrutiny. Several provisions have always been made with respect to land and Aboriginal people. Captain Stirling set land aside at the base of Kings Park—Mt. Eliza—for Aboriginal people with a special sanctuary and school. So there is nothing new there. The claim that this Bill is racist is phoney because Hon. Norman Moore recently moved to set up a Select Committee to investigate Aboriginal poverty. That is discriminatory against non-Aboriginals who are

living in poverty. That argument is absolutely phoney.

Another point I wish to comment on is Hon. Norman Moore's claim that much unallocated land in the south-west should be available for claim. That is true, but there is another provision in the Bill which provides that land set aside for future public use will not be available for claim. Local authorities have 18 months to have a look at that unallocated Crown land to see whether they have any future public use designated for it. That is what the shires in my electorate are doing. They are sifting through all that unallocated Crown land to see if there is any future need for such developments as sporting facilities and tips. Not all that land will be available for claim and shire councils throughout the State are addressing that problem within their boundaries, and rightly so.

I want to preface my remarks on the Bill and outline why my background and experience make me well placed to comment on this Bill. I have followed the development of this Bill from the beginning and I have attempted to influence my colleagues as to what form this legislation should take.

I am pleased to say I am very happy with this Bill and I strongly support all the major provisions in it.

I have had a long involvement with both Aborigines and the mining industry. I have lived most of my life in the Kimberley and I have a strong affinity with and respect for Aborigines, and I have mixed freely among them. I spent two years at the Balgo Mission in the mid sixties. During that time the last influxes of Godgaja people came in from the Great Sandy Desert. That was a very interesting time in my life and a great experience. Balgo Mission is about 300 kilometres south of Halls Creek. About the same time I observed very closely the first land rights struggle which was not in our State but was very pertinent to people who lived in the Kimberleys, and that was the attempts by the Guringi people at Wave Hill to secure land at Wattle Creek. I spoke to a few of those Aborigines at the time and to Frank Wilmington who was the then manager of Wave Hill station. I was probably more exposed to the pastoral view to land rights at that stage. Ever since those early days in 1967 I have followed the land rights debate very closely.

To balance my involvement with Aborigines I spent 10 years as a senior geologist with Western Mining Corporation where I was in charge of exploration teams in remote areas. I have followed that company's negotiations with Aborigines and the agreements reached are only to be admired. That company always had good relationships with Aboriginal communities. I will comment on that aspect at a later stage in my speech as to why those good relationships developed.

With that background I hope my perspective is much more balanced than that of the previous speaker, particularly as this Bill tackles the problem of competing land use between the mining industry, pastoralists, and traditional Aborigines.

Before speaking to the substance of this Bill I would like to pay tribute to the effort, energy, patience and thought of all those who have worked on this Bill. In particular I pay tribute to the Premier who has been closely involved with it and to the Minister with special responsibility for Aboriginal Affairs. I pay tribute to Graham MacDonald who has played a major part in this Bill and to the member for Kimberley, Mr Ernie Bridge, who chaired the Aboriginal Liaison Committee. I would also pay tribute to the drafting committee who tried to bring this Bill together and I believe successfully did so at the end.

I strongly support this historic Aboriginal Land Bill. I believe it is the most important Bill that has been introduced since I have been a member. I ask members to review this Bill faithfully on its merits and not to reject it capriciously for reasons that do not reflect its intrinsic merits. The granting of land rights is not a panacea. It is not the only measure that will solve Aboriginal problems. It is only a part in a series of measures which will ameliorate the position of Aborigines. The questions of training, employment, housing, education and health are collectively much more important. That is acknowledged, and no-one is claiming anything different.

The Minister, in his second reading speech, outlined the content of the Bill and I wish to point out just how different this Western Australian Aboriginal Land Bill is from the legislation which has been introduced in New South Wales, South Australia, and the Northern Territory. This Bill is very different from those Bills and I think I should point out just how different it is and show members the good points of the Bill. We have had the benefit of hindsight in this Bill. We have had the benefit of wider and more thorough consultation than any of the other Bills has had. I do not want to denigrate the efforts of previous Governments.

When we look at the Aboriginal Land Rights Act of New South Wales, it seems to me to be a very strange Act. It appropriates 7.5 per cent of land tax revenue over a 15-year period to be paid to the New South Wales Aboriginal Land Council for administrative costs and for distribution to re-

gional and local Aboriginal groups to purchase land. This Western Australian Bill provides that payment should be made from Consolidated Revenue for administrative expenses for regional Aboriginal organisations. This Bill does not address the matter of compensation for dispossession. That issue is left to the Commonwealth.

The New South Wales Bill vests reserved land in local Aboriginal councils and in that respect the Western Australian Bill is very similar.

Under the New South Wales Act local councils may claim land not set aside for essential public purposes. In Western Australia the claims can be made for vacant Crown land and mission land granted for Aboriginal purposes originally.

I point out that, in the New South Wales Act, the presumption is in favour of the land being granted.

There is no criteria in the New South Wales Act in respect of making a claim. In the Western Australian Bill, the criteria is specified clearly in that Aborigines must have a traditional connection with the land, a long use or occupation of it, or can claim it on a needs basis which can be fulfilled by a specific grant of land.

Under the New South Wales Act, claims can be settled between the Government and the claimant without regard for contiguous landowners or other legitimate land users concerned. Under the Western Australian legislation, contiguous and other legitimate land users have right of access to the tribunal and may be heard by it. That is a major improvement contained in our Bill.

In New South Wales stock routes are claimable. However, under the Western Australian Bill that is not the case.

In New South Wales mineral rights go with Aboriginal land; Aboriginal landowners hold rights to all minerals except gold, silver, petroleum, and coal. Our Bill is far more acceptable in that all minerals remain the property of the Crown.

In the New South Wales Act, royalties are to be distributed to Aboriginal land councils. In the Western Australian Bill royalties are paid into Consolidated Revenue for the Government to distribute as it sees fit.

In New South Wales hunting and fishing rights are given over private land where traditionally they have been exercised. In Western Australia hunting and fishing rights will be extended to public land. Section 106(2) of the Land Act already allows such rights on unimproved and unenclosed portions of a pastoral lease.

Bearing in mind the points I have just made, it can be seen that many of the features of the Western Australian Bill are an improvement on the New South Wales Act, and they make our Bill more acceptable not only to me, but also to the public in general.

I move on to the South Australian Act which is a hybrid of the Northern Territory legislation. I shall compare that with the Bill we are debating in order to indicate how much better our Bill is.

The South Australian Act vests specified land, not just reserves. In other words, it grants some rights to some Aborigines which are not available to others. The Pitjantjatjara people have certain rights and the Maralinga people have their land. In that sense, the Act accommodates identifiable groups of Aborigines. Under the South Australian legislation there is no allowance for objectors to Aboriginal land claims to state their case. In Western Australia we seek to set up a general claims procedure which will apply to all Aborigines, not to specific groups as is the case in South Australia, and our Bill will allow all objections to be heard.

The second point of difference between the South Australian Act—that is, the Anangu Pitjantjatjara Act of 1981—and this Bill is that entry permits are required in the South Australian situation. Under the Western Australian Bill, ordinary laws of trespass will apply and the entry permit system will be phased out over a period of 5½ years.

Under the South Australian Act there is no compulsory acquisition without a special Act of Parliament. Under our legislation, ordinary laws of compulsory acquisition will apply. We will not need an Act of Parliament to resume part of an Aboriginal reserve for a road or for some other public purpose.

Under the South Australian Act, land cannot be sold by Aborigines, whereas under this Bill in Western Australia land may be sold with ministerial consent. The Pitjantjatjara and Maralinga lands in South Australia are not rateable, whereas the Western Australian Aboriginal lands will be rateable.

I turn now to the mining aspects of the two pieces of legislation. Under section 19(6)(b) of the South Australian Act, the Anangu Pitjantjatjaraku—that is the body corporate established under that Act—may grant permission for mining, subject to such conditions as it thinks fit. This has resulted in demands for large front-end payments from mining and exploration companies. A stalemate exists between BHP and the Pitjantjatjaraku people over these front-end

payments which are being demanded. Front-end payments are unacceptable to any mining or exploration company, because they add dramatically to the cost of what is already a high risk venture. Under the Western Australian Bill there is no mechanism which allows for front-end payments to be made.

Under the South Australian legislation, Aborigines must give consent to mining. If the conditions imposed are unacceptable to a mining or exploration company, the matter may be taken to an arbitrator. Under the South Australian Act, that system is incredibly elaborate and complex. Under section 19(11) of the South Australian Act the arbitrator must be a judge of the High Court, the Federal Court of Australia, or the Supreme Court of a State or Territory of Australia.

The problem with the South Australian Act is that the arbitrator's decision is binding. He must make his decision in regard to a number of matters including the preservation and protection of the Aboriginal way of life and culture; the wishes of Aborigines in relation to the use and control of the land; the growth of Aboriginal culture and economic structures; the freedom of access to carry out ceremonies, rites, etc. in accordance with Aboriginal tradition; the suitability of the miner and his capacity to carry out mining; environmental considerations; and the economic and other significance of the mining to South Australia and Australia.

The problem in South Australia is that, if the Aboriginal group makes a big demand or an ambit claim which the mining company concerned finds unacceptable and the issue is then taken to an arbitrator, his decision is binding. In the case involving the Pitjantjatjara and BHP, the company was not prepared to take the issue to an arbitrator, because he may have come down with a decision in the middle which was completely unacceptable to the company.

With the benefit of hindsight, we have avoided that situation in the Western Australian Bill.

Under this Bill, in Western Australia bona fide miners will have right of access by the simple process of going through the warden's court and applying for an entry permit. Aborigines have the right to protect residential areas and sacred sites and may claim compensation for damage to improvements, or for social disruption occasioned to residential areas. Under our Bill in no case can negotiations for compensation be carried out on the basis of the value of minerals; so we are removing completely that bottleneck which has plagued exploration in the Northern Territory and South Australia. That was one of the provisions I was very keen to see incorporated in the Bill.

Under our Bill disputes in relation to compensation for damage to improvements are to be decided by the warden and by the Government after reference to a tribunal which will be set up. The tribunal will comprise a District Court judge, a miner, and an Aboriginal, and it will make recommendations to the Minister.

As for royalties, in WA, all the royalties, which are the normal level of royalties payable on any mineral—they are not to be raised for the purposes of this Bill—are to be set and distributed via Consolidated Revenue. Under the Pitjantjatjara Land Rights Act, royalties are paid into separate accounts and distributed one-third to the Pitjantjatjaras, one-third for the benefit of Aborigines generally in South Australia, and one-third to State revenue. When one looks at those major points of difference between WA's Aboriginal Land Bill and the South Australian Act, one sees that our Bill is a vast improvement.

Perhaps most important is the comparison of our Bill with the Northern Territory Act, the legislation the Opposition is saying our Bill is similar to and therefore it will be a disaster. In fact the two pieces of legislation are very different. I will now compare WA's Aboriginal Land Bill with the Aboriginal Land Rights (Northern Territory) Act, introduced in 1976.

The Northern Territory Act vests reserves with inalienable freehold title. Our Bill vests current reserves, and no objection is allowed to the vesting of existing reserves.

Under the Northern Territory Act, land trusts are established to hold title. Under our Bill, we have established local landholding groups to hold title, and those groups must be an Aboriginal corporation of at least seven people.

The Northern Territory Act established large land councils to consult, advise, and represent traditional Aboriginal owners and to make lawful directions to land trusts as to their functions. Our Bill allows for the establishment of sensibly sized regional Aboriginal organisations to provide back-up services only. Local groups will represent themselves, but they may call for assistance from the regional Aboriginal organisations.

I believe that Mr Campbell's view—which Mr Moore quoted—on the Northern Territory land councils is correct. They appear to be unwieldy and unrepresentative bureaucracies, and they are very difficult for mining companies to deal with. Mining companies have found the delays encountered in dealing with the three Northern Territory land councils to be unacceptable. They

have very big staffs and they are very hard to get answers from.

What the mining companies in this State want to do is to deal with the Aborigines in the way they did from the mid-1970s, which was to deal with the local Aborigines directly. This Bill allows that. Mining companies will not have to go to the regional Aboriginal organisations; they will not have to deal with problems of the sort created in the Northern Territory by their having to deal with the big Aboriginal bureaucracies. My colleagues might not agree with me on this point. This is one of the matters the mining companies mentioned to Mr Seaman and this is one of the things he recommended in his report. I am heartened to see it included in the Bill.

Under the Northern Territory Act, pastoral leases when acquired by Aborigines may be converted to inalienable freehold title. Under our Bill, pastoral lease land can never be converted to Aboriginal land and will continue to be held on the same terms and conditions by all lessees, whether Aboriginal or not. If the Aborigines obtain a station in the Kimberley, that lease will continue until 2015, as with other pastoral leases under the Land Act, and it will be held under exactly the same conditions as other pastoral land. It will not be able to be converted to Aboriginal land. That would create *de facto* land claims.

Under the Northern Territory legislation, repetitive claims are allowable. We have seen the problem in the Northern Territory of claims rejected and then another group of traditional owners have got together and submitted a further land claim. Under our Bill, repetitive claims will not be possible and the Governor's decision will be final. I quote now from clause 11(13)—

> The decision of the Governor in respect of an application is final and shall not be rescinded, reviewed, called into question or appealed against.

That precludes multiple claims, and it is something I am pleased to have included in the Bill.

Under the Northern Territory Act, stock routes, roads, and national parks are claimable. Under our Bill, stock routes are not claimable, major roads are not claimable, and national parks and flora and fauna reserves are not claimable.

Under the Northern Territory Act, claims can be made for a period of 10 years. Under our Bill, claims can be made for up to four years and that will be from a period in about 18 months after the regional Aboriginal organisations are established.

Under the Northern Territory legislation, entry permits are required. Under our Bill, entry permits will be phased out over a 5½-year period. The ordinary laws of trespass will apply.

Under the Northern Territory Act, there is no compulsory acquisition without a special Act of Parliament. The Northern Territory Government does not have power to acquire Aboriginal land for public purposes. Under our Bill, the ordinary laws of compulsory acquisition will apply.

As with the South Australian legislation, the Northern Territory Act does not allow land to be sold. Our Bill will allow land to be sold, with ministerial consent.

Under the Northern Territory legislation, land is not rateable. Under the Western Australian law, land will be rateable.

Both the Northern Territory Act and our Bill have provisions for a tribunal which will be both fact-finding and recommendatory.

In the area of mining, the Northern Territory Act is different from the South Australian legislation. The Northern Territory Act requires either the consent of the Aboriginal landholder or a proclamation by the Governor General that mining is in the national interest. The fact that under the Northern Territory Act a mining company needs the consent of the Aboriginal landholder is a *de facto* veto over mining, and that is something that does not exist in our legislation. Aborigines will have the right to protect those areas I described earlier.

Under the Northern Territory Act, land councils may negotiate for open payments with respect to the granting of consent to mineral exploration on Aboriginal land. That provision raises the problem of front-end payments before exploration. Some power exists under the Northern Territory Act to refer issues connected with payment to arbitration.

In relation to royalties the Northern Territory Act provides that 30 per cent of royalties go to the traditional owners who may be as few as one, two, or three people; 40 per cent to land councils; and 40 per cent to the State revenue, which is a special fund for Aborigines. In Western Australia the royalties are set and distributed via Consolidated Revenue.

Comparing those three pieces of legislation, I hope, has pointed out the improvements contained in this Bill and the merits of the Bill and the benefit we have had of hindsight and widespread consultation. The Bill is moderate, just, and equitable.

For Aborigines to be granted land they must apply to the tribunal which will be set up. When they do so the onus is on Aborigines to establish

proof of traditional connection; the onus is not on the tribunal. After hearing the claim the tribunal will then make a recommendation to the Minister. The tribunal does not make a decision; it is only a recommendatory body. The Minister makes the final decision. Those Aborigines who are successful will have no greater rights to their land than any other person. They will have the same responsibilities as other landowners.

This legislation seeks to move away from the reserve system to a system which whilst granting rights to Aborigines will also give them responsibilities. It moves away from the paternalistic past towards equality. Under this Bill land can be resumed; rates must be paid; a certificate of title must be issued through the normal process; the ordinary laws of trespass apply; and the old permit system will be phased out. Those are all matters which tend to grant equality rather than maintain separate and different rights.

It is significant that support for this Bill has been given by the Aboriginal Lands Trust, the Aboriginal Advisory Council, the Federation of Australian Aboriginal Land Councils, the Australian Mining Industry Council, the Western Australian Chamber of Mines, the Australian Petroleum Exploration Association, and the Northern Territory Liberal Country League Government. It has been supported by Hon. Paul Everingham, former Chief Minister of the Northern Territory, who I am sure would be a very difficult man to fool; the Pastoralists and Graziers Association; the Primary Industry Association; and many church groups. It has also been supported by an increasing proportion of the thinking public.

Hon. P. G. Pendal: What evidence is there for that?

Hon. MARK NEVILL: The church groups?

Hon. P. G. Pendal: No, the thinking public.

Hon. MARK NEVILL: I will come to that if the member will listen.

Just after the Bill was released last month the Chamber of Mines undertook a survey which showed about a 50 per cent increase in public support. According to the survey there was a balance last month of 45 per cent supporting the legislation and 45 per cent opposed to it. I believe that level of support will show a further increase when the next poll is taken because this is good legislation and the Government is on firm ground, and it is becoming firmer as people realise how reasonable this Bill is.

It is an historic Bill which provides an effective resolution of a problem which is basically related to land use. The Bill also reflects an effort of great magnitude by all those people I acknowledged earlier. The Government has grasped a profound problem—one that has not been electorally popular, but a problem which has existed since white settlement. We have tried faithfully to resolve the problem effectively and fairly. This historic Bill will significantly advance the status of Aboriginal people in Western Australia and will lead to greater equity than is possible under the current reserves system. I urge all members to support the Bill.

HON. D. J. WORDSWORTH (South) [11.16 p.m.]: Before a Parliament can consider the need of Aborigines for land one must first determine what is expected of them in the future Australia. Are they to become an integrated part of our society, fully assimilated and treated as any other Australian citizen, whether of European or Asian background, or are they to remain a race apart? Most Australians believe the objective must be that Aborigines can take their place beside and equal to the many ethnic groups which make up Australia.

Nobody would deny that the Aboriginal race, more than any other race, has far more problems to overcome before the majority of Aborigines reach that position. Nobody denies that the Aboriginal was here before any of us and that he deserves special consideration. I believe most Australians do not want to see a large part of the Aboriginal race slip back to a position in which they return to their home land to live off social services in a part-civilised culture removed from opportunities, employment and integration. Australians like ethnic communities to maintain their national culture but they do not like separatism. While they are perhaps more ready to accept voluntary separatism in Aborigines, they are still apprehensive about the side effects.

This land rights Bill encourages separatism for some sections of Aboriginal communities while not making any provision for those who have assimilated or who are so far down the track that they cannot return. The Aborigines in my electorate do not support this Bill.

Hon. Mark Nevill: Rubbish!

Hon. D. J. WORDSWORTH: I am correct and the member knows it. I know he rang up one of the Aboriginal leaders three times in one day to try to convert him to the member's way of thinking, because that Aboriginal told us.

They do not support the Bill because they feel there is little in it for them other than perhaps a backlash from the rest of the community. Should they try to lay claim to the more valuable parts of Perth and the agricultural areas of the south-west they know the public would become antagonistic towards them. Yet there is ample proof from

sketches and historic documents of Perth in the early days that the Aborigines occupied Kings Park, Peppermint Grove, and other advantageous areas along the river. This Bill does not correct any of that disinheritance for those Aborigines who lived close to Perth. Rather, like the Federal Act which gives land to the Northern Territory Aborigines, it is designed to salve the conscience of the majority by granting the most distant areas to those Aborigines whose way of life has been least affected by the way of the white man.

I do not believe this form of land rights will do much for the Aborigines in those areas concerned. Undoubtedly, land rights will attract Aborigines like bees to a honey pot, but one may ask what is the future for Aborigines who, for example, are granted an area of the Great Sandy Desert if they are denied mineral rights. Mineral rights are not granted in this Bill and neither do I or the party I represent recommend that this be the case, but it helps to make the point.

As far as the isolated areas are concerned, this Bill will offer very little except poor hunting grounds and vegetation. It certainly does not give the opportunity to Aborigines to earn an income, and it will not restore their self-prestige.

Most people in the world consider education to be necessary. It will be almost impossible for Aborigines to enjoy this facility and they will not have the opportunity to catch up with civilisation.

However, there is one distinct advantage that Aborigines will receive under this Bill, because they will be able to go into the isolated areas and escape the influence of alcohol. I do not underestimate that advantage. Apart from that, land rights could well be a setback for those people they are designed to help.

I hasten to remind members that those Aborigines who wish to get away from town reserves have always had the ability to do so, and adequate provision of land has been made for them. One of the consequences of this Bill will be to allow further factionalisation of Aboriginal people. In the past it has beeen found that when Aboriginal leases became available the entire settlement did not stay at the homestead, but broke up into family and other groups.

The groups tended to set up small settlements and one of the difficulties that the Government found was to supply services to those remote settlements. Previously pastoral leases and the like were occupied by probably only one family which was able to choose a residential site with transport facilities in mind and it had sufficient supplies to last if a sudden flood occurred. The Aboriginal groups who set up separate camps often ran out of food and water and the site was often too remote for the education and the health care of the children.

I vividly remember visiting a mission east of Halls Creek shortly after two nuns had been lost for several days while trying to fill the education and health needs of a newly formed Aboriginal community. The Government was unaware of the new settlement, and a school and other facilities have been provided for the group in another area.

Hon. Tom Stephens: You must have been lost also Mr Wordsworth because it was west of Halls Creek.

Hon. D. J. WORDSWORTH: I do not think it was.

No provision is contained in the Bill for the provision of suitable facilities in relation to land grants. If a mining company wished to set up a community on a similar site it would be forced to comply with planning and other regulations.

What effect will this Bill have on the north and, in particular, the Kimberley? In 1880 the area had 30 white settlers, and when one reads about the Duracks and the Emanuels one has great sympathy for the great sacrifices they had to make to open up the cattle industry. One can only have admiration for them. It was a hard battle to open up the Kimberley and I think that Governments have seldom shown the imagination which the earlier settlers showed, with perhaps the exception of the development on the Ord River and the Camballin scheme.

The Land Act does not allow the entrepreneurial farmer to develop a property in the north unless a Government decides that the whole district should be opened up under Government supervision. While the provisions of the Land Act are altruistic they have prevented individuals from cutting out a farm when they saw an opportunity. Indeed, pastoralists sought a change to the Act when I was Minister for Lands to enable them to farm land under their control. Prior to this the pastoralists were prevented from obtaining a title to the land. However, those changes to the Act allowed pastoralists to obtain a 10-year lease so they could cultivate, but the provisions did not give anyone an opportunity to select land from within a pastoral lease. I was well aware of that deficiency.

During my term as Minister on several occasions I received applications from people with money who wanted to develop farms in the Kimberley, including a family involved in the pearling industry which was actually granted a small holding.

Members who are conversant with agriculture are well aware that the CSIRO has had available for a decade tropical legumes that will enable smaller properties to be developed in many parts of the Kimberley. As Minister I requested the Department of Agriculture to investigate land in the Derby area that would be suitable for agriculture. If I remember correctly when the Federal Government resumed land for an air base in Derby the value of the land was based on development opportunity.

While land in the south of the State, particularly in the Esperance and Ravensthorpe Shires, had agricultural potential it was excluded from the initial selection and it would appear that a similar provision has not been made in the north because the land has the capability of being developed; yet it is claimable under the provisions of this Bill. Undoubtedly, the new land title will set back the development of this land due to lack of funds and ability of other than Aborigines to own it.

It would appear that the Land Act has prevented the development of the land in a hotchpotch manner with the idealistic principle of organised development and to hand it to the Aborigines in a pristine state. Even the pastoral industry in the Kimberley is being pulled apart. The remaining descendant of the pioneers of the great beef industry in the north has made a deal with the Government to get out with cash in his pocket. One only has to read the Seaman report to understand his influence on the proposal to dismantle present Kimberley pastoral leases.

The Government has already indicated that the Emanuel lease, together with the Alco lease which it has forfeited or intends to forfeit, is to be reorganised for the general benefit of both white and black people.

Hon. Peter Dowding: I take it you support what is happening in the Kimberley?

Hon. D. J. WORDSWORTH: Mr Emanuel approached the Seaman inquiry and suggested that new boundaries should be drawn up to make a series of smaller leases for pastoral purposes while still leaving extensive areas for Aboriginal purposes. The unanswered questions are: Firstly, in respect of the general intention in the Bill that Aborigines should have a right to land adjoining watercourses, who will get the river flats—the pastoralists or the community? The second unanswered question is: Who will get the pastoral leases when they are reallocated as undoubtedly large amounts of capital will be required to establish new buildings, yards, fences, and other facilities?

At a recent pastoralists' meeting or seminar in the north, Mr Burke said that whites would have a chance of being allocated these new leases. Obviously Mr Emanuel has decided to leave the scene, but it is highly unlikely that the remaining pastoralists will have the same opportunity he has had of being bought out. I think money will be running a little short, particularly if enough money has to be set aside to buy the leases and develop the two areas I have mentioned.

A recent report has illustrated the plight of the Kimberley pastoralists and I wonder how those remaining envisage their future.

Hon. Peter Dowding: They were very supportive.

Hon. D. J. WORDSWORTH: What did they think of their representatives in the city?

Hon. Peter Dowding: In Derby last week they were very supportive.

Hon. D. J. WORDSWORTH: I am very glad to hear that because undoubtedly the lessees who are left have land which is less endowed and, if the industry is facing the difficulties indicated in this report, those pastoralists will be among the less fortunate.

Apart from the large areas included in existing Aboriginal reserves and pastoral leases, vacant Crown land and mission land, on most pastoral leases Aborigines will be allowed to claim two living areas of undefined size chosen from within the boundaries of the lease. The Bill provides for two excisions from a pastoral lease as opposed to a station, and a station can be made up of several leases.

Some of the evidence before the Seaman inquiry indicated the fear in which many pastoralists live with regard to Aborigines being allowed to hunt on pastoral leases. This Bill will increase their opportunities for hunting, including the use of firearms. This problem was not covered within the Bill, and I feel that the pastoralists have not been given sufficient consideration in that regard.

Another member of the Opposition will speak on the right of Aborigines to claim mission land if that land was originally granted for Aboriginal purposes. However, there seems to be no allowance in the Bill for the protection of sites on which churches and places of worship are established and for them to remain the property of the church. On that point alone I query whether members should pass this Bill.

This Bill and other legislation, particularly the Aboriginal Heritage Act, allows for the protection of Aboriginal sites of significance. This could well be a stone in a tree but, at the same time under

this Bill, if a mission has conducted church services in a building for more than 50 years, the land can be confiscated even though it is a place of worship. It is an appalling situation.

What will become of the church buildings if these mission lands are allocated? Will these buildings be desecrated?

As a former Minister for Lands I had the opportunity to examine many of the files on these missions and pastoral leases. I was very interested in the history of the allocation of the sites and in at least one case I noted that the land had been granted to the church or group of monks not for Aboriginal purposes but for the raising of cattle. As members would know, many monks in other parts of the world have expertise in particular areas, such as producing wine or liqueurs, and in this case the monks were renowned for their expertise in raising cattle. In fact, they came to Australia for that purpose.

Hon. Peter Dowding: Then the land would not be covered by the Bill.

Hon. D. J. WORDSWORTH: I think the Minister should examine the Bill. I think the Minister will find that the list of properties that will be available for claim includes that lease.

Hon. Peter Dowding: No, it will not be included unless it was granted for the purpose of administering to Aborigines.

Hon. D. J. WORDSWORTH: It has been indicated that it will be available.

Hon. P. G. Pendal: We would not take your Government's word for it, Mr Dowding.

Hon. D. J. WORDSWORTH: I have a map showing the existing Aboriginal reserves, existing Aboriginal pastoral leases, vacant Crown land, the Emanuel lease, and those leases forfeited before October 1984 in the north of this State. It is a remarkable map and it is a pity that it cannot be incorporated in *Hansard*. It would illustrate that the majority of the area is either set aside or claimable. When we examine it, looking at it from Anna Plains south to Broome, through to the border of the Northern Territory, apart from a small area of coast north and south of Broome and a small area to the north of Derby—and those areas would be only perhaps 200 kilometres in length—the whole coastline could or will become Aboriginal land.

It has been pointed out by Mr Moore that two-thirds of the sea for three miles out will be claimable.

Hon. Robert Hetherington: It will be claimable but not necessarily granted.

Hon. D. J. WORDSWORTH: I would like to think that it might be claimable and not granted, but judging from the experience of the Northern Territory that is not very likely. It has been said that 2.4 per cent of Western Australia's population is entitled to claim 47 per cent of Western Australia. I think this is rather an understatement for if one considers Western Australia, excluding the south-west land area, there would be a lot less than two per cent of the Western Australian population and the area to be claimed would probably still be 45 per cent of Western Australia. As Minister for Lands, I pointed out several times, even before this Bill was considered, that there was a contiguous area of central Australia spreading over three States that was equal to the size of Victoria and was under the control of less than 10 000 people. I do not believe that Australians could allow that to continue or that they could allow the development of the north to be set back by the provisions of this Bill. I am not trying necessarily to say that Aborigines are not capable of developing at some time in the future, but I think most people would agree that they are not capable of doing it at present or in the near future. They certainly would not have the money to be able to do so. Most Australians do not consider that they should have the entire right to do it.

We have great development opportunities in the north and I believe that every effort should be made to develop it and to allow all Australians the opportunity to do so. One of the matters raised in the Minister's second reading speech is the fact that if we do not pass this legislation, the Federal Government has the power to legislate, anyway. Many Australians would wonder how we got into that position. We are told it was as a result of a referendum in which we participated. I have to admit that I did, for in the bottom of my drawer I found a how-to-vote card, which I had helped to pass out on that occasion. The card is headed, of all things, "The Liberal and Country League of Western Australia". That shows how far back it was. The card outlined how to vote "Yes" on the referendum. One question read—

> Do you approve of the proposal for the alteration of the Constitution, entitled "An Act to alter the Constitution so that the number of the members of the House of Representatives may be increased without necessarily increasing the number of senators?".

We were asked to vote "Yes". The other question read:

> Do you approve the proposed law for the alteration of the Constitution entitled "An Act to alter the Constitution so as to omit certain words relating to the people of the

aboriginal race in any State and so that aboriginals are to be counted in reckoning the population?".

That is a very odd title for a Bill. It made no mention of the fact that the Federal Government was to have the ability to override the States. It described the alteration to the Constitution as being such as would "omit certain words relating to the people of the aboriginal race". That was hardly a description by which Australians going to the polls could recognise the consequences of voting "Yes".

I asked the Library to obtain for me the supporting papers that may have been available at the time of the referendum. I refer to the papers relating to the "Yes" and "No" cases. I do not know how much this document was distributed, but there was such a document which referred to the referendum which was to be held on Saturday, 22 May 1967 on the proposed laws for altering the Constitution. The document purported to contain the arguments for and against the proposed changes. The interesting thing is that there are arguments for both propositions, for increasing the number of members of the House of Representatives and for Aborigines being counted, but there was not a case for the negative to omit certain words relating to the Aboriginal race, strange as that may seem.

Hon. Robert Hetherington: No party opposed it. We were all on the same side.

Hon. D. J. WORDSWORTH: I thank the member for the South-East Metropolitan Province for helping me in my speech. He is quite correct. Indeed, the argument for the "Yes" case stated—

> We have yet to learn of any opposition being voiced to them from any quarter.

That rather interested me, so I looked up the *Hansards* of the day and found that the parties did indeed support the referendum proposals. Some of the speeches were rather interesting. One was very enlightening. It stated—

> It may be thought that the exclusion of the Aboriginal race is a favourable one and that the Aboriginals are to be treated as not being different from any other persons.

That was a very interesting comment, made by none other than Senator Murphy. What the various parties said is interesting. Senator Gair said—

> The Governments of this country have not done themselves any credit in waiting until 1967 to make this correction to enable the people of the Aboriginal race to be taken into account when calculating the population of Australia and to provide that the Commonwealth shall legislate for them in common with the other people of Australia.

That is what he thought he was voting for. Senator Cohen said—

> I am very pleased to see that the Government has moved on the matter and that the issue will be submitted to the people for decision. I am confident that the voters will declare against any racial discrimination because I believe that basically the people of Australia are against any kind of discrimination on the ground of race, religion, creed, or anything else that may distinguish some persons from others.

It does not really sound as though they thought the proposal indicated a need to make special laws for Aborigines. Following up the need for a "No" case, I found that while the Parliament in 1967 had passed the Constitution Alteration (Aboriginals) Bill it had also debated the same Bill two years earlier, when the Prime Minister was Sir Robert Menzies. He said—

> ... to eliminate the words "other than the Aboriginal race in any State"—

People will realise that that was the crucial word. To continue—

> —on the ground that these words amount to discrimination against Aborigines. In truth, the contrary is the fact. The words are a protection against discrimination by the Commonwealth Parliament in respect of Aborigines. The power granted is one which enables the Parliament to make special laws, that is, discriminatory laws in relation to other races—special laws that would relate to them and not to other people. The people of the Aboriginal race are specifically excluded from this power. There can be in relation to them no valid laws which would treat them as people outside the normal scope of the law, as people who do not enjoy benefits and sustain burdens in common with other citizens of Australia.
>
> What should be aimed at, in the view of the Government, is the integration of the Aboriginal in the general community, not a state of affairs in which he would be treated as being of a race apart. The mere use of the words "Aboriginal race" is not discriminatory. On the contrary, the use of the words identifies the people protected from discrimination when it is remembered that section 51 (xxvi) was drafted to meet the conditions that existed at the end of the last century—for example, the possibility of having to make a special law dealing with kanaka labourers.

> The power has, in fact, never been exercised. If the words were removed, as some people suggest—and there is quite an attractive argument in favour of that—it would change dramatically the scope of the plenary power conferred on the Commonwealth. That must be borne in mind.

It is rather interesting that here was saw the Prime Minister and the Government of the day arguing against the removal of these words, yet two years later no-one was able to present a "No" case.

We can look back on this and ask how we ever agreed to it. I believe if High Court judges and others examine in detail the views given at the time they would not be so sure that the Commonwealth has the ability to make the laws that they think the Commonwealth has. It certainly was not the intention of the people at the time, in spite of the fact that they voted "Yes" at that referendum.

I do not wish to speak further on this Bill other than to signify that I have made a study of it and in no way can I support it.

HON. FRED McKENZIE (North-East Metropolitan) [11.51 p.m.]: I rise to support the Bill. I do so because it gives this State an opportunity to introduce legislation so that it can control itself.

I have been in this House for a number of years now and I have observed people on the other side getting up in debate after debate and talking about the rights of the State. I think that can be adequately described as State rights. It is very strange that in respect of this legislation, when the members opposite know full well that if this Bill does not pass through this Chamber there will be Federal legislation, Mr Moore has tonight read at length our Federal platform, remarking how dangerous it could be; yet before he sat down he said we ought to throw this Bill out.

Hon. N. F. Moore: Quite right, and the Federal Bill, too.

Hon. FRED McKENZIE: I cannot understand that attitude. What does the member want to do? Does the Opposition want to deal with Federal departments administering the laws?

Hon. N. F. Moore: Are you offering rape instead of murder?

Hon. FRED McKENZIE: Or would the Opposition prefer to deal with State departments?

Hon. N. F. Moore: I would prefer to get rid of both of them.

Hon. FRED McKENZIE: Where does one have the most bargaining power? I have heard Mr Pendal on many occasions and on many Bills talking about the rights of the State. He would be a prime example. Members know what is in front of them.

Hon. N. F. Moore: This is a red herring.

The DEPUTY PRESIDENT (Hon. P. H. Lockyer): Order, please! I would remind Hon. Norman Moore that earlier this evening I gave an undertaking that I would not accept interjections. He was heard in silence, so I expect him to give other members the same opportunity.

Hon. FRED McKENZIE: That is the major point in this legislation. The Federal Government has made many concessions to the State Government in relation to this Bill and what it will do if it brings in legislation of its own. That is inevitable. This legislation, as has already been stated by the lead speaker on the other side, Hon. Norman Moore, is preferable to that in the Northern Territory. That is the inference to be drawn from what he was saying.

Who brought in that Northern Territory legislation? It was brought in by a Federal Liberal Government. I know Mr Moore says we claimed it, but that was an eroneous claim; it was brought in by a Federal Liberal Government.

I could not allow this debate to conclude without making that contribution. Hon. Norman Moore spoke about the racial discrimination this Bill provides, and asked why Aborigines should have an advantage over white people in this community. I wonder what he is going to do when the Mining Amendment Bill comes before the House, because that provides for an advantage for farmers in respect of the resources of this State. There are some points in this Bill which can be brought forward in connection with other legislation.

I support this Bill simply because I think it is preferable to have our own legislation in Western Australia and not to be subject to Federal legislation. That is a sensible conclusion. That is the reason so many of the major groups support this legislation.

The performance of the Opposition has been pathetic right through this debate on land rights. It has not been genuine about the legislation itself; it has been making political mischief.

Hon. N. F. Moore. You are waffling now.

Hon. FRED McKENZIE: The Opposition has been trying to gain a political advantage. That is what it has all been about to the extent that at by-elections scurrilous petitions were lined up. When sensible legislation was produced by this Government, as was its intention, cutting the ground from under the Opposition, it continued with this campaign hoping that further down the track some

political advantage would be there to be gained. Unfortunately that will not be the case; we will have Federal legislation on land rights and we will be disadvantaged because we will be dealing with Federal departments rather than with State departments. The Opposition should stand condemned on this important occasion for not adopting this legislation.

There is no real danger in the Bill.

Hon. N. F. Moore: You should read it.

Hon. FRED McKENZIE: It is something which will come to pass, whether or not members opposite like it. With the effluxion of time we will have land rights legislation.

This is sensible legislation. It is not the Seaman report adopted in full; the Government has adopted those sections of the Seaman report which suit Western Australia. It is disgraceful that the Opposition has failed on this occasion to support this legislation because it hopes for defeat, deferral, or whatever.

With those few words, I support this Bill.

HON. NEIL OLIVER (West) [11.59 p.m.]: I will only be very brief, but I must rise to speak on this legislation. It is certainly the most significant Bill to come before the House during my service in it.

This Bill is a complete sell-out of the Aboriginal aspirations and desires. Neither Holding nor Hawke has any intention of honouring the Labor Party platform and that stunt which has just been put forward by the previous speaker of putting a gun at our heads is just a charade. Holding has as much interest in Aborigines as he has possibly with the new Constitution in Iceland. I am quite certain he has more time for the Richmond City Council in the inner suburbs of Melbourne.

This legislation is designed to get the Labor Party off the hook. Where would the legislation be introduced? It cannot be introduced in a State where there is currently not a Labor Government.

This legislation cannot be introduced in States like South Australia, New South Wales, or Victoria where it would be passed through both Houses of Parliament. No; it has been introduced into Western Australia and a gun has been held at the heads of the legislators here. The Federal Government is holding a gun at the heads of members here and is saying, "You pass this Bill tonight or else". In addition, the Premier wants to be seen as the knight in shining armour coming to the rescue of Western Australia by introducing this Bill. As I said before, Clive Holding has as much interest in Aborigines as he has in Icelanders and yet he is trying to force this legislation down our throats. What a charade! What a joke!

No-one has denigrated and alienated Aborigines more than has the Australian Labor Party. As a result of the actions of that party, Aborigines are in a terrible state. The Labor Party did that to buy the votes of Aborigines.

Previous speakers have referred to their experience with Aborigines. Thirty years ago I spent some time with John Flynn. He would not be happy with this legislation. Indeed, he would turn in his grave if he knew about it. He said to me, "Leave the people alone. Let them move forward in their own time. Provide them with health and education facilities, but otherwise leave them alone." But no, the Labor Party had to go out and get the Aboriginal vote. That was all it was after. The Labor Party will use the Aborigines and then discard them. Leading Labor Party people whom I met in Darwin last year said, "The Labor Party is selling out Aborigines". I spent some time with a leading Aboriginal Labor lawyer. He was a graduate of the Melbourne University and he accepted the fact that Aborigines were being sold out by the ALP. He was spending some time in Darwin negotiating land rights specifically in relation to stock routes, but he was getting nowhere. He knew he was getting nowhere and a couple of leading Labor lawyers told him he would not get anywhere. He will not even get anywhere with Bob Hawke.

I shall relate my experience when I travelled through Central Australia approximately 25 years ago. I spent six months in Central Australia and I had the opportunity to meet tribal Aborigines. I should like to relate to members my experience on that occasion and compare that with the experience I have had in my electorate.

On one occasion in Central Australia I arrived at a tribal ground where the great painter, Namatjira, had died the previous night. As I drove into the area in my landrover I observed that the young children were kicking a football around with their bare feet and the temperature was 110 degrees. They came up to my vehicle and looked at the dials as if they had never seen a car before. Indeed, in those days, approximately 25 years ago, vehicles such as landrovers were seldom seen in Central Australia. It was interesting to observe those tribal people.

My experience was quite different when I went out to Henley Brook in Upper Swan, in response to a letter I had received and in order to examine a problem which had beset the community there. Evidently a fifth cousin twice removed had died in Longridge some 18 months earlier, and the mess-

age had got through. I arranged an appointment to examine a problem those people were experiencing with the Burke Labor Government, but there was no-one there. That indicates the difference between the two situations.

It is very sad to return to those places and see what the Labor Party has done to Aborigines. One sees the situation if one goes to Central Australia. There are no longer any Aborigines at Angus Downs. They no longer work the stations or operate as stockmen. Instead those Aborigines are lying among broken glass in the gutters of Alice Springs waiting for their pension cheques, because the ALP has put them down and denigrated them.

Mr Deputy President (Hon. P. H. Lockyer), you would be aware of the position when you travel through Wyndham and Roebourne. You would see the way in which Aborigines are now living in those towns.

Hon. David Wordsworth referred to the position at Anna Plains. I once saw a photograph of the Aborigines who lived there and they were healthy and happy. However, they do not live there any more. They are lying among the broken glass in the gutters of Roebourne. That indicates what the Labor Party has done to Aborigines.

You, Sir, would be aware that there is a large Aboriginal population in Malaysia. An interim housing settlement programme has been set up and it is extremely successful. It is quite different from the disgraceful way in which Labor Governments have performed in respect of Aborigines in this country.

I have met many of the fringe dwellers in my electorate and they are very fine people. Many of them came to the city as itinerant workers to strip the grapes in the Swan Valley or as croppers. They were good workers and were regarded as such by people in the Swan Valley. However, today one cannot get an Aboriginal to pick a grape or do any work in the Swan Valley.

A development known as Cullacabardee was proceeded with and it was seen as providing transitional accommodation for Aboriginal people. It was a settlement designed for people who wanted to live in a semi-tribal situation or who were interested in learning how to adapt to urbanisation. An excellent Catholic school was provided along with various other facilities. However, approximately five groups moved out of the area. Admittedly some were Thursday Islanders who came to work on the standard gauge railway and stayed. However, two groups led by Mr Bropho have remained. Mr Bropho does not want the Aboriginal Lands Trust, nor does he want this type of legislation. He wants land to be transferred to him in his own right; so I do not know how the Government will endeavour to meet his wishes.

In conclusion I say that the Liberal Party has always stood for caring for those people disadvantaged through no fault of their own. We have never seen so many people disadvantaged as now under a Labor Government—people on fixed incomes having to face tremendous inflation, pensioner asset tests, and everything else the Government can do to inconvenience disadvantaged people: and all this by a Government which says it cares for people.

The Labor Party has no interest for people who are disadvantaged through no fault of their own, while the Liberal Party has always stood for those people. The Government has so often tried to claim credit for many of the things that we did for Aborigines. Therefore this legislation and the stunts that surround it are of no interest to me. If the Government wants to use these people in this way, let it do so, but its actions will be on the record and will be known and be seen for what they are.

HON. KAY HALLAHAN (South-East Metropolitan) [12.11 a.m.]: I will not speak at great length but I want very strongly to support the Bill. Firstly, I cannot ignore the comments just made by Hon. Neil Oliver, who really did seem to be having a terrible fantasy when commenting about the Labor Party somehow feasting on the disadvantages caused to Aborigines. As much as it does not suit us to know they are disadvantaged, we have not been in power long enough to put them in a depressed state. His party holds the record for that and it is the State and Federal Liberal Parties which can look to the very inadequate policies they have pursued for Aboriginal people which have left us with this situation. I hope Hon. Neil Oliver takes note that I strongly resent his crazy, mixed-up comments.

This Bill does not in any way seek to deal with ordinary circumstances. We heard Hon. Norman Moore make some very interesting statements, but he did not seem to realise that the Aboriginal people in this country are facing extraordinary circumstances.

They are the indigenous people of this country and they have an affinity with their land, which was dispossessed of them by us as Europeans coming to this country. While I do not accept personally that we should accept guilt on behalf of the Forrests or any other explorer of those early times, we need to look to our own responsibilities. Hon. Norman Moore should do that rather than projecting his guilt back onto early explorers.

We are dealing with a group of people who are absolutely poverty-stricken. They rank far too high among those who are counted below the poverty line. Their health standards are akin to those of people in third world countries, and their infant mortality rate is the same.

I do not doubt at all that Aborigines want to be like other people, but it is a myth to say that we do not need special Bills for special circumstances, because they can get there if they want to.

We have dispossessed the Aborigines. They are the most disadvantaged group in our population, and to suggest otherwise is to be quite irresponsible and is not to face up to reality. While I can understand that it is very unpleasant and not a very good circumstance for us to have to face up to, the fact is that we do ourselves no justice or the disadvantaged Aborigines no justice if we do not face up to that reality.

When I talk about dispossession, I am talking about their way of living in harmony with their natural surrounding and the wherewithall that provided for their well-being and the ongoing maintenance of their community groups. The Aborigines have lost that.

Members opposite might like to think about how they would find themselves if they were to lose everything that was significant to them for the maintenance of their own personal needs and for the needs and the well-being of their families and the community generally. This is what faces the Aborigines.

It is my hope that we will start to see Aborigines in greater numbers availing themselves of the opportunities that other families can avail themselves of. That is just not possible at present. The ability to do that is denied them.

We must give special recognition to their cultural heritage, and land is a very significant part of that. To give Aboriginal people the ability to claim land to which they can establish some traditional association or belonging will give them a sense of cultural dignity and from that a sense of personal dignity. It is from that principle that all people make steps forward.

If we deny this opportunity to them we are in a very parlous state to push forward and fight for ourselves and our children so that we may enjoy things like good health, good education, good nutritional standards and all the other opportunities we take for granted. Do members opposite think we have not benefited from generations of living in this society to which we have been born?

It is the right of Aborigines to accept or to reject values that are in conflict with their cultural heritage so that they can build a strong community basis from which they can find a way to mesh with the European society. That can happen quite harmoniously, but it cannot happen from a position of absolute disadvantage.

This is why this Bill is so very crucial. If it is defeated here it will be one of the most bitter experiences I am likely to face in this House. Statistics show that this House is the most undemocratically elected in the western democracies. If the Bill is defeated it will go down as part of the record of achievement of such an unfairly elected House, one which chose to disadvantage a severely disadvantaged group. It would be an absolutely true commentary on the make-up of this House and on the members who are unfairly here because of a very poor representational system of election.

Hon. C. J. Bell: Absolute garbage.

The DEPUTY PRESIDENT (Hon. John Williams): Order! Hon. Colin Bell will cease interjecting.

Hon. KAY HALLAHAN: The important thing about this Bill is that it gives Aboriginal people the opportunity to claim land to which they feel they have a sense of belonging and a sense of entitlement on which they can build a sense of community.

It also provides them with a sense of certainty, something which they lack. I do not know whether any member opposite has lived in a state of uncertainty about his economic well-being or any other well-being to such a degree that he did not have any sense of belonging anywhere. This Bill seeks to overcome that for the Aboriginal people.

The comments made tonight by members of the Opposition have shown no recognition of those things on which our whole personal entity, our entire sense of wholeness about ourselves, is based.

I will refer now to some of the comments made, and there were a lot of erroneous statements tonight from members opposite, so many that one could not expect to correct them all.

We want to make it possible for a group of people in the community to have a sense of belonging to an area to which they can establish they have a claim. It will not be an easy process, but the guidelines in the Bill allow for that to happen.

Having achieved all that, it would be quite ridiculous for us to make it possible to resume land for the non-payment of rates and indeed not to safeguard that land for future generations; and that is one of the reasons that such a measure is contained in the Bill.

The legislation does provide a measure of equality for other landowners, having once established land ownership and land tenure—the paternalism which Hon. Norman Moore spoke about, which I found quite incredible coming from the Opposition. We heard the word used many times. Where use no longer remains for land, it can be sold in special circumstances, but upon reference to the Minister. That relates to urban fringes where in fact it may well occur as things progress that the community would not have use for a particular block of land. They could then make a resolution between themselves, if everybody establishes that there is no use for the land, and say "Let us realise the value of it", and refer the case to the Minister, get the money from the sale and put it into a more useful community facility. That seems eminently sensible and not at all paternalistic.

On the question of paternalism in other countries—and I include the Americas, Canada, and New Zealand, though I do not intend to do a comprehensive international study because I have not had time to do so, as much as it would have been very enlightening—other nations have all come to terms with the fact that their indigenous people are a special group within the community.

In this country we have continued to deny that reality and it really is time that we took notice of it. Like the Hon. Mark Nevill, I commend all those people who have brought together a Bill which will finally give this community, this State, and this nation a chance to come to terms with this very difficult question. It really is quite a significant step forward and for that reason I would be very sorry indeed to see it lost.

In regard to the question of land and the American Indians, statistics show that where those groups had the opportunity to dispose of land without adequate safeguards and without adequate awareness of future needs for handing on to future generations, in fact they did lose considerable areas of land that one would have expected to be passed on to future generations. I am talking about the foreseeable future. Nothing is fixed. In 50 years' time circumstances may change with progress and people's redefining of the future and their identities, and circumstances can change. At the point we are at now, having established Aborigines' right to their land, we should safeguard it.

If this Bill is passed tonight, it will represent a very significant milestone in a psychological way in the attitudes of Western Australians toward Aboriginal people. It would be a tremendous step forward for us to acknowledge that Aboriginal people have special needs and special associations with the land, that they are especially disadvantaged and that we really can afford to be a little more tolerant of people who are different; but there has been no recognition of that in any of the speeches made by members of the Opposition tonight.

If members of the Opposition have read the book *Black Like Me* by Griffin they would know how difficult it is to stand out in any way. Who can really disguise the colour of their skin, not even allowing for different lifestyles? We are not a very tolerant people in regard to accepting differences and in treating people in an equal way. It is a myth that in our national character we believe in a fair go. That national characteristic I like very much, but it really has some limitations that we will treat people in a fair way provided they are not too different. We have heard no recognition of that at all in the Opposition's approach and I suggest for those reasons the issue has not been dealt with in a realistic way.

I guess the sorts of things that Hon. Neil Oliver was suggesting, that a most politically expedient campaign has been conducted by the Opposition, could apply. The Bill does provide—and this is why it has attracted the consensus that it has attracted—a certainty for whole groups of Western Australian communities. I refer to the pastoral industry, in spite of the value judgments that Hon. Norman Moore referred to in regard to excisions and whether they will be judged on whether they had an unreasonable effect on the pastoral lease. The Bill does provide guidelines for dealing with excisions. Currently every one is in a very uncertain position—Aboriginal people, pastoralists, miners, the lot—and this Bill gives everyone some certainty. It sets out the position.

We may not like to see that people can actually have clearly defined guidelines, but at least through those guidelines the subjectivity and uncertainty are removed. That is not the way the Opposition works. I know members of the Opposition like to look after their valued friends and their advantaged groups in the community.

Hon. P. G. Pendal: You are looking after the miners.

The DEPUTY PRESIDENT (Hon. P. H. Lockyer): Hon. P. G. Pendal will cease interjecting.

Hon. KAY HALLAHAN: The Bill provides a measure of equality which means that people will have an opportunity to grow and develop and find their sense of the community and whatever it is in life they are looking for, which will no doubt include good health, good education, good nutrition, greater access to decision-making, and moving

into positions where decisions are made. We certainly see few Aboriginal people holding such positions. Members may suggest that Aborigines are only a small part of the community, but if we look at our prison system we see they are overrepresented, and that is no accident of history. That is the way everything is structured at present; it predetermines that they will experience things in a way in which white people will not.

In regard to the attitudes of the Western Australian community I would like to refer to the quite remarkable change I have perceived in people's attitudes to this issue. Historically it has been a very difficult issue for us. It has caused many people to do a lot of soul-searching. I commend large numbers of people in the community who have shown an ability to shift their position even when it is into an area where they have been scared out of their wits by the Opposition threatening to take away their backyards, or other similar matters which cloud people's thinking about issues. However, in spite of all that and in the face of good information and a sensible approach to the Bill, the Chamber of Mines survey, which I understand was conducted after the Liberal Party survey to which Hon. Normal Moore referred as "our survey", revealed that 45 per cent of Western Australians are in favour of land rights and 45 per cent are against this legislation and 10 per cent are undecided. That really shows quite a shift in the community's attitudes, and that is a very heartening sign.

It will be a dark day for this State if this Bill is not passed, and I strongly commend the Government on all it has achieved in bringing this legislation to this House.

HON. P. G. PENDAL (South Central Metropolitan) [12.30 a.m.]: If any evidence were needed to indicate the lukewarm and languid support that the Government has for this Bill, it has been very much demonstrated tonight by the abysmal performance of speakers on the Government side on a piece of legislation which, by their own admission, is regarded as one of the most important to come before any Australian Parliament for many years.

I suggest that in a debate of this kind it is important for all of us to separate two strands of thinking which are not necessarily compatible, even though the advocates of the Bill claim they are. The first strand is that embodied in the general view that we must do something for the Aboriginal people; that their lot is unacceptable in a civilised society. I might say that that is an argument with which I have no trouble concurring.

The second strand is normally an extension of the first. It is embodied in the theory that as we need to do something for Aborigines, it automatically follows that that something must be rights to land over and above what is already available to all citizens of Western Australia. Those two strands have been presented in a somewhat similar fashion by a number of Christian leaders in our community who take the view that justice, whatever that might be taken to mean, needs to be done to Aboriginal people, and that by extension justice must be seen as land rights. I personally have no difficulty in endorsing the view that Aborigines are entitled to be treated justly by society, but I have every difficulty in accepting that justice and land rights are one and the same as though we are talking about an indivisible subject.

Politicians have long been accused of shuffling problems relating to Aborigines into the too-hard basket. I suggest that that is not only unfair, but historically it can be shown to be quite inaccurate. That sort of criticism presupposes there is one simple solution and that nothing has been done in the past and no advances have been achieved. I put it to the House that that is patently absurd.

Hon. Peter Dowding: It does not suggest that.

Hon. P. G. PENDAL: It is not a question of whether it is suggested: It has been stated explicitly in the course of this debate if the Minister had cared to listen.

Back in the 1920s, one Aboriginal activist in this State listed a whole host of complaints. One was that some whites in this State advocated segregation. The same Aboriginal saw the vote as an important objective of his people. That person's name was Norman Harris. In his words, he wanted "one law for us all; that is the same law that governs the whites".

That same individual asked questions like this: Why should not a native have land? Why should he be subject to segregation in a country like this? Why should he be refused entry into hotels? Why should be be subjected to discriminatory arrests? Why should he not have the vote?

I put it to members that most of those questions have been resolved in the six decades or so since that gentleman made those laments. Aborigines can hold land; they are protected against acts of segregation; they have access to hotels; they have protection against discriminatory arrests; and they have been given the vote. What one does find interesting in all that, bearing in mind that I have quoted the words of an Aboriginal, is that one does not find much reference in the list of grievances to a desire for land rights, or land rights as has been perceived by the current Government and as contained in this Bill.

In 1973 an interview was republished 40 years after it was first conducted. It was conducted by a man by the name of Paul Hasluck who, by reputation, was known to have not an unsympathetic view of the plight of Aboriginal people in this State. It was Paul Hasluck who conveyed the complaint of one Aboriginal that "you try to improve your place but you still can't get any of the privileges that white people get". This person was asked about the privileges that Aboriginal people desired, and Hasluck's report was as follows—

> He said that the State schools would not take their children, that even if they had money the local picture show would not let them in, and they could not go into places (meaning the hotels) where white men could go.

It is significant again that the question of land rights does not loom large on the horizon of that Aboriginal. Instead those people wanted education for their children and the right to go to a cinema or other places that were available to white people. I am not disputing or discussing or denying Aboriginal links with the land. I am saying that as time went by the demands of Aborigines changed as circumstances changed, and as they saw a white society at work they wanted a place in that society—the right to drink, the right to vote, to have their children educated, and to be freed from the stigma of discrimination.

I believe it is fair to draw from this the conclusion that separate land rights as embodied in this Bill and as explained in the Labor manifestos in the last decade is not a desire of the Aboriginal people at all but rather a notion that has been promoted largely by whites throughout the 1970s for their own variety of reasons.

Like my colleague, Hon. Norman Moore, I have no doubt some of those people are motivated because they sincerely believe in what they are doing.

Others, I suggest, see it as a way of expunging that collective guilt that Europeans are supposed to feel for having taken possession of this continent in 1778. Others are motivated by a hatred, and I use the word advisedly, of such institutions as the Christian churches and see the granting of land rights as a way of putting the churches back in their place. This Bill certainly plays into the hands of people who would promote that sort of bigotry.

Only a few weeks ago a spokesman for the Premier was quoted in *The West Australian* as saying that Bishop Jobst of Broome had misread the Bill now before the Parliament. I want to read that story because it has some significance; it appeared in *The West Australian* on 30 March. I quote as follows—

> The Roman Catholic Bishop of the Kimberleys, Bishop John Jobst, had "misread" the Aboriginal Land Bill when he said that church mission lands could be granted to Aborigines, according to a Government spokesman.
>
> Bishop Jobst spoke publicly on Thursday of his fears that the Bill allowed for mission lands granted by the crown to be claimed by Aborigines.
>
> A spokesman for the Premier said yesterday that he did not believe that a takeover of mission lands would happen because of the proposed land-claim procedure.

The spokesman went on to say a variety of other things including—

> "We have been assured by the Catholic Church that there was no problem because the legislation allows for all claims to be tested . . . ."

Apart from anything else, this gentleman who purports to represent the Premier, clearly has no understanding of the way in which the Catholic church is structured because of the statement that the Government has been "assured by the Catholic church". This Government has been prepared to listen only to selected views within the Catholic church. I do not quarrel with its right to do that, but it has no right to do what this Minister opposite us does and that is to dress it up beyond what it is as though to represent a universal corporate view of the Catholic church. It represents the views of some bishops in the Catholic church just as there are some bishops in the Catholic church in Australia who take precisely the opposite view to that taken by Mr Dowding.

I believe that someone, somewhere, is telling fibs or lies because the report that appeared in *The West Australian* on 30 March cannot be right if what is in the Bill and the explanatory memorandum is right. One or the other has to be wrong because we are assured in the article by the spokesman for the Premier that mission lands cannot and will not be claimed and yet the Bill contains repeated references to the fact that they can be claimed. The Bill and the explanatory memorandum tell an entirely different story.

The fact is, as my colleague Hon. Norman Moore, said, mission land is claimable. What is the motivation for the Premier's spokesman to say the reverse? If the story is wrong and the Premier was misquoted, why did the Premier not seek to have the impression corrected subsequently? No such effort was made and no retraction was

published. I therefore ask the question: What has motivated the Premier's spokesman, in the Premier's name, to say things that are clearly the reverse of what is contained in the Bill? By the Government's own admission, mission land is any land which was put to use for "the purpose of ministering to Aboriginals". I ask the question: Who has been responsible for that enormous decision, that landmark decision, that Christian mission work and, in particular, the work of the Catholic missions of this State are to come to an end? Who made that decision? I ask also what of the Aboriginal people who, for years, have benefited from those missions and particularly the Catholic missions? What is to be their part or their fate from here on in? Many of them have no desire to sever their connections with the Catholic missions but, again, this Government knows best for these people.

The act of interference goes even further than that. Under division 3 in part II of the Bill we are told "it is not necessary to demonstrate any prescribed association with the land in order to have it taken away from the missions and given to Aboriginal Land Corporations". I am aware that division 2 of the Bill talks about other ways in which mission land and unallocated Crown land can be made available for claim and allocation to Aboriginal people. I am talking about that part in division 3 where it says that it is not necessary to demonstrate any prescribed association with the land in order to have it confiscated from the missions of this State and given to Aboriginal Land Corporations.

There has been some dispute over just what land will or will not be claimable. The Premier has taken the easy way out in this regard by telling such people as Bishop Jobst that, in the final analysis, the decision will have to be made by the Aboriginal Land Commissioner as to whether the land falls within the ambit of the Bill. He adds, however, that ultimate decision will be reserved for the Government of the day in each case.

I put it to members that that is a gross dereliction of duty on the part of the Government if it is seriously stating that, on the one hand, mission land is claimable without Aborigines having to demonstrate any prescribed association with that land and, on the other hand, if there are any doubts about the matter, those doubts will be resolved by the Aboriginal Land Commissioner. I suggest that is not good enough. If the Government wants to kick out the Catholic church and other Christian churches which control the missions of this State, I suggest it do so openly and take full responsibility for the consequences of that policy.

Long before the present advocates of land rights came on the scene, missions were tending the Aboriginal people. As Mr Moore pointed out, they have not always gone about the task in a perfect way. However, I remind members that that interest in the welfare of Aboriginal people was being shown and continues to be shown when many others in the community did not and do not care a jot about the fate of Aborigines. Can anyone deny that many Aboriginal communities may have perished before now except for the ministerings of these missionaries? They have supplied food, diets, and medical aid, quite apart from any spiritual sustenance.

However, the humanists have not confined their arguments or attacks on the missions just to those areas. Clause 35 of the Bill contains the odious and offensive comments to the effect that any mission lands shall not attract monetary compensation where there has been the use of unpaid labour of Aboriginals. Where does the Bill make any allowance for the unpaid labour of missionaries over a century and more? What about the missionaries, apart from those who attempted to provide spiritual sustenance, who have taken medical, education, and other skills to those people? Does the Government intend to provide compensation to the churches for those services? No, it does not. Instead, it confines itself to a gratuitously insulting attack by suggesting that only the unpaid labour of Aboriginal people has been of any consequence in those mission areas of the State.

One can ask further: Why has there been this concerted attack on the missions? Why has an effort been made to demean and degrade people who are part of a system that has done more than anyone else in this Chamber, I suggest, including the humanists on the opposite side, to uplift the Aboriginal people and make their future a little more assured?

I repeat my earlier statement that both Mr Seaman and the Burke Government assume, I suggest incorrectly, that all Aborigines want to break their ties with the missions. As well, the impression has been created that the church holds huge tracts of mission lands in the north of the State. What is the truth? I will tell members. Some members opposite know the truth but have sought to give entirely the reverse impression—that is, that the churches, including the Catholic church, are landholders *en masse*.

At Balgo the Catholic mission holds a little over 1 200 hectares of land. The church has voluntarily given, free of charge, a cattle station of 247 000 hectares and worth over $1 million to the Aborigi-

nal community. But at Balgo the mission itself holds 1 200 hectares.

At Beagle Bay the Catholic mission holds 4 000 hectares and at Kalumburu it holds 404 hectares. At La Grange the Catholic mission holds 291 hectares and at Lombardina it holds 200 hectares. In total, the Catholic church has a holding of some 6 200 hectares which, as anyone who knows anything about the north of this State would know, is a pinprick on the map. It is a falsity in the extreme to be peddling the suggestion that the Catholic church and Catholic missions in particular are holders of vast amounts of land.

These points aside—even if the Government were to turn around at this late stage and find a way to accommodate the church just as it has miraculously been able to accommodate the miners and the pastoralists—I could not give my sanction to the Bill. If any future speakers want to tell the House that my assumptions about the mission land are wrong, let me ask them in advance why the Premier could not give an unequivocal statement to Bishop Jobst and others.

Hon. Peter Dowding: Who were the others?

Hon. P. G. PENDAL: I will come to that.

The letter that was sent to the bishop on 16 January this year, under the signature of the Premier, not only contained false statements—which we have come to expect from the head of this Government—but it also conveniently contained statements the ambiguity of which would surpass anything that has been seen in this Parliament. How convenient it is to write back to a Catholic prelate and have two bob each way in order that the individual who is reading the letter does not know what the situation is. The Premier said—

> My Dear Bishop,
>
> Thank you for your letter of 24th December 1984.
>
> The only 'mission land' which will be claimable by Aboriginals will be land which has been granted to a church, mission or religious society for the purpose of ministering to Aboriginals and is still held by that church, mission or religious society as at 17th September 1984....

This date, of course, is mentioned in the Bill. The Premier continued—

> I take that to exclude land granted for other missionary purposes as well as land granted for a multiplicity of purposes even if one of those purposes be for ministering to Aboriginals (ie, if it is not a grant solely for Aboriginals the land will not be available for claim).

If the letter stopped at that point nobody could have great complaint, but the Premier is not satisfied with giving anyone a relatively straightforward statement because he continued as follows—

> Each case will have to be decided on its own merits and the historical records to which you have referred will be relevant in the determination of the factual issues. The decision will have to be made by the Aboriginal Land Commissioner as to whether the land falls within the ambit of the Act....

I am suggesting that the Government cannot have it both ways. The Premier is either wrong in what he said in his letter or he is wrong in what he said via his spokesman in the newspaper some two months later on 30 March 1984. Again it begs the question: Why would not the Catholic bishop, any bishop, or any individual be able to get a simple answer to a simple question? I guess it is one of those questions to which Government members know the answer in their hearts.

So often in debates in this House we have our attention drawn to such things as the United Nations Charter and it is conveniently used to condemn others whereby a government "takes any measures including legislative measures, designed to divide the population along racial lines by the creation of separate reserves for the members of a racial group". This is not from a Liberal Party manifesto, it is not produced by the Australian League of Rights, it is not produced by the Catholic church and it is not produced by some nut in order to bolster his argument. It is the declaration of the United Nations for which I do not often have high regard, but which body is so often quoted by members from the other side of the House. However, that declaration cuts right across the sort of legislation we now have before the House and despite its cutting across it, the Government is prepared to proceed with the legislation which does precisely what the United Nations condemns; that is, to condemn any legislative move that is designed to divide people in land groups because of racial background.

It would be hideous to think that we could ever extend the argument for special land rights to other special rights as well. Why should we not do that? For example, would the Government seriously consider the provision of special Aboriginal hospitals, special Aboriginal schools, or special Aboriginal post offices? Of course not.

In conclusion, the Bill is not only politically unpopular, but it is also morally repugnant. It is morally repugnant for the very reasons used by

present-day activists to justify attacks on past policies towards Aborigines. It is discriminatory and it does nothing, and will do nothing, to improve the lot of the Aboriginal people. It will provoke discord and disharmony in a community that already has its fair share of those elements. It is paternalistic in that it continues the white man's presumption that we all know what is best for the black man.

What the solution is I do not know. However, I do know that nothing I have heard, along with my colleagues, in the land rights debate in the past two years has any kind of authentic ring about it. We cannot bring people together by dividing them. We cannot compensate one group of people by giving it 40 per cent of the land mass and then pretend that the other group has lost nothing. We cannot obliterate the prejudice of the past by building certain and sure prejudices into the future.

It is historically inaccurate to pretend that no progress has been made. The litany of legislative changes contained in the back of the Seaman report itself is evidence to the contrary; that is, that enormous progress has been achieved notwithstanding the failures.

There is no doubt in my mind that Aborigines as a race are entitled to more progress in the future. I am sure land rights will not do that and I will oppose the Bill.

HON. ROBERT HETHERINGTON (South-East Metropolitan) [1.00 a.m.]: In rising to support this Bill, I find it rather difficult to know where to start because it seems to me that we have had a great deal of emotion and not a great deal of logic from the Hon. Phillip Pendal.

Hon. P. G. Pendal: But you say that every time.

Hon. ROBERT HETHERINGTON: I will say it again. We have heard a great deal of false logic and a series of *non sequiturs* and a great deal of inhumanity from Hon. Norman Moore.

Hon. N. F. Moore: What a lot of tripe.

Hon. ROBERT HETHERINGTON: That is my impression of his speech. I am talking about his speech, not about his heart.

Hon. N. F. Moore: You were talking about my inhumanity.

Hon. ROBERT HETHERINGTON: I was talking about the speech. I think it would be very interesting if I had the time to analyse his speech, but I do not want to. A person who talks about his total moderation and then talks about the Labor Party's total qualifications ought to learn something about the language and consider what it is all about.

I am worried about Mr Pendal's speech because he seems to think that everyone on this side of the House is a humanist. I find that an odd description of the Premier who, I think, is a practising Catholic like Mr Pendal. He would not be terribly interested in getting rid of mission buildings. It is possible that under this legislation Aborigines will claim mission lands. They will be Catholic Aborigines who will then remain with their bishops and priests on that land. I do not know that this will be the case; it remains to be seen. The law has been written and, if enacted, will not be subject to the judgment of the Premier. The judgment has to be that of the Aboriginal Land Commissioner.

I was very interested when Hon. David Wordsworth quoted section 51 (xxvi) of the Constitution and its changing by referendum. I remember that time well. I remember the great joy and pleasure that I got standing next to Liberal members outside the polling booths handing out how-to-vote cards. The cards for both parties said the same thing. I remember the pleasure I got from the fact that we had consensus on this issue. I remember the pleasure I had when the Fraser Government agreed with the Labor Government that had preceded it on the necessity and desirability for land rights in the Northern Territory. Perhaps the Northern Territory legislation has not proved to be perfect, but rather than throw out the baby with the bath water I would agree with the Liberal Chief Minister of the Northern Territory, Mr Tuxworth, that our legislation is good legislation worthy of his support.

Mr Moore rather quickly slurred over the bit in the Labor Party platform that said we would keep reviewing policies. The Labor Party keeps reviewing policies. We do not claim that once our platform is written it is final or the be-all and end-all. That platform does not have to be followed into the future. We could change it. On this issue, we might change it in various ways. We will get good laws for Aborigines only when we get consensus. I am one of those who hope that we might get some consensus on this issue. We on this side of the House have been accused of being hypocritical for talking to a range of groups and their spokesmen. We were also prepared to talk with the Liberal Party, had it been willing. I only wish that that would happen. I believe that one day it will happen. I believe that one day our stance—I do not mean our detailed views—on Aboriginal land rights will be accepted by the Liberal Party. I believe that because in a democracy attitudes will change. I certainly hope it is true.

Section 51 (xxvi) had provided that one of the powers that the Commonwealth Government had

was to make laws affecting the people of any race other than the Aboriginal race of any State for whom it was deemed necessary to make special laws. The bit about the Aboriginal race was removed unanimously. Both political parties, I think correctly, were in agreement on this. I give the Liberal Party due credit for that. It seemed to many people at that time that in many States there were discriminatory laws against Aborigines and that the Commonwealth might need to make special laws for Aborigines.

I have risen mainly to say why I believe we should have land rights legislation for Aborigines. Mr Moore said that we should not feel guilty about the past. He did not feel guilty because he paid his taxes. I did not see how these two things were connected, but that is fine. I am glad that paying his taxes stops him feeling guilty. I do not want him to feel guilty. I do not feel guilty. When I read the history of what we in Australia have done to the Aborigines in the past, I feel revolted and sickened, but there is not much good in going back.

At present, historians are tending, after spending many years celebrating what we did to settle this country and how we just took over from the Aborigines, to react. Historians are now pointing out the atrocities we committed against Aborigines throughout Australia. However, they are not expressing the very real fears and worries of the settlers who found themselves in new countries and quite often acted in atrocious manners from fear. We will get the balance one day.

The history of our treatment of the Aboriginal people of Australia has not been pretty. However, let us not feel guilty about it. We need not say that we will not feel guilty or that we will forget our history, but should look to our history to inform the present. I do not believe that the Aborigines are just another ethnic group in this community. They are different, as the Hon. David Wordsworth pointed out. I want to stress this more than he did. They were the people who were found here first. They lived in this country from between 30 000 to 60 000 years before white settlement. That figure is still being debated. They may have been here longer than 60 000 years before white settlement, but the shortest estimate seems to be 30 000 years.

The Aborigines had a balance with the environment and developed it in their own way. They used to fire the bush to get pasture for kangaroos so they could hunt. They did a range of things using stone weapons because they were all they had. They did not domesticate animals because they did not have the kinds of animals that could be domesticated. They did not do the things that were done in Europe, because they did not have the environment or background, but they had a well developed, intelligent culture and lived in equilibrium with the environment. What we brought to the Aborigines was not all good.

Is it true, and I pay due tribute to the fact, that the missions quite often helped to alleviate the harm, to quieten down the enmity, to succour the Aborigines and treat the diseases we had brought with us. It is also true that many of the mission stations Europeanised the Aborigines and tried to destroy their culture, and for this reason many Aborigines resented them. It is true that Aborigines used to speak one way in the days when nobody would take many of their stories about sacred sites seriously, and now that we are prepared to listen we find there is a richness of Aboriginal culture that when I was a boy we did not realise existed. Of course that was a long time ago. I did not even realise it existed in the 1940s and 1950s. It is only from the 1970s onwards that I have become aware of the richness of Aboriginal culture. We people who believe in land rights, and some of us believe in them sincerely, do not believe in special Aboriginal post offices. As far as I know post offices were never part of the dreamtime and were never incorporated in the Aboriginal cultural or religious beliefs. If Mr Pendal can show me that 30 000 years ago the Aborigines had sacred sites of post offices, perhaps we will have special Aboriginal post offices.

Hon. P. G. Pendal: You are thicker than I thought.

Hon. ROBERT HETHERINGTON: Mr Pendal is not too bright either. I was pointing out to the honourable gentleman that with his talk of special hospitals and special post offices he was dragging a red herring across the trail.

Mr Moore on the one hand does not want us to give Aborigines any different rights from ours, but on the other hand when we do give them land he says that we should provide land for individuals. I thought this was the one thing about Aboriginal culture, that land is owned by the community. I point out to Mr Pendal that under this legislation no Aboriginal group is forced to apply for land. It is permissive legislation; it is not compulsory. They can please themselves. Under this legislation we are not doing what is done in South Africa; that is, forcing Aborigines because of their race to go into Bantu stands or homelands and requiring them to have passes to get out again. We are allowing Aborigines to own land in a way suitable to their own culture and if they want to integrate with us we would welcome them. We have gone away from the view that Aborigines should assimilate and be exactly like white men. We have accepted the view that they should integrate and we should

treat them as equal human beings developing their own nation, notions, beliefs, and culture.

I do not want anybody to feel unduly guilty about it but rather to recognise the fact that we destroyed Aboriginal culture. It was a Stone Age culture quite unlike our modern culture. It was very much like the culture of Europe at the time of the cave dweller. In other words, the Aborigines had a culture similar to the one from which we have come. I do not say the culture from which we have "progressed" because I think we use that word far too easily. We have developed, changed, and become different. We have a different view of our relationship with the land.

I suggest that English, European and Asian migrants who have come to Australia have a different view of the land and their relationship with it than have the Aborigines. These migrants are all different and more like one another than they are like the Aborigines in their relationship to the land.

We are trying to say to the Aborigines that if they feel that they want their own land, they should claim it and if this will allow them dignity to get back their own culture and find their identity as human beings, we welcome it. We are not saying that this will solve all the Aborigines' problems because it will not. I am at present working towards other solutions for problems of Aborigines living in the metropolitan area. I do not know whether they will be accepted or rejected by my own party or this Parliament, if they come here. I know a whole range of things need to be done for the Aboriginal population. I cannot help knowing it when I look at the Aborigines settled in my electorate and when we deal with their problems in my electorate office. We must look to see what we can do, and we regard land rights as one part of solving the problems of Aborigines.

If we do this, and accept this positive view, let us help the Aborigines who want to get back to their own culture and to their belonging to the land. If we can all agree that we should do this and discuss the way to do it properly, instead of demonstrating the negativism we had from Hon. N. F. Moore tonight, we will be moving in the right direction. I was sorry to hear the negativism from Hon. P. G. Pendal. I thought better of him.

Hon. P. G. Pendal: You always say that about me too.

Hon. ROBERT HETHERINGTON: I will stop saying it soon because I will be completely disillusioned and feel he has nothing but negativism to offer. However, I am still hoping to convert the honourable gentleman. I always believe he is really decent underneath it all and that decency will come out some day my way.

We have heard a whole litany of what can happen under this legislation: We will lose two-thirds of the sea contiguous to the Kimberley. What nonsense! Two-thirds is claimable, but members know that it will not be granted.

Hon. N. F. Moore: Why not?

Hon. ROBERT HETHERINGTON: Because it does not make sense. As far as I am concerned a great deal of nonsense has been spoken. I have more trust in the sense of the Aboriginal commissioner than members of the Opposition do. I am not looking at nasty plots.

Hon. N. F. Moore: You cannot prove a thing.

Hon. ROBERT HETHERINGTON: I cannot prove anything and neither can Hon. N. F. Moore.

Hon. N. F. Moore: Therefore my arguments have just as much validity as yours.

Hon. ROBERT HETHERINGTON: The difference is that I know that the Premier is a man of goodwill.

An Opposition member: He is running scared.

Hon. ROBERT HETHERINGTON: He is not running scared at all. We were asked earlier why, when this proposal did not seem to be very popular, the Government was introducing land rights legislation. I say that on a matter of principle we feel we should try to achieve our aims. We have tried long and hard and tried to negotiate with everybody who would listen. We would have negotiated with the Liberal Party. I do not believe every Catholic church will be whipped away or that the High Court judge who will be an Aboriginal commissioner will grant all the land to Aborigines. It is not a matter of practical politics and it will not work that way. I do not believe that 46 per cent of Western Australia will be granted to Aborigines and even if 46, 47, or 48 per cent were granted there would still be plenty for the rest of us. I do not believe it will happen and I see no reason why it should happen. I see every reason why it will all be claimed because belonging to a trade union party I know about the ambit claim and negotiation. Ultimately commonsense is likely to prevail. I know, as every other member knows, that if this legislation were passed we would in due course find fault with it and modify it.

I think Mr Pendal made a very good Committee stage speech. I only wish he would let this Bill go into Committee where we could debate the detail he was discussing and we might get something done about it.

Hon. P. G. Pendal: Which is more than what you are planning.

Hon. ROBERT HETHERINGTON: I am interested in seeing why we should have a Bill like this. At this stage of the night, when I have heard the other speeches, there is not much point in talking about the details of the Bill. I was hoping to attract some spark of goodwill on the other side of the House, when I might take the first step in a development which might lead to a bipartisan approach to this matter one day. I am quite serious here; we have to do it. We do not have to say we will look after Aborigines; that is paternalism. We should look to see if there is a way where we can help Aborigines to help themselves and develop themselves.

Of course we will make mistakes, as we have done in the past. Mr Pendal and I know that with the best will in the world we have made terrible mistakes. We are now trying to rectify those mistakes. If the honourable gentleman thinks about it he may find this is where we could rectify some of the mistakes—not all of them, because we have much to do before we can walk proudly when we think of the way in which we are dealing with our Aboriginal people.

At present they are the poorest members of our society, as my colleague Kay Hallahan pointed out. There is a higher percentage of Aborigines in the gaols than their numbers warrant, and there are all sorts of reasons for that. It may be that they are not being treated equally under our laws.

When one talks about equality, Aborigines were treated equally according to the law when Europeans first settled the country. Seeing our law was that one should own blocks of land and put horses and cattle on them, we dispossessed the Aborigines of their land to treat them equally. That kind of equality merely destroyed them.

Let us now get back to the kind of equality which will allow them to have real dignity and equality. To do this we must have unequal laws to make them equal.

This is not apartheid. This is not forced segregation. I hope I live to see the day—which gives us about another 33 years—when the Aboriginal population is integrated with our community—not assimilated but integrated—and we treat Aborigines as human beings in this society of ours.

I commend the Bill. I ask members opposite to think if they might vote for the second reading, even if they do not vote for the third reading, and have a look at it in Committee. If they are not prepared to do that I ask them to read some of our history and think about the special position of the Aboriginal people and the treatment we need to give them to make them properly equal.

HON. E. J. CHARLTON (Central) [1.25 a.m.]: Undoubtedly a great many of the comments made tonight have been very extreme. While I can agree to a great extent with some of the comments made by Government members, they are over-simplifying a great problem which confronts this nation in dealing with the problems of Aboriginal people.

I may not have had a lot of experience of Aboriginal transition in the northern areas of the State, but I have certainly in the southern half of the State. When we talk about the Aboriginal Land Bill it seems to me to deal with a very great area of the Aboriginal needs. It deals only with a small minority of people but with a large area of land.

The Government has gone too far and way out of bounds in trying to deal with a serious problem in what it has prescribed in the Bill. The situation is undoubtedly concerned with the special needs of the people as far as the allocation of land is concerned. The first requirement would have to be that this small group of Aboriginal people specified in the Bill needs to have freehold land. The Bill does not do that. It gives an opportunity for them to claim land in the areas of Crown land. So the first part of the Bill does not give continuity; it does not give stability to these people who have been disfranchised over a great many years.

When we hear comments about the great disservice to the Aboriginal people and the way in which they were treated at the time of the first settlement of Australia by white men, that is undoubtedly true. But that has happened the world over. People the world over have been dispossessed of their land, and a great many atrocities have occurred and are still occurring. One reads in the paper of 22 million people who have been killed since the Second World War.

Putting forward a piece of legislation like the present Bill to overcome what has happened in the 200 years which have elapsed since the changes were made in this country does not go anywhere near to overcoming the problem; it creates further problems. The day will come when we will see legislation before the Parliament which will do something towards overcoming the problems the small minority of Aboriginal people face in the vast country areas.

What worries me, as well as the view I have mentioned, is that the genuine Aboriginal people are being very wrongly advised by a great number of so-called advisers. The points which have been mentioned on both sides of the House tonight about the areas which will be claimed, who will be claiming them, and the groups of Aboriginal people who will be involved, do not give me any confidence that just because of the problems of the

past we have to do what is proposed in this legislation. I have no confidence that as a result we will have a group of people able to hold their heads up in the twenty-first century, feeling they have overcome the problems of the past. We are trying to overcome those problems by creating many more.

When we talk about the problems of the Aboriginal people, we can see what happens when groups of Aboriginal people are given houses or health services to overcome some of their problems. One can do it in that way, but the problems of the past are not overcome just by giving such things to these people.

With regard to the land, the genuine people should have land; it should be freehold, and it should be through their heritage or through their history that they can claim some land and be given title to it.

As I see it, though, this legislation does not do that.

Over a number of years Governments in Australia have not performed very well in their dealings with Aborigines. The previous speaker referred to the number of Aboriginal people in gaol, the drinking problems of Aborigines, and the like. Tonight we heard about the great step which was taken when Aborigines were given equal rights and the host of implications which were part of that. However, a great number of Aborigines have suffered as a result of the granting of those equal rights. I do not suggest that those rights should not have been granted, but the way in which it occurred meant that in some ways the result was worse than the previous position.

It is clear a similar situation will obtain if this legislation is passed. However, that does not mean that one should bury one's head in the sand and do nothing about the matter. A small group of people is involved in this legislation and it is of no use to make claimable a vast area of the State. Some people say that the land which is claimable is useless, therefore, we should give it to the Aborigines; but that is a very narrow-minded outlook and takes into account only the position today. It is true that 200 years ago one would have made various suggestions about land which was considered then to be useless.

I would like to see Aborigines given land which was of use to them so that they could establish a stable lifestyle. It must be understood also that no-one can live in the past and time does not stand still. Just because members of the Aboriginal race have a long history in respect of the land in this country and some people believe that Aborigines have not progressed—for want of a better word—it cannot be taken for granted that, if we give them an area of land, they will live as they did 200 years ago. They will not and, indeed, they do not want to do so.

If a commonsense approach is taken to this matter, Aborigines will combine the use of the land with aspects of their culture to achieve what they consider to be and what everyone else in the community sees as a better way of life.

This legislation will do nothing to overcome the problems of Aboriginal people. The Bill seeks to allocate land to a group of people in an endeavour to undo some of the wrongs perpetrated in the past. It is clear from past experience that such measures are never successful and it is unlikely such a measure would achieve success in the future. If we continue to look at the matter in that light, no worthwhile legislation will be forthcoming.

We must analyse the position of the people involved. It should be remembered that today few people want to live in the country. Daily people are moving out of country areas and are heading for the cities. This applies to Aboriginal and non-Aboriginal people. That trend is occurring because it is easier and cheaper to live in the city than in the country and better facilities are available.

Only a very small minority of people want to live in the outback of Australia whether it be in the Kimberley or 100 miles out of Perth. That minority should be given the opportunity to select land to which they may have freehold title. That land should be purchased through the Federal Department of Aboriginal Affairs, by means of a heritage Act, or in some other way. However, if we seek to solve the problems of the past in the manner set out in the Bill, we will not achieve the positive result which is desired by the great majority of Australians.

HON. V. J. FERRY (South-West) [1.35 a.m.]: I will not take up a great deal of time in this debate, because many points have been canvassed already. However, I shall record my position in regard to the Bill. I speak with the sure knowledge that the people in South-West Province oppose legislation of this nature; I speak with the sure knowledge that the great majority of Western Australians will not have a bar of it; and I speak from my personal point of view which is that what the Government seeks to do is not right for the citizens of Western Australia at present or in the future.

We cannot change the past or turn back time. Indeed, we cannot change the course of history. It has been said that unallocated Crown land in the South-West Land Division is the subject of examination by local authorities. They have been given

a certain time within which to determine whether they have a legitimate purpose for such land.

One would assume that any land which is not designated by local authorities would be the residue and what might be described as "useless land". If it is the Government's intention to give virtually worthless land to a race of people to improve their standard of living, such an intention is based on rather strange reasoning.

One could carry such a suggestion to the ultimate conclusion that the whole of Australia should be given back to the Aboriginal race. As I said, we cannot turn back the pages of history. The Australian population is made up of people with many different racial backgrounds. There is no hope for this nation unless its people work together as one race.

I do not intend to sell the people of Western Australia down the drain by supporting legislation which is based on race alone. I, along with other members, have seen a great deal of misery in other countries which exists as a result of racial problems. It is not necessary to cite the countries where this has happened in the past, still happens, and will continue to happen in the future. I do not want my fellow Australians of whatever ethnic origin to suffer in this way; therefore, I oppose the Bill.

HON. PETER DOWDING (North—Minister for Employment and Training) [1.39 a.m.]: The Legislative Council has a reputation for conservatism. Over the years it has established a very sorry history in respect of Aboriginal affairs. In its debates, the Council has been the recipient of some of the worst and most racist attitudes that have ever been expressed in public life in Western Australia. When we have debated issues about citizenship and about votes for Aborigines and about votes for women, the Legislative Council has been at the forefront of the conservative groups which have opposed those reforms.

The speech tonight by Hon. Norman Moore illustrates the deep conservatism that resides in some sections of the Western Australian Liberal Party and illustrates further the rigid, narrow, and uncompromising attitudes that Mr Norman Moore and the Leader of the Opposition, Mr Bill Hassell, have espoused in this debate. It differs interestingly from some of the attitudes expressed by other Opposition members tonight. But the Opposition voice, as expressed by Mr Norman Moore, is a sort of anti-Aboriginal Thatcherism, a destructive, suspicious, and unbendable attitude, arrogantly certain of the right of the narrow views that Mr Moore and the Liberal Party in WA have espoused.

There has been no evidence of any willingness to even listen sensibly to the debate about Aboriginal land rights. There has been no evidence that since 1983 the Liberal Party in WA has taken any steps at all either to understand the debate or to participate in it. That augers badly for this State should the Liberal Party ever return to power, should the Moore-Hassell axis ever come to power. Fortunately some people in the Liberal Party do not like the deep and rigid conservatism we have heard tonight.

It is regrettable that the Opposition never once mentioned the frustration and the unfulfilled needs of Aboriginal people in this State for access to land. Members opposite never once mentioned the history that was so conveniently summarised in the last chapter of the Seaman report. We did not hear Mr Moore make reference to those issues. He preferred to deal with the past as though it was so distant as to be cushioned from the reality of the present. Nothing could be further from the truth.

The reason that Aboriginal people in this State by and large are landless is the direct result of specific Government policies which recognised what was happening to Aboriginal people and sought to ameliorate the effects of that by introducing special laws to give Aboriginal people limited rights.

The special laws contained in the Land Act which give Aboriginal people the right to move and hunt in traditional ways over unenclosed pastoral leases is a recognition that by granting pastoral leases to non-Aboriginal people the Aboriginal people were being dispossessed of an element of the title they had held since time immemorial. The need to protect the rights of Aboriginal people was recognised. Mr Moore conveniently glossed over those issues.

It is not irrelevant to consider in the context of this legislation why it is that Aboriginal people in the Kimberley make up over 40 per cent of the population yet have less than 10 per cent of the pastoral leases in the area. It is not because of history. It is a direct result of the policies of successive Governments, whether Labor or Liberal, which have over the last 100 years sought to deprive Aboriginal people in the Kimberley of access or title to their land. There is no gainsaying that position. It is regrettable that in 1985, one cannot persuade the representative of the Liberal Party on the issue of Aboriginal affairs to open his eyes and accept reality.

Who has had to play the role of making sensible suggestions to modify the demands of people with conflicting views of Aboriginal land ownership

and entitlement? The Opposition has not played any part in this process. The Opposition has sought to avoid its responsibilities by the artifice of suggesting that the Seaman inquiry's terms of reference were so narrow that there was nothing about which the Opposition could make submissions.

Nothing could be further from the truth. That is simply a gross misrepresentation of the position. The Opposition itself has said that it would not remove from Aboriginal people the entitlement that those people have to reserves presently vested in them. Surely that was an issue which could have been put to the Seaman inquiry; that is, a submission that no Aboriginal land grant should be made in excess of the existing reserves. But that was not a position the Liberal Party chose to take. Instead, it chose to hide behind an artifice and not declare its position or participate in a sensible, informed, and compassionate view of where we Western Australians are in 1985. The Liberal Party chose to erect the barricades and hide behind them.

It has apparently slipped past Hon. Norman Moore that his own party introduced the Aboriginal Communities Act of 1979. That Act was a piece of legislation designed to introduce special laws for Aboriginal people only, on special areas of land only. Nothing could be more of a law designed specially for Aboriginal people than the Aboriginal Communities Act. The architect of that piece of legislation has apparently been ignored by Hon. Norman Moore, because we did not hear one reference to that Act.

The Aboriginal Heritage Act provides special laws for special people and for the religion of special people—to wit, the Aborigines. We had an amendment to the Aboriginal Heritage Act in 1980 and it was supported by Hon. Norman Moore and Hon. Phil Pendal. But we heard nary a word tonight about that special law for special people and their special religion.

It was put up by Mr Moore that the very suggestion of a Bill for land for Aboriginal people was racist and discriminatory. Apparently he had no difficulty in supporting an amendment to the Aboriginal Heritage Act or supporting the Aboriginal Community Act.

It is the utter hypocrisy of the position taken by the Liberal Party in this debate which is so disappointing. There is no doubt that when we deal with a conflicting land use, be it a conflict between the farmers and the miners, between the urban dwellers and the farmers, between the people who want to use the Swan Valley for growing grapes and those who wish to use it for running horses or for residential subdivisions, there must be mechanisms for resolving those conflicts.

It is inappropriate to simply ignore the realities, which are that a substantial group within the community of Western Australia has by Statute, up until the mid 1950s, and thereafter by practice and certainly through economic deprivation, been unable to retain, recover, reclaim or utilise land with which its members have traditional affinity.

No group within the community of Western Australia over the history of this State has been discriminated against on the basis of race other than the Aboriginal people. No other group in our society can stand up today in this way and say that it is what it is because of the events of history both recent and past. No group is so repeatedly subject to racial discrimination in 1985 as are the Aboriginal people of this State.

It matters not whether they are the "problem" Aborigines as some people have referred to them tonight or whether they are perfectly respectable, perfectly sensible, and perfectly behaved models of mock-white people. It matters not. If they are Aboriginal, that they are liable to suffer discrimination.

If they are Aboriginal it is likely their parents are poor because they were made poor by the laws of this State. If they are Aboriginal it is likely their parents will be ill-educated and in many cases they themselves will not have had an opportunity to go to school. It is the case that in 1985 the Education Department, to its shame, is not able to teach in any school in WA with a qualified teacher, the *lingua franca* of the area in which that school exists.

It is a fact that white people in WA, by tradition, by legislation, and by practice, have repeatedly discriminated against Aboriginal people in every single form imaginable.

Is it proposed that this piece of legislation which is designed to have a minimal effect on the wider community, which is likely to impact not at all on the wider community, is racist because it gives a small advantage to a number of Aboriginal people in this State? What is so appalling about the position that we have heard tonight from this reactionary group of Liberals as expressed by Hon. Norman Moore, is that it is utterly out of kilter with the majority view expressed by their own political organisation throughout Australia.

Even the Premier of Queensland—God rest his soul—who is not a man for whom I have a lot of time politically, is prepared to introduce a piece of legislation which recognises the special position of Aboriginal people in relation to their land. There is no doubt there is plenty to criticise in the

Queensland Aboriginal land legislation, but it is nevertheless a recognition of the rights of these people. The Opposition is not prepared to make this recognition that special rights and entitlements should be given to Aboriginal people in that State.

The Chief Minister of the Northern Territory is supportive of the WA Government's land rights legislation. It is his view that the legislation is good and that it drives a reasonable course between the rights of Aboriginal people and those of the rest of the community. It is his view that there is a sense of equality and justice about the objectives of this legislation. That is not a view shared by the conservative elements of Australian Liberals situated in Western Australia.

Furthermore, at a State level in South Australia, legislation was introduced by the Liberal Party to give Aboriginal people in the Pitjantjatjara area land rights far in excess of the rights which are proposed in this legislation.

Furthermore, there is a clear commitment in Federal Liberal Party policy towards Aboriginal land rights in Australia; yet the conservative elements, the deep "Right" in the deep west, are prepared to fight against it on the most spurious ground imaginable; that is some appeal to racism.

Hon. P. G. Pendal: Eighty per cent of the public support us.

Hon. PETER DOWDING: There is no doubt that the racist expressions we have heard tonight—

Hon. Kay Hallahan interjected.

The PRESIDENT: Order! Hon. Kay Hallahan repeatedly defies the orders of this House. She knows that she is not permitted to interject and that she certainly is not permitted to interject when she is sitting in another member's seat. I suggest that she rectify that situation.

Hon. PETER DOWDING: This deeply conservative group within the Liberal Party has sought to persuade the public that there is something inherently racist in this legislation. They have sought to make the most grave distortions of the truth in order to achieve this objective.

Let me take first of all this concentration on the sort of statistics that Hon. Norman Moore trundled out and which their copywriters have inserted in the dreadful alarmist pamphlets that have circulated in the State over the last few years. The suggestion is made that less than three per cent of the population of Western Australia will own more than 40 per cent of the land mass of the State. That is an utterly ridiculous statistic because it has nothing to do with the legislation before this House.

Hon. N. F. Moore: It has everything to do with it.

Hon. PETER DOWDING: Vestey Corporation owned a land mass the size of New South Wales. Was this indicative of some gross disparity of right, some disproportionate entitlement of ownership? I have never heard Hon. Norman Moore grizzling about that, or about Mr Peter Sherwin who owned, and perhaps still owns, areas of the Kimberley and the Northern Territory equal almost to the entire area of the pastoral stations of the Kimberley. Did we ever hear an objection from the Opposition?

Here we are permitting, under the Land Act, one man to own a large land mass and I did not hear such a suggestion. Is it suggested that because one group or company owns a large mass of land under some title that something evil is involved? The reality is that one group of Aboriginal people may own less than a hectare of land. A group of seven Aboriginal people may have an entitlement to the entire central reserve.

Of course, it must always be remembered in the debate about the volume and area of land that we are dealing with, that the Liberal Party itself will not retain the boundaries of existing reserves, so we look at a position where something in excess of 21 million hectares are to remain owned, or the title to which is to be owned, by or on behalf of the Aboriginal community of Western Australia. It is pure hokus pokus to suggest that there is something evil about a percentage of the State being held by a certain number of people. It is irrelevant to the real debate of whether or not Aboriginal people should have a right to a title because of their traditional links with the land or their long association with it and their Aboriginality, and that is the issue that the Liberal Party has conceded is correct.

The central issue of the legislation is whether Aboriginal people, by reason of their Aboriginality and their particular association with an area of land, should have title to it, and the Opposition has conceded that that should be the case. The Opposition has conceded that the reserves should remain vested in or on behalf of the Aboriginal people of the State.

The other element of this conservative wing, the right wing of the Liberal Party, is of course our own equivalent of the PR machine—Hon. Phillip Pendal. His passionate defence of Bishop Jobst was very interesting. No doubt the good Bishop flew down from the Kimberley and wound up Hon. Phillip Pendal with an expression that Hon.

Phillip Pendal thought was an expression of the general voice of the Catholic Church in Western Australia.

Hon. P. G. Pendal: No, you mucked it up again.

Hon. PETER DOWDING: With all due respect to Hon. Phillip Pendal, let me inform him that I was in the Kimberley as recently as last Friday and was approached by five separate senior members of the Roman Catholic Church organisation there. These people were universally opposed to it—they were embarrassed and concerned—by the views that Bishop Jobst put in the newspaper; they dissociated themselves entirely from them, and said that it was the view of the Catholic Church, with very few exceptions in the Kimberley, that the stance of Bishop Jobst was entirely unjustified and incorrect and that the Aboriginal people had a right to decide whether or not the church should remain for their spiritual benefit and comfort. They also believe, because of their relationship with the Aboriginal people of the Kimberley, that in most, if not all, of the areas in which they can offer spiritual ministrations, the Aboriginal people would wish them to remain. They also acknowledged that if Bishop Jobst continued the path that he took and had taken over a number of years, he would receive an ever-diminishing welcome.

Hon. P. G. Pendal interjected.

The PRESIDENT: Order!

Hon. PETER DOWDING: The Roman Catholic Church—certainly its hierarchy—almost without exception, approves of this legislation. The view of the missions is that the Aboriginal people have a right to decide whether churches should remain or not, and despite the valiant objections of Bishop Jobst to prevent that democratic process proceeding, it has proceeded in many communities and the church has been welcomed, in the main, in a spiritual capacity so long as it is understood that it is welcomed in its spiritual capacity and not in a colonial capacity. That distinction is one that Bishop Jobst, with all due respect to the order, finds very difficult to understand.

Hon. P. G. Pendal: What did your Government do about that?

Hon. PETER DOWDING: Quite frankly, the regrettable aspect of Mr Pendal's racism as he has expressed it tonight is his own inability to understand that Aboriginal people might have a point of view; and the point of view that they might wish to put is that the church is welcome to stay so long as that which was given to the Aboriginal people via the church is available to be claimed by the Aboriginal people. Those gifts, bequests, allowances, and payments that were given to the church for and on behalf of the Aboriginal people of Western Australia in the relevant areas ought to be available to those people and not withheld from them.

It is also remarkable that so many members in this Chamber have suddenly got some sort of legislative amnesia. Because we are dealing with a Bill which has "Aboriginal" included in its title, suddenly there is a suggestion that, as a matter of principle, we ought not legislate for any specific group in the community. I invite members to read the index to the Statutes of Western Australia, and they will find legislation relating to the potato growers of the south-west, the Preston Road district returned soldiers, the Roman Catholic Church, and the Returned Services League—there are hundreds of examples of pieces of legislation for specific groups in this community who, for one reason or another, seek to have their entitlement, right, or need, recognised by this House. So, it is absurd to suggest that because this piece of legislation is not of universal application, it is somehow racist or unfair.

The fact is that the Opposition has muddled its own logic. It has conceded the Aboriginal entitlement to land through its acknowledgment and maintenance of the reserves system. It is confused, because apparently it agrees with having separate land for Aborigines; but nevertheless when one piece of legislation seeks to pull some of these principles together, it shies away and declines to discuss even the principle of it.

The other aspect of Mr Moore's rather petulant speech—characteristically unwilling to give the Government any kudos for the very significant efforts it has made to reach a position which will progress us into the twentieth century—is the uncharitable view that he took of efforts to acknowledge the position of local authorities and the like. The suggestion of a sort of McCarthyite fear that something else was around the corner, and so supporters of this legislation had been duped by the Premier, was of course nonsense. The reality is that the move the Government is making is to place the position of land held by Aboriginal people as far as practicable on a par with land held by other people. Given the special needs and the special characteristics of the title we were speaking of, we nevertheless sought to put it on as fair a position as possible with other landholding rights. Certainly, from the point of view of the local authorities, we were to see a move towards giving them the option of rating the land and being able to recover the rates in a variety of ways short of the sale of that land.

The interesting thing is that so many of the shires in the Country Shire Councils Association support the legislation, but the majority of the

shires in the wheatbelt—the area which would feel the least impact of the Aboriginal Land Bill, the areas of Western Australia which would be minimally affected by the legislation that we are asked to pass tonight—were opposed to the legislation; but the shires in the north of the State were, by and large, supportive of it.

I was at a gathering of tourist interests in Derby a fortnight ago, and another of the PIA at which were all of the pastoralists in the West Kimberley in Derby last Thursday; and there was a very substantial feeling that this legislation was an opportunity for Western Australians to address the present needs, rights, and attitudes of both Aboriginal and non-Aboriginal people. The people were afraid that the Liberal Party would blow it for them. I regret that it appears from the speeches tonight that they were right.

It is not an odd thing that the Pastoralists and Graziers Association, when passing a motion as an organisation dealing with pastoral property landholders, would limit its concurrence to the Bill with the rider that it is supported inasmuch as it relates to any conflict with its professional interests, as it were. In my view, it would be quite inappropriate for it to express any other view as an organisation representing pastoralists. Hon. Norman Moore cannot avoid the fact that the Pastoralists and Graziers Association supports this legislation; and by and large its members are the people who are at the interface between the Aboriginal people who are the subject of this legislation and the wider community. Members of the PGA have supported this legislation.

It is also interesting that those people have supported the provisions for excisions. They are happy with the provisions of this legislation for excisions for Aboriginal communities. It is a nonsense for Mr Moore to suggest that he has any right to protect their interests further than they wish them to be protected. It is quite interesting that when Mr Moore focused on the discussion about the excision powers under this Bill, he did not raise for a moment the question of the dislocation of Aboriginal people when the pastoral leases were granted and when they were subsequently enclosed. His only interest in the debate tonight was to raise the issue of dislocation of pastoralists if and when excisions were granted. Even Hon. Norman Moore should know that when the Land Act was passed, a provision which entitled Aboriginal people to roam and to hunt on unenclosed pastoral land meant effectively that the Aboriginal people had the run of almost the entire pastoral lease. At the turn of the century, and until the last 20 years, it was never the case that pastoral leases were fenced or enclosed. The only areas that were enclosed were, traditionally, the homesteads or substantial improvements like shearing sheds. When that piece of legislation was enacted so many years ago, it meant that pastoral people were granted a lease which did not interfere with the traditional rights of the Aboriginal people.

Apparently Hon. Norman Moore is not even prepared to recognise the effluxion of time and the changes of practice in the pastoral industry which see the need to revise those laws. Effectively, so much of pastoral land is enclosed now that these provisions no longer have any meaning, although it is still the case that the Aboriginal people in my electorate and in Mr Moore's utilise hunting and food gathering as a very important social activity and as a very important aspect of their social cohesiveness as well as the economic utilisation of the land. They have been deprived of that economic utilisation, and that makes them even more dependent on the welfare state.

Members might be interested to know that a detailed study was done of the economic return from an area of common in the Northern Territory called the Borroloola Common. The Aboriginal community had used the Borroloola Common to hunt and gather food for themselves as part of their ordinary day-to-day activities. In order to make a decision on whether that land should be handed over for pastoral grazing, it was assessed that the common could return $100 000 each year by way of return from pastoral activities. When the value of the food gathered from the Borroloola Common was assessed—the value of the actual food collected by Aboriginal people in their normal social utilisation of the common—it had a value of $2 million. So, there was a very significant economic benefit of which the Aboriginal people would be deprived if the areas of land on which they have customarily gathered food were fenced off.

We are effectively denying Aborigines access to the vast areas of pastoral stations, and since the Opposition has so much of a problem with the special provisions relating to national parks, we are denying them the economic utilisation of those areas. Yet Hon. Norman Moore rather scathingly urges them to stop being welfare recipients.

In relation to his comments about the $2 billion that has been given to Aboriginal people, I point out that he wrapped that figure in a very convenient way that ignores reality. He lives in the metropolitan area and is the recipient of millions of dollars of value that is poured every year into the metropolitan area. The Aboriginal component is for water supplies, houses, roads, education, health, and the things that people in the cities and

towns take as a matter of course and would be most offended if someone added them up and suggested they were all bludgers on the system.

The town of Kununurra was costed at about $20 million a year to run in order to support the Ord scheme and the town. Yet no-one suggested there was some sort of bludging aspect in that. When Mr Moore deals with Aborigines his true colours come out and he chooses to degrade them in the eyes of the community.

Hon. N. F. Moore: That is untrue.

Hon. PETER DOWDING: It was interesting tonight also to hear the veiled threat that this conservative and deeply right-wing member of the Liberal Party chose to raise in the debate—that the Liberal Party would have a look at the issue of entry onto Aboriginal reserves. The Liberal Party apparently objects to the trespass provisions being appropriately applicable to Aboriginal land. Yet it was the Liberal Party which passed the trespass laws in this Parliament. Is it to be said that Aboriginal people are to have a lesser right to prevent trespass than others? Apparently it is.

I regret to hear how little progress people like Mr Moore have made towards a sensible assessment of the issues. I was interested to hear from some other members of the Opposition views I would describe as perhaps misinformed, perhaps ill-educated, but at least views expressing a concern that perhaps we had not proceeded down the right path to date and needed to review our policies. We did not hear any of that from Hon. Norman Moore who becomes isolated from even the moderate wing of his own political party.

If ever there was an illustration of the need for education and understanding on these issues it came from Hon. David Wordsworth. I think he said there were only three white people in the Kimberley in the 1980s; I assure him things are different. I assume he meant the 1880s. The hardship experienced by the first white settlers in the Kimberley is well documented. The hardship experienced by Aboriginal people when the first white people came in and started killing them is well documented. The killing and massacre of women and children as well as adults is well documented until the 1930s.

We can sit and watch films like "Gallipoli" and glory in the relevance of that to our fathers; some members opposite probably used to read about events at Gallipoli in the newspapers. We can glory in the events of the Depression, the mateship and the Australian ethos of the Depression, and take an interest because of the relevance to our present community. But when it comes to analysing the massacres of the Kimberley in the 1930s we like to place cotton wool between us and those events and say they are historic and irrelevant and an example of man's inhumanity to man. With respect, I find that difficult to accept. If members who embrace those views had given them more thought, I believe they are men of sufficient goodwill to share my concern about them.

The Government deeply regrets the Opposition's position on this Bill. The Government wished there to be a spirit of compromise emanating from the Liberal Party in Western Australia. We realised it had put itself out on a limb *vis-a-vis* its Federal and other colleagues. We nevertheless hoped there would be some move towards reasonableness. We gave it the opportunity with the Seaman report. The Liberal Party had an opportunity to participate in a dialogue.

Hon. N. F. Moore interjected.

Hon. PETER DOWDING: The member has obviously had a lot of difficulty understanding or listening to or being prepared to admit into his brain the points I have made. Mr Moore has conceded an issue dealt with by Mr Seaman—that land should be retained by Aboriginal people by way of reserves with existing boundaries and rights. He apparently concedes that the Aboriginal Communities Act should remain. Those were two issues directly relevant to Mr Seaman's terms of reference in respect of which the Liberal Party could have participated. Given that it was the Government's view that it would introduce legislation, the Liberal Party was given an opportunity to participate in the drafting process and declined.

It is interesting to note how much of the community of Western Australia was prepared to participate. It is interesting to note how far the Western Australian Government was able to persuade groups with such disparate views as the Pastoralists and Graziers Association and the Aboriginal Lands Council to sit down and discuss the issue.

In a sense the failure of this Bill if it does not pass this House is also a triumph for the Burke Labor Government's ability to get the majority of the people of Western Australia, perhaps for the first time in history, to have a serious, fair, sensible, intelligent, and compassionate view of a problem to which we have all contributed in the past and to which we must contribute solutions. That in a sense will be the triumph, whatever the extreme right of the Liberal Party does tonight.

Question put and a division taken with the following result—

Ayes 11

Hon. J. M. Brown	Hon. Robert Hetherington
Hon. D. K. Dans	Hon. Mark Nevill
Hon. Peter Dowding	Hon. S. M. Piantadosi
Hon. Graham Edwards	Hon. Tom Stephens
Hon. Lyla Elliott	Hon. Fred McKenzie
Hon. Kay Hallahan	*(Teller)*

Noes 17

Hon. C. J. Bell	Hon. Neil Oliver
Hon. E. J. Charlton	Hon. P. G. Pendal
Hon. V. J. Ferry	Hon. I. G. Pratt
Hon. Tom Knight	Hon. W. N. Stretch
Hon. A. A. Lewis	Hon. P. H. Wells
Hon. P. H. Lockyer	Hon. John Williams
Hon. G. E. Masters	Hon. D. J. Wordsworth
Hon. I. G. Medcalf	Hon. Margaret McAleer
Hon. N. F. Moore	*(Teller)*

Pairs

Ayes	Noes
Hon. J. M. Berinson	Hon. G. C. MacKinnon
Hon. Garry Kelly	Hon. H. W. Gayfer

Question thus negatived.

Bill defeated.

Hon. Peter Dowding: Shame!

BUNBURY RAILWAY LANDS 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) [2.22 a.m.]: I move—

That the Bill be now read a second time.

As part of the Government's commitment to the "Bunbury 2000" concept, Westrail has moved its operations out of the Bunbury city centre to new facilities constructed at Picton. Clearance of the railway area in Bunbury is almost complete.

The purpose of Westrail moving was to enable expansion of the Bunbury central business district and development of the foreshore area. The land involved is mentioned in this Bill in its several parts and is delineated on Lands and Surveys public plan: Bunbury 01:33, 01:32, a copy of which I now table.

Tenure of this land is quite complex at the present time, consisting in the main of land resumed in 1893 for railway purposes and vested in the Commissioner of Railways, freehold land held by the commissioner, road reserves, portion of an "A"-class reserve, portion of a "B"-class reserve, and two "C"-class reserves.

The Commissioner of Railways, supported by the Under Secretary for Lands and Surveys, has recommended to me that special legislation is the most practical and prompt way of establishing ownership of the property to be disposed of. This will provide a composite historical record and will avoid what might otherwise be a time-consuming and complex exercise.

For the past 15 months negotiations have been proceeding between Westrail, the Bunbury City Council and other organisations including the Lands and Surveys Department and the South West Development Authority, and agreement has been reached about future uses for the whole area. An amendment—No. 19—to the City of Bunbury town planning scheme No. 6 has been prepared giving effect to these changes in land use purpose and has been approved by the Minister for Planning.

The proposals as agreed provide for exchange of land between Westrail and council, vesting of land in council, closure of existing roads and opening of new roads, and disposal of land by the Commissioner of Railways.

Briefly, the railway land between Stirling and Clifton Streets, and including the existing Blair Street, will be subdivided into four new lots and rezoned to central business district, commercial B, special use, arterial roads, local roads, parks, and recreating and drainage. Blair Street will be reconstructed fronting the foreshore.

All of the land will be subdivided in the normal manner and the area rezoned for commercial purposes sold by the Commissioner of Railways. Proceeds will be used to offset Westrail's costs in re-establishing its operations at Picton.

The existing Bunbury Railway Station will be retained, upgraded and vested in the Bunbury City Council and used as a tourism centre.

In commending the Bill to the House it is stressed that the legislation has the full support of the Bunbury City Council, the South West Development Authority and Westrail. It will greatly facilitate the completion of the project and the early establishment of substantial commercial developers.

I commend the Bill to the House.

The plan was tabled (see paper No. 563).

Debate adjourned, on motion by Hon. V. J. Ferry.

OFFENDERS PROBATION AND PAROLE AMENDMENT BILL

Returned

Bill returned from the Assembly without amendment.

ADJOURNMENT OF THE HOUSE: SPECIAL

HON. D. K. DANS (South Metropolitan—Leader of the House) [2.25 a.m.]: I move—

That the House at its rising adjourn until 2.15 p.m. today (Wednesday).

Question put and passed.

House adjourned at 2.26 a.m. (Wednesday).

QUESTIONS ON NOTICE

SHOPPING CENTRES

Overseas Ownership

745. Hon. TOM McNEIL, to the Minister for Employment and Training representing the Minister for Planning:

(1) Will the Minister advise which shopping centre complexes are either partially or wholly owned by overseas interests?

(2) Is the Karrinyup shopping centre directly or indirectly owned by Arab interests?

(3) Is it the Government's intention to introduce legislation to control foreign investment in shopping centre developments?

Hon. PETER DOWDING replied:

(1) and (2) This information is not available within the governmental instrumentalities in my portfolio.

(3) No, but investments are monitored by the Commonwealth Government through the Foreign Investment Review Board.

PLANNING APPROVALS

Shopping Centres

746. Hon. TOM McNEIL, to the Minister for Employment and Training representing the Minister for Planning:

(1) How many shopping centre proposals were rejected by the MRPA but were later approved on appeal since 1980?

(2) How many shopping centre proposals were approved by the MRPA but have not been constructed?

(3) How many approvals have been granted by local authorities without reference to the MRPA for shopping developments above 3 000 square metres since 1980?

Hon. PETER DOWDING replied:

(1) Seven applications were refused by the Metropolitan Region Planning Authority but later approved on appeal between 1980-1985.

(2) The Metropolitan Region Planning Authority does not monitor the construction of approved applications.

(3) The Metropolitan Region Planning Authority is not advised in sufficient detail of approvals by local authorities to enable this information to be collated.

749. *Postponed.*

PLANNING: METROPOLITAN REGION PLANNING AUTHORITY

Retail Shopping Consultative Committee

751. Hon. TOM McNEIL, to the Minister for Employment and Training representing the Minister for Planning:

(1) Is the retail shopping consultative committee of the Metropolitan Regional Planning Authority still in existence?

(2) If "Yes"—

(a) how often in each year since 1980 has the committee met;

(b) how many shopping centres in the metropolitan area of a floor area in excess of—

(i) 1 000 square metres;

(ii) 5 000 square metres; and

(iii) 10 000 square metres

were approved and how many in each category were rejected by the Metropolitan Region Planning Authority: and

(c) what was the—

(i) number; and

(ii) total

floor area of shops for which approval was granted by local authorities without reference to the MRPA?

Hon. PETER DOWDING replied:

(1) Yes.

(2) (a) 1980 twice;

1982 once;

1983 once.

(b) I will be writing separately on these points to the member;

(c) (i) and (ii) The Metropolitan Region Planning Authority is not advised in sufficient detail of approvals by local authorities to enable this to be collated.

COMMUNITY SERVICES: HOME AND COMMUNITY CARE PROGRAMME

Funding: Guidelines

752. Hon. P. H. WELLS, to the Minister for Employment and Training representing the Minister for Community Services:

(1) Is it correct that funding under the Home and Community Care Programme

has been delayed until late May while guidelines are being prepared?

(2) In view of the fact that a number of community programmes which may benefit from these funds will probably have to close because of lack of funds, can the Minister speed up the setting up of guidelines of this fund?

(3) Will the Minister seek to allow, prior to 30 April, consideration of urgent funding needs of existing groups that may risk closure?

Hon. PETER DOWDING replied:

(1) There is no delay. No firm date has been given for distribution of funds under the proposed State/Commonwealth Home and Community Care Programme.

The process of negotiation between the Commonwealth and State Governments on the form of this programme is necessarily a protracted one and there are many complex issues to be resolved before the State Government agrees to commence the programme.

(2) All funds budgeted for under existing programmes for 1984-85 have been allocated. At this stage, it is incorrect to link the financial difficulties of any organisation to the proposed HACC Programme.

(3) It is not possible to allocate any HACC funds until a formal agreement has been reached between the State and Commonwealth Governments.

HEALTH: DENTAL

School Dental Service: Statistics

753. Hon. P. H. WELLS, to the Leader of the House representing the Minister for Health:

Can the Minister provide statistical data of the School Dental Service both in staff numbers, children examined and patients treated, for centres in the North Metropolitan Province?

Hon. D. K. DANS replied:

In 1984 staff numbers were—

3 Dentists

21 Dental therapists

17 Dental clinic assistants

In the same year 18 071 children were examined and treated.

SPORT AND RECREATION: CYCLES

Safety Campaign

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

(1) Will the Minister arrange for the National Safety Council or other appropriate departments to prepare media and other material aimed at educating both motorist and cyclist on road safety aspects to accommodate those commuters riding bicycles?

(2) Will the Minister seek to ensure that some of this material is aired on television in an effort to alert drivers of cars and riders of bicycles to their respective obligations to the other users of Perth roads?

Hon. J. M. BERINSON replied:

(1) The Police Department, through its Community Affairs Branch, is heavily involved in the education of push cyclists and motorists on the matter of push cycle safety, both in the country and metropolitan areas.

The Minister for Police and Emergency Services has agreed in principle to embark upon a campaign to make motorists aware of cyclists' rights and responsibilities on the road.

Details are being formulated in consultation with the Bicycle Policy Committee.

(2) It is proposed to use a significant amount of money raised through the Great Plate auction in June, to promote road safety through all media means.

The Government will also consider other education initiatives resulting from the Perth bikeplan study.

COURTS: PROCESS SERVERS

Licensing

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

Has consideration been given to the licensing of process servers, other than solicitors, for the service of Writs, Family Court processes, Local Court summonses and judgment summonses and Court of Petty Sessions summonses?

Hon. J. M. BERINSON replied:

No.

COURTS: PROCESS SERVERS

Bailiffs: Fees

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

(1) What increases in fees for service and execution of local court processes have been given to Local Court bailiffs in—

(a) 1980;

(b) 1981;

(c) 1982;

(d) 1983; and

(e) 1984?

(2) In that period, what has been—

(a) the inflation rates; and

(b) the increase in average weekly earnings?

(3) In the same period what has been the salary level and salary increases of assistant bailiffs who, in the case of some, are reportedly earning more than some bailiffs?

Hon. J. M. BERINSON replied:

(1) I am advised that bailiffs' fees have been increased as follows—

	Summons	Warrants
10/3/78	4.20	8.60
5/1/81	4.60	9.50
18/1/82	5.10	10.50
7/9/84	6.30	13.00

(2) (a) Using CPI increases, being Perth all-ordinaries, as a measure of inflation with the 1980-81 average as a base of 100, the increase to December 1984 quarter has been 34.7 per cent;

(b) average weekly earnings, WA all males index, recorded increases as follows—

1981-82—13.3 per cent
1982-83—13.1 per cent
1983-84— 7.9 per cent

(A new series commenced September 1981).

(3) Award rates of pay for an assistant bailiff with two years' service (maximum rate) are as follows—

21/7/80—$219.30
18/5/84—$311.90

COURTS: PROCESS SERVERS

Bailiffs: Fees

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

(1) Is it correct that he, or his department, has been examining the question of an external body to review bailiff fees?

(2) If so, what finality has been reached on the matter?

(3) What type of external body is being considered?

(4) If such a body has been set up, when is it to report?

(5) Who are the personnel who comprise this body?

Hon. J. M. BERINSON replied:

(1) A working party comprising representatives of bailiffs and Crown Law Department officers has been established to examine fee review procedures.

(2) to (5) Not applicable.

"EDWIN FOX"

Purchase

761. Hon. P. G. PENDAL, to the Leader of the House representing the Premier:

(1) Is he aware of reports that the sailing ship *Edwin Fox*, which reputedly brought convicts to WA in 1858, is still afloat in Shakespeare Bay in New Zealand?

(2) Will he urgently initiate discussions with the Minister for the Arts and the WA Maritime Museum and National Trust to see whether the *Edwin Fox* could be purchased and towed or otherwise brought to WA?

(3) Will he urgently initiate discussions with the Minister in charge of the America's Cup to see whether Commonwealth funds for the Cup defence could be used to buy and transport the wreck to WA?

Hon. D. K. DANS replied:

(1) The Government is aware of the reports concerning the *Edwin Fox*.

(2) and (3) Arrangements have been made for the Western Australian Tourism Commission to examine the member's proposal, in association with other appropriate areas of Government.

MEMBERS OF PARLIAMENT

Research Facilities

762. Hon. P. G. PENDAL, to the Minister for Employment and Training representing the Deputy Premier:

Would the Government be prepared to examine the idea of providing research facilities to members of Parliament either in the form of an extra staff member or in the form of a research grant?

Hon. PETER DOWDING replied:

The member's request will be examined in the context of framing the 1985-86 Budget.

767. *Postponed.*

MR J. J. O'CONNOR: CHARGE

Withdrawal: Minister's Letters

768. Hon. P. G. PENDAL, to the Minister for Industrial Relations:

(1) How many letters, under his reference 7393, were sent out relating to the Government's decision not to proceed with the charges against Mr John O'Connor?

(2) Were business houses the only recipients or were other groups of people on the mailing list?

(3) If so, what other groups of people received the letters?

(4) What was the cost of this operation in terms of—

(a) postage;

(b) stationery; and

(c) man power?

(5) Who instigated the move?

Hon. PETER DOWDING replied:

(1) to (5) After receiving a number of queries and requests for information from businesses and individuals about the proper interpretation of the decision by the Attorney General a letter was circulated to a number of businesses and individuals on my instruction.

The work was done in the normal course of operation of my office and no separate record of costings was kept.

GAMBLING: LOTTERIES

Advertising: Cost

769. Hon. TOM McNEIL, to the Minister for Racing and Gaming:

What was the cost in dollars of advertising spent during October 1984 on—

(a) standard lotteries;

(b) Lotto; and

(c) Instant Lotteries?

Hon. D. K. DANS replied:

(a) $18 401.

(b) $108 995.

(c) $27 934.

ROTTNEST ISLAND BOARD

Bike Hire: Takeover

770. Hon. P. G. PENDAL, to the Minister for Tourism:

(1) Was the decision to take the bike-hire business on Rottnest Island out of the hands of the private sector made independently of him or other members of the Cabinet?

(2) If not, on what basis was he or any other member of the Cabinet consulted?

Hon. D. K. DANS replied:

(1) Yes.

(2) Not applicable.

MINISTERS OF THE CROWN: ELECTORATE VISITS

Courtesies

771. Hon. A. A. LEWIS, to the Leader of the House representing the Premier:

(1) Is it still the Premier's intention that his Ministers show the usual courtesies to members when those Ministers visit the members' electorates?

(2) If so, why did not the Minister for Water Resources notify the two Legislative Council members for Lower Central of his visit to Collie and Greenbushes?

Hon. D. K. DANS replied:

(1) and (2) The courtesies referred to by the member are not usual. During the nine years the Minister for Water Resources sat on the Opposition benches there was not one occasion when he was notified that a Government Minister would be visiting his electorate.

Since the advent of the Burke Government such courtesies have been extended to members. However, it is not always possible for local members to be included in itineraries on every occasion a Minister visits an electorate.

AGRICULTURE: FARMERS

Demonstration: Pamphlets

772. Hon. A. A. LEWIS, to the Leader of the House representing the Premier:

What was the cost to the Government of the pamphlets distributed in his and the Minister for Agriculture's name at the farmers' march on Tuesday, 2 April 1985?

Hon. D. K. DANS replied:

The cost of printing the pamphlets was $403.

DISCRIMINATION: SEXUAL

Sport: Children

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

With regard to the Sex Discrimination Act and the sports performance capacity of children under 12 years of age, would the Minister advise—

(a) whether the State Government was making a submission to the Federal inquiry;

(b) whether restrictions were currently in force to rule out children applying to join teams because of their sex;

(c) whether children were permitted to join teams and be judged on their capabilities and not on their sex;

(d) which sports would remain free to make their own judgments on selection by sex; and

(e) which sports were to be considered single sex?

Hon. PETER DOWDING replied:

(a) No;

(b) to (e) inquiries regarding this matter should be directed to the appropriate body; i.e. the Human Rights Commission.

QUESTIONS WITHOUT NOTICE

RACING AND TROTTING

Race Meetings: Sundays

670. Hon. P. H. LOCKYER, to the Minister for Racing and Gaming:

(1) With regard to the Minister giving permission to the Pinjarra Race Club to conduct a meeting last Sunday, will the Minister explain to the House whether this is a sign that other race clubs can apply to conduct race meetings on Sundays?

(2) Will the Minister advise the House whether he will adhere to what has been the criteria in the past in giving consideration to Sunday racing for extenuating circumstances—for instance, will permission in the future apply to race meetings which have been washed out or which cannot take place because the result of such a meeting would be a burden on the club?

Hon. D. K. DANS replied:

(1) and (2) I take the member's question to refer to where a race meeting has had to be abandoned and the club seeks another date from me to conduct another meeting. What I will do, as I have done in the past, is to look at each case on its merits and make a decision accordingly.

RACING AND TROTTING

Race Meetings: Sundays

671. Hon. P. H. LOCKYER, to the Minister for Racing and Gaming:

Will the Minister give an unequivocal undertaking to the House that he will not consider applications from race clubs merely to conduct race meetings on Sundays for other than the reasons of which he has just informed the House?

Hon. D. K. DANS replied:

I thought I answered the question very fully. I will view every case on its merits—where a race meeting has had to be abandoned because of an earthquake, a volcanic eruption, a tornado, or it is washed out. That is what I have done in the north-west and what I did in relation to the Pinjarra Race Club.

For the benefit of the House, the meeting at Pinjarra was the last meeting for the year. Had it not been the last meet-

ing for the year I would not have made the decision I did. The only available date for the meeting was last Sunday. It is not the intention of the Government, at this stage, to allow *carte blanche* race meetings to be conducted on Sundays.

By the same token it amazed me that there were 5 000 people at the Pinjarra races on Sunday when the normal attendance for a big meeting which has stake money of $20 000 is 2 000.