Legislative Council

Friday, 18 December 1987

THE PRESIDENT (Hon Clive Griffiths) took the Chair at 10.30 am, and read prayers.

The PRESIDENT: Order! There seems to be a shortage of Ministers. I will leave the Chair until the ringing of the bells.

Sitting suspended from 10.33 to 10.35 am

RESIDENTIAL TENANCIES BILL

In Committee

Resumed from 17 December. The Deputy Chairman of Committees (Hon John Williams) in the Chair; Hon Kay Hallahan (Minister for Community Services) in charge of the Bill.

Progress was reported after clause 18 had been agreed to.

Clauses 19 to 21 put and passed.

Clause 22: *Presentation of cases* --

Hon E.J. CHARLTON: Before I move the amendment I have on the Notice Paper I point out that when an agent is representing an owner in the whole spectrum of the rental agreement it may be some years down the track before a claim is lodged, and the Bill specifies in this clause that the original agent must represent the owner, if there is any representation at all. I have discussed this with various people, including departmental officers, and I acknowledge that a problem exists. I was hoping by this time to have a further amendment printed. I can see there is a problem in specifying that one can have an agent who was appointed only the day before because it would encourage people to get someone with a legal background. We are not suggesting that is what we would like to see happen. The owner should be represented by an agent. I had in mind that the agent be the owner's agent for a period of three months. It is another angle to look at and I ask the Minister for her comment.

The DEPUTY CHAIRMAN (Hon John Williams): Does the member wish to postpone the debate on clause 22?

Hon E.J. CHARLTON: No.

Hon N.F. MOORE: The Liberal Party has an identical amendment on the Notice Paper for the same reason. As Hon Eric Charlton initially argued, we believe that there is a difficulty with subclause (2)(b). I do not understand the point of his concern because an agent cannot be a legal practitioner under the definition in subclause (6). I wonder whether he is of the opinion that an owner could get his agent to handle his case before the tribunal when, in fact, the agent is not a legal practitioner.

Hon E.J. CHARLTON: I agree with the point made by Hon Norman Moore. It may encourage someone in the real estate business to specialise in that sort of representation. He would not necessarily be a legal practitioner, but he would be specialised in that field.

Hon KAY HALLAHAN: I am pleased with the position that the honourable member is now adopting. It is true, as Hon Norman Moore said, that they will not be legal practitioners. If we do not put some time limit on it -- three months is proposed -- the honourable members suggest that we could have a new class of advocate whom the agent can get at the last minute to represent him, rather than his being genuinely representative of the owner's interests. It should be kept as an informal forum where either the owner or the owner's agent attends the tribunal. We do not want a new breed of agent/advocate which, ultimately, will result in quasi-legal representation. I understand it has been a problem in other sorts of situations where there is no time limit which indicates that the agent has a genuine interest in the matter.

Hon N.F. MOORE: I have not heard anything so extraordinary in all my life. If I were an estate agent and had a big portfolio of rental properties, the first thing I would do would be to become an authority on this Bill so that I could represent my clients in the way they expect me to represent them, bearing in mind they would pay me not only the equivalent of a three

weeks' letting fee, but also a percentage of the rental. For the Minister to say that we do not want a new breed of agent/advocate developing is a reflection of her naive view of the world. Of course they will become experts in this business; of course they will represent their clients to the best of their capacity before these tribunals. If a further amendment is moved which states that the agent has to be an agent for three months --

Hon Kay Hallahan: I am sorry, I did not have the amendment before me, but I have it now.

Hon N.F. MOORE: -- what happens if the agent dies within that three month period? I presume that the amendment to which we are referring has been foreshadowed, because the original amendment has not been moved. On a point of clarification; on the Notice Paper there are two amendments, both of which are identical. One is to be moved by Hon Eric Charlton and one is to be moved by me. I see that another amendment has arrived on my table which is to the same clause. Mr Deputy Chairman, could you give me some indication as to how you propose we deal with the amendments?

The DEPUTY CHAIRMAN (Hon John Williams): With regard to the identical amendments, Hon Eric Charlton's amendment was submitted before Hon Norman Moore's so we will deal with his first. As far as the new amendment which has just arrived is concerned we would have to deal with that first because it refers to page 16, line 17 while the other amendment refers to lines 18 and 19. If we do not do that, we will not have any continuity. Does Hon Eric Charlton wish to move the amendment which has just been circulated to the Committee?

Hon E.J. CHARLTON: Yes. I move an amendment --

Page 16, line 17 -- To insert after "that the agent" the following --

either (i)

Hon N.F. MOORE: It would be helpful if the member moving the amendment told us what it means so that we can have an idea about it before we vote on it. I am attempting to try to understand it. Paragraph (b) will read --

where the party is an owner, that the agent either --

(i) is the agent of the owner appointed at or before the time at which the residential tenancy agreement was entered into to manage the premises the subject of the proceedings on behalf of the owner.

Hon Eric Charlton has another amendment which will insert the following --

(ii) has been the agent of the owner for not less than one month prior to the lodging of the claim.

My understanding of these two amendments is that the landlord can be represented either by the agent who was the agent at the time of the tenancy agreement being entered into, or has been the agent of the owner for not less than three months prior to the lodging of the claim. I ask the member who has put forward this proposition why he is not prepared to proceed with his first amendment, presuming that he will not if this proposal is passed. Does he agree with the Minister's view that we should not have agents who are knowledgeable about these matters representing people in the tribunal? If the Committee agreed to Hon Eric Charlton's first amendment, paragraph (b) would read --

where the party is an owner, that the agent is the agent of the owner appointed to manage the premises the subject of the proceedings.

I cannot imagine the situation often arising -- if this is what worries the member -- of an owner sacking his agent five minutes before a tribunal hearing, appointing a specialist agent/advocate to look after his interests for the duration of that hearing and then going back to the original agent after the hearing. If we adopt the member's new proposal, it could either be the agent appointed at the time the agreement was set up, which will happen in most cases, or a person who has been the agent of the owner for three months. What happens if the agent for the owner dies within three months of the hearing or is unable to attend the hearing? The amendment precludes any other agent appearing on behalf of the owner apart from the original agent. What is wrong with the original amendment?

Hon E.J. CHARLTON: The original amendment was moved to allow the owner to be represented if something happened to the original agent. We must bear in mind that the

whole idea of the Small Claims Tribunal is that these disputes could be dealt with in a low-key environment and did not get into a court situation. That is the basis on which the National Party wanted the tribunal set up. The Bill specified that the owner's representative must be the original agent or the agent prior to the agreement being drawn up. Bearing in mind that that appointment could have been made 10 years previously, and anything could have happened to the agent in the meantime, for the reasons explained by Hon Norman Moore, we wanted the situation covered. Having heard of the complication from the other point of view where the owner may have changed agents, the owner can still appoint his current agent to represent him. That is only the second part of the situation because we feel that the owner should sort out the problem himself, and not have someone to represent him at all. However, we are leaving the original provision in but just including the provision that the agent must have been representing the owner for the previous three months. If, for example, the agent did die or go out of business within that three-month period, the owner could find somebody else to represent him. I do not think that is a problem. The whole idea of this clause is that the owner and tenant should sort out the problem in the Small Claims Tribunal. If the owner is not available he can appoint a representative, and the proposed amendment overcomes both problems.

Hon N.F. MOORE: I do not agree with Hon Eric Charlton. The fact that the Bill provides for an agent to attend means there will be circumstances when an owner is not capable of representing himself, perhaps because he has poor language skills or no capacity to understand the proceedings.

Hon E.J. Charlton: That applies to tenants too.

Hon N.F. MOORE: I agree, but I am not arguing about tenants at the moment. The Bill provides that an owner can be represented by an agent; that being the case, it should be provided in such a way that it can happen in every case. I have given an example where if somebody dies, a problem could arise. The owner can get someone else to represent him but that is not the point. Some people who own real estate which is rented out give the agent total control over the operation of those tenancies. That agent would be the most knowledgeable person about the tenancies and the Bill provides for him to represent the owner at a hearing. What is wrong with the Bill's providing as Hon Eric Charlton's original amendment and my amendment do, that the current agent of the owner shall look after the owner's interests at a tribunal hearing? The Minister may say that she cannot have that because the agent may become a specialist in these matters. If any agent is not prepared to become a specialist in these matters and argue logically in the court, he will go out of business because people will not engage him to look after their interests. Of course, a situation will develop where certain agents will understand the Bill and be capable of arguing its provisions in the court.

Hon Kay Hallahan: It is not a court, that is the whole point -- it is a tribunal.

Hon N.F. MOORE: It does not matter. If the Government does not want agents in the court why is this provision included in the Bill?

Hon Kay Hallahan: They have to be represented because sometimes it is not possible for owners to attend.

Hon N.F. MOORE: Exactly, and because owners can be represented by agents, agents will become better in the tribunal than anyone else because that will be part of the business of attracting owners to have residential tenancies as part of their portfolio. The problem cannot be solved by going down the path suggested by Hon Eric Charlton. I ask the Committee to reject the current proposition and to stay with the original amendment, which is eminently sensible.

Hon KAY HALLAHAN: People will go to the Small Claims Tribunal for a right of redress, but very often a conciliatory process takes place. Hon Norman Moore is not up-to-date with conciliatory processes. In order for these to succeed it is necessary to put in structures that will encourage a conciliatory-type process. If we allow an owner with a managing agent who receives a complaint from a tenant to whip out on the morning of the hearing and appoint an advocate, who is into the conflict model, that destroys the point of a low-level hearing. We seem to have lost sight of the provision in subclause (2) which states that --

A party to any proceedings may be represented by an agent or assisted by an agent in the presentation of his case if the referee hearing the proceedings is satisfied --

The clause then provides the referee with some guidelines about the appointment of the agent. I am happy to support the latest amendment put forward by Hon Eric Charlton. It provides the safeguard needed in such a decision-making forum and it overcomes the problem which Hon Norman Moore derides, but which experience has shown does develop. I ask members of the Committee to support the amendment from Hon Eric Charlton.

Hon N.F. MOORE: This is a very significant clause, and for the Minister to go on about the conciliatory approach and not letting anyone who knows anything about the law get involved in the process is absolutely and totally absurd.

Hon Kay Hallahan: Rubbish, I did not say that.

Hon N.F. MOORE: The Bill also allows lawyers to be used, if both parties agree.

Hon Kay Hallahan: They have to all agree, and that is the difference.

Hon N.F. MOORE: In one breath the Minister is talking about a tribunal, which is a socialist dream of all the legalese being removed, everyone nicely arguing the point and at the end of the day all agreeing, with everyone happy. It does not work like that, because we are dealing with money, and with heavy penalties. A person can be fined $2 000 if this tribunal makes a decision against that person. We are dealing with a very serious matter. The Minister is trying to keep out of this tribunal people whose job it is to be in it. They are the agents of the owner.

Hon Kay Hallahan: Rubbish! That is an inaccurate statement.

Hon N.F. MOORE: It is not rubbish. I tried to explain before, the reality of the rental system is that some owners put the total operation of their rental properties in the hands of an agent, and the agents carry out their business for them. Half the time the owner does not know what is going on with some of his properties. The Minister is now putting restrictions on which agent can represent the owner in the tribunal.

Hon Kay Hallahan: There would be no problem, because that person acting as an agent goes along to represent him. I do not know where your problem is.

Hon N.F. MOORE: Why do we have to have three months? What is wrong with the original amendment, which is that the agent is the agent appointed by the owner? There is no doubt that agents involved in this business of looking after rental properties will become the sort of experts the Minister does not want them to become. They will have to become those sorts of experts if they are to be in the business, because owners will not give their properties to useless agents, or to agents who are not able to put forward their arguments to the tribunal.

Hon Kay Hallahan: They will conduct that business. Owners will give their properties to agents who can go to the tribunal.

Hon N.F. MOORE: That will be the first priority. It is not only owners who will go to the tribunal, but tenants as well. If the tenant takes the owner to the tribunal, the owner would expect that the agent who is looking after his affairs, and perhaps has been doing so for many years, will be capable of winning the case.

Hon Kay Hallahan: Exactly!

Hon N.F. MOORE: That is why he has appointed him.

Hon Kay Hallahan: He will know the case inside out. That is what we want, but why should he be appointed that morning?

Hon N.F. MOORE: Why should he be somebody appointed that morning?

Hon Kay Hallahan: You are just painting the picture.

Hon N.F. MOORE: I doubt if that would need to happen. In fact it would not need to happen, because owners will appoint agents whom they know can handle themselves in these tribunals in such a way that more often than not they are likely to win the argument. That is the sort of business which this legislation will create. I wonder whether we should consider a further proposition which has been suggested as a compromise. I have just had a scribbled note provided as a suggestion. This is another reason why we should not be debating this Bill today.

Hon Kay Hallahan: This can happen at any time.

Hon N.F. MOORE: I know, but this is the sort of Bill which could be better handled by a committee outside somewhere. Perhaps we could proceed with the original amendment of Hon Eric Charlton, which was to delete reference to the agent having to be the agent appointed at the time of the agreement, and add words something like this at the end --

> and the owner, for the purposes of this section, has otherwise acted bona fide in appointing that agent.

That would mean that the owner could appoint an agent in the spirit or the intent of this clause, but would not cause problems which the three months' provision which Hon Eric Charlton is seeking could create in certain circumstances.

Hon Kay Hallahan: I would like to consider that suggestion.

Hon E.J. CHARLTON: What I was seeking to do originally was to make sure an owner was not restricted if he happened to change agents after the agreement was originally drawn up. If he had genuinely changed his agent, he should be able to use that agent. Adding the words about the period of three months would cover what we are setting out to do. I do not think Hon Norman Moore wants to have some other agent representing the owner; he wants the agent who is the representative of the owner at the time the claim goes to the tribunal. The situation may be that the owner would have to be there, but that would not be practical, for obvious reasons. We want to make sure that the owner has the opportunity to have someone represent him. The three months was suggested because no-one would want to appoint a representative the day before, because he would want to know the background and have continuity. If there were some problem about a particular agent -- perhaps he may not be available -- it is up to the tribunal to allow anyone to represent the owner. We must go back to subclause (1) and say, "Except as provided in this section a party or parties to any proceedings shall present his own case." The tribunal might not let anyone represent the owner, whether he has been his agent for three months, 12 months or 20 years. Nobody is suggesting that that provision should be removed, so I can see nothing wrong with trying to free the thing up and make it more understandable so that people can understand they will not be leg-tied; more flexibility will be allowed.

The DEPUTY CHAIRMAN (Hon John Williams): There are now virtually four amendments floating on this clause. It is confusing to the Committee when, in the space of a few minutes, these proposed amendments have been put forward. People who are extremely knowledgeable about this Bill, the Minister, her adviser, Hon Norman Moore and Hon E.J. Charlton, have spent an enormous amount of time on this. Would members agree to my suspending the sitting for five or six minutes?

Hon Kay Hallahan: I would agree.

Sitting suspended from 11.08 to 11.19 am

Amendment, by leave, withdrawn.

The clause was amended, on motion by Hon Kay Hallahan, as follows --

> Page 16, lines 17 to 20 -- To delete paragraph (b).

Clause, as amended, put and passed.

Clauses 23 to 25 put and passed.

Clause 26: Finality of Proceedings --

Hon N.F. MOORE: This Bill does not provide for the right of appeal against an order except in the following clause where there is reference to the fact that there may be an appeal where the referee exceeds his jurisdiction or there has been a denial of natural justice. Concern has been held for some time that some of the decisions of tribunals such as the Small Claims Tribunal are not necessarily good ones and there ought to be provision if not for an appeal at least for a rehearing. I do not propose moving amendments in relation to that matter now, but will the Minister refer the recommendations of a Select Committee of the Legislative Assembly into the Small Claims Tribunals to the Minister for Consumer Affairs? It

recommended, among other things, that there should be provision for a rehearing in certain circumstances.

I draw the Minister's attention to pages 131 to 133 of that report which contain a recommendation that under certain circumstances an aggrieved person should be able to seek a rehearing before the tribunal and that that rehearing could be before a different referee. Rather than arguing that there should be appeals through the court system, it seems sensible, if the Small Claims Tribunal is to remain as it is and not become a court, that there should be a provision for rehearing rather than an appeal system.

Hon KAY HALLAHAN: I am happy to refer those remarks to the Minister responsible for the Bill and to keep those matters in mind as we review the legislation.

Hon N.F. MOORE: Will the Minister explain what subclause (2) of clause 26 means?

The DEPUTY CHAIRMAN (Hon John Williams): It means finality.

Hon N.F. MOORE: I know it means finality, but I want to know what it means in reality.

Hon KAY HALLAHAN: I am told that in lay terms it simply means that it can be referred to the Supreme Court on the grounds that a person has been denied natural justice or the tribunal has acted outside its bounds of jurisdiction. That is all that convoluted verbiage means.

Hon N.F. MOORE: It is a pity that we need convoluted verbiage like that to provide what the Minister has been able to tell us in simple language. I think it probably goes beyond what she has said. This is not a good clause, but again I face the same limitations as the Minister when dealing with this sort of language. However, I put on record that the Opposition has worries about how this clause will work in practice.

Clause put and passed.

Clause 27: Restriction on consideration for tenancy agreement --

Hon N.F. MOORE: This clause relates to what in effect can be paid in respect of a tenancy agreement and subclause (2) deals with letting fees and states --

> (c) a fee under section 86 paid or required to be paid by tenant or prospective tenant under a residential tenancy agreement to a real estate agent for services --
>
> (i) to the tenant or prospective tenant; or
>
> (ii) to the owner, to the extent that the tenant or prospective tenant has agreed to pay such a fee, . . .

Why are real estate agents the only people who can charge a letting fee? Why are owners not allowed under the legislation to charge a letting fee? It seems to me that an agent is entitled to more financial consideration than the owner. There are many cases where the agent does no more or less than the owner. Some owners who manage their own properties carry out all the functions of an estate agent, yet the agent can charge a letting fee up to four times the weekly rent and the owner cannot. What is meant by this subclause? In subclause 2(c)(ii) why are the words "to the extent that the tenant or prospective tenant has agreed to pay such a fee" used, and how does this work?

Hon KAY HALLAHAN: The Government needed much persuading to allow a letting fee to be charged, anyway. However, it is current practice that agents charge a letting fee, so we are maintaining the status quo. There is a question as to whether agents should in fact be allowed to charge a letting fee because the agent has been appointed by the owner; so there is an owner who appoints an agent who then, acting on behalf of the owner, charges the person who is having a service provided a fee for the owner. It is an odd system, anyway. The Government believed that it was better to maintain the status quo, and there was enormous pressure against the notion of disallowing letting fees, which are really agents' fees, so current practice has been maintained.

Hon N.F. MOORE: I guess that the continuation of letting fees is part of the deal the Government did with the Real Estate Institute to get its acquiescence to the Bill. Is that a reasonable statement?

Hon Kay Hallahan: I cannot say.

Hon N.F. MOORE: The Real Estate Institute of Western Australia was initially opposed to the Bill and was quite vociferous about the matter. Then suddenly it came round and said that it was a great piece of legislation.

Hon Kay Hallahan: I understand that it did support the Bill when there was to be no letting fee.

Hon N.F. MOORE: I am pleased to hear that. What will happen with this legislation is that most owners will throw up their hands in horror and appoint an agent to look after their property. Estate agents in South Australia did very well, thank you very much, when the legislation was first introduced. A considerable number of properties were transferred by owners to agents to manage because of the complexity of the new arrangements. It is unfair that estate agents should be allowed to charge a letting fee when they do no more or less than the owner does in similar circumstances. If things were logical and fair this facility provided for estate agents would be provided for owners also. Can the Minister explain what is meant by subclause 2(c)(ii), which mentions fees paid to an agent for services to the tenant or to the owner. How does an owner get paid the letting fee and why does the owner get that letting fee? Why does the tenant have to agree to pay such a fee?

Hon KAY HALLAHAN: One is for services to the tenant and the other is for services to the owner, to the extent that the tenant agrees to pay such a fee.

Hon N.F. Moore: Can the Minister give an example of a service to the owner in this regard?

Hon KAY HALLAHAN: I would have to think about that. Perhaps advertising might be one area; there could be a number of other areas.

Hon N.F. MOORE: An estate agent could provide services to a tenant or to an owner, and the letting fee is in payment of those services. If the tenant agrees then it relates to the services to the owner which in effect the tenant is paying?

Hon Kay Hallahan: Yes.

Hon E.J. CHARLTON: Many people in the industry would prefer to see that provision remain because it gives the opportunity to take advantage of that requirement. I cannot see anything wrong with the provision. I missed some of the points Hon Norman Moore made but I understand he was suggesting subclause (2) be deleted.

Hon N.F. MOORE: No. I asked the Minister to explain the legislation but she is having difficulty with that. I am having difficulty understanding the meaning of the provision. Perhaps the member has a superior concept of the meaning of this clause.

Hon E.J. Charlton: I did not say that.

Hon N.F. MOORE: I simply asked the Minister to explain how subclause (2)(c) will work in practice. The Minister has explained that. I asked for an example and the Minister has not been able to supply it. I certainly do not seek removal of the subclause.

Hon KAY HALLAHAN: Sometimes services are performed for both parties by an agent even though the agent is retained by one party. It seems reasonable that subparagraph (ii) should relate to services "to the extent that the tenant or prospective tenant has agreed to pay such fee". Obviously tenants should not be loaded up with fees for a range of services outside the norm. Other than that perhaps it is extra advertising or something similar.

Clause put and passed.

Clause 28: Rent in advance --

Hon N.F. MOORE: I have an amendment to this clause which I am considering withdrawing. Subclause (1) is clear and presumably we are seeking not to overload the tenant who has to pay bond and letting fees at the same time. Subclause (2) reads --

> A person shall not require any payment of rent (other than the first payment) under a residential tenancy agreement until the period of the tenancy in respect of which any previous payment has been made has elapsed.

I find the wording very clear and I wish all legislation were as clear! That clause means a person is not required to pay beyond the first two weeks any rent until the period of time for which the previous amount of rent was paid has expired; after the end of the initial two weeks a person is then required to pay additional rent. In other words after one week of the

first two weeks a tenant cannot be required to pay more. My concern was that this clause would take away the principle of rent in advance which is why I was suggesting that seven days ought to apply. However I am told the word "require" means the actual payment of the money, not that one can make a request for money. One cannot require payment prior to that time but one can lodge an application. I will not persist with my amendment if that is the case.

Hon KAY HALLAHAN: The member's understanding is clear. It would be a poor principle to require people to pay rent before the expiry of the period for which they had already paid rent in advance. I am pleased the member is withdrawing his amendment.

Clause put and passed.

The DEPUTY CHAIRMAN (Hon John Williams): Order! I find myself in a difficult position in that we are passing legislation and at the same time breaking the Constitution Act because we do not have a quorum. I remind the Chamber that the Constitution Act overrides all Standing Orders.

Hon KAY HALLAHAN: I have had two urgent messages since entering the Chamber to which I would like to respond. I suggest we suspend for five minutes until the ringing of the bells.

The DEPUTY CHAIRMAN: That is satisfactory to me. I shall suspend the sitting until the ringing of the bells.

Sitting suspended from 11.38 to 11.48 am

[Quorum formed.]

Clause 29: Security bonds --

Hon N.F. MOORE: I will argue more about what will happen to security bonds when we come to the schedule, because that deals with this subject, and this clause does not spell out the details. I would like the Minister to give me an idea of what the prescribed amount under subclause (2)(a) is likely to be. Subclause (2)(a) says that the amount does not apply for weekly rate of rent payable under the agreement where it exceeds a prescribed amount.

Hon KAY HALLAHAN: The thinking at this stage is that it will be approximately $200.

Hon N.F. MOORE: I thank the Minister for that indication of what is intended. I have read clause 29(3) several times, and I confess I am not sure what it means. It relates to reductions in rent and how that will apply to security bonds. Would the Minister explain what the subclause means?

Hon KAY HALLAHAN: I am advised that subclause (3) removes another loophole which could enable owners to obtain more than four weeks' bond by imposing a loading on the rent in the first few months of a tenancy. Apparently that practice was detected in South Australia and continued until the Act in that State was amended in 1981. We have included this provision in the Bill to close that loophole. It goes back to the point that bonds should not exceed the equivalent of four weeks' rent, and it is in line with that principle.

Hon N.F. MOORE: I understand the Minister is saying that some landlords would load the weekly rent so that the bond would increase correspondingly and this clause is to stop that from happening. Why would any landlord want to increase the size of the bond, bearing in mind that he will have no control over the bond at all and will be required to put it into a bank, building society, or Government agency, and the interest will be used by the Government? Why is the Minister concerned this might happen? There is nothing to be gained by a landlord loading the rent to up the bond. All that does is to preclude some people from being tenants because if one ups the rent fewer people can become tenants. It would seem self-defeating from the owner's point of view to go down that path.

I refer the Minister to the wording of subclause (3), which is as clear as mud.

Hon KAY HALLAHAN: I agree it is difficult to understand. It is not only in this Bill that I find the language complex and difficult to follow. Regardless of whether we think this should not or will not happen, the fact is it did happen in South Australia and agents were telling tenants that that was what they were doing. It was in response to that situation that South Australia put through an amendment. Having seen it happen in practice it seems to me

to be sensible to cover it at this stage of the Bill rather than wait for it to happen and then move on it after the review, perhaps in two years' time. It is a commonsense thing to do once one sees it is a likely development here.

Hon N.F. MOORE: What happens to the bond if the rent is decreased during an agreement?

Hon KAY HALLAHAN: My belief is that the bond would stay the same. There is no provision in the Bill to do anything about the bond in that situation.

Hon N.F. MOORE: Is the Minister saying that if rents are decreased for a variety of reasons, such as a stock market crash or some economic difficulty, that bonds will remain as they are?

Hon Kay Hallahan: Are you talking about an ongoing tenancy where the bond was paid six months or a year ago?

Hon N.F. MOORE: I guess if the agreement is for a fixed term the rent does not change. Say it is a periodic tenancy and every week the tenant pays X-number of dollars, will the bond remain the same if the rent is decreased?

Hon KAY HALLAHAN: The bond would stay as is unless the landlord wanted to reduce it in the general spirit of things.

Hon N.F. Moore: But he is not required to do so?

Hon KAY HALLAHAN: He or she is not required to do so.

Clause put and passed.

Clause 30: Variation of rent --

Hon N.F. MOORE: This clause requires that a tenant must be given 60 days' notice of any variation of rent. I think that is far too long a period and I propose to move an amendment to change it to 30 days. It is interesting that we are seeking to legislate so that this is the only product where a price increase requires 60 days' notice. If every retail outlet had to give 60 days' notice of an increase in the price of butter or jam there would be chaos. There are very few examples of restrictions on price rises; there are some such as milk and bread. To have to give 60 days' notice of any increase in rent under a tenancy is too long. If I had my way people would be able to increase the price if it was deemed necessary. One has to bear in mind that supply and demand operates and if an owner increases the rent fewer people will be able to afford to pay. However, because we are dealing with people's place of habitation I am prepared to compromise my views and go for 30 days. I move an amendment --

Page 21, line 22 -- To delete "60" and insert "30".

Hon KAY HALLAHAN: I oppose the amendment and ask members to vote against it. During the consultation period on this Bill the Government put forward the notion of a 90-day period and people expressed some concern about that, so the Government agreed to 60 days' notice. I understand there was general agreement on that point. An owner who is even moderately well organised can look at his income and outgoings and it is usually fairly easy for him to predict when it is necessary to make a rent increase, and therefore to give 60 days' notice. On the other hand, for the tenant who is likely to be not so well organised a rent increase can be quite a significant item in his budget. That is why the Government would prefer to leave the time at 60 days. The second point is that the normal period of notice to quit for a periodic tenancy is 60 days. If we move the rent increase period back to 30 days, rent increases could be used as a de facto way of terminating tenancies because the tenant may have to leave as a result of a rent increase.

Hon N.F. Moore: Some other clause states that you cannot do that.

Hon KAY HALLAHAN: I ask members to stay with the 60 days as outlined in the Bill.

Hon E.J. CHARLTON: The National Party moved in the other place to reduce the period from 90 days to 60 days and, therefore, my party will maintain that position in this place.

Hon N.F. MOORE: I want again to make the point that 60 days is about nine weeks and I would be interested to know how many products there are which require eight and a half weeks notice of the intention to raise their price. I also make the point that in subclause (1)(b) the rent cannot be increased within six months of the tenancy agreement commencing or within six months of the agreement being renegotiated and restarted. In my view, it is stacked against the person who is the landlord. The Government is trying to make it so easy

for tenants to occupy premises and it is making things onerous for landlords. This is one clause which will result in people not bothering to invest their money in this sort of business. Why should someone have a restriction of this nature on the return he would receive from his investment. I find it ludicrous that we should be passing legislation which states that a landlord cannot give notice of an increase in the price he will charge for a product he is providing without 60 days' notice. It is ridiculous and I will not proceed with my argument, but I will proceed with the amendment.

Hon MARGARET McALEER: The point Hon Norman Moore made is that it will be more costly for an owner if he has to give 60 days' notice to increase rent and I wonder whether he will not build that into the increase. It could result in a higher increase because the landlord will make allowances for the fact he is losing a month.

Hon KAY HALLAHAN: He is not losing anything. I take the member back to the point made by Hon Norman Moore: There cannot be an increase less than six months after the day on which the tenancy is signed. Many stable tenancy arrangements extend beyond that period. I was alarmed to hear Hon Norman Moore say what he said because it conjured up pictures in my mind of people increasing rents every 30 days. It is more reason that the period should be 60 days. I can see why people were persistent in wanting to retain that period. Most people who invest in property examine their expenses and will take account of this Bill and they will have to allow 60 days for any further rent increases. I have no evidence that says that it increases rental.

Hon MARGARET McALEER: I would have thought that most rentals are not increased more often than every 12 months. The consideration that comes into this is increased water rates, etc., and that is what occasions increases in rent. If the landlord loses a month because of extra rates, etc., he will build those expenses into the rent one way or another.

Hon N.F. MOORE: The Minister demonstrates again her lack of faith in the market by taking the view that a lot of people of her ilk have taken; that is, we have to legislate to make sure people do certain things or they may do the wrong thing. The Minister forgets that a landlord cannot increase rents willy-nilly because he will lose his tenant. There is nothing worse for a landlord than to not have a tenant. The law of supply and demand works and many of the Minister's colleagues agree with it --

Hon Kay Hallahan: I agree with it.

Hon N.F. MOORE: -- even Mr David Parker, who used to have a completely different view of the world. If it is 30 days, 60 days or 130 days, what Hon Margaret McAleer says is correct: The market will sort itself out. The price rise will be twice as high after 60 days than it will be after 30 days. If it is 90 days it will be three times as high. The supply and demand situation will apply whether the Minister believes it or not. If it were 30 days the increase will be less than if it is 60 days. The tenant will be better off with a small increase. The Minister demonstrates a lack of appreciation of what actually happens in reality.

Hon KAY HALLAHAN: I do not mind demonstrating that I do not appreciate what happens in reality. I understand REIWA puts out a publication which gives an indication of vacancy rates. It indicates to people with property in the rental market when the time is right to propose a rent increase. They have to give 60 days' notice of that increase and there is no ceiling on the amount of rent increase they can impose. It is not included in the Bill.

Hon N.F. Moore: The longer the notice the higher the increase.

Hon KAY HALLAHAN: It depends on the indicators in the market. The availability in the market determines the rental increase, not the amount of notice that has to be given.

Amendment put and a division called for.

Bells rung and the Committee divided.

The DEPUTY CHAIRMAN (Hon John Williams): Before the tellers tell I give my vote with the Ayes.

Division resulted as follows --

Ayes (10)			
Hon Barry House	Hon G.E. Masters	Hon P.G. Pendal	Hon Margaret McAleer
Hon A.A. Lewis	Hon N.F. Moore	Hon John Williams	*(Teller)*
Hon P.H. Lockyer	Hon Neil Oliver	Hon D.J. Wordsworth	

Noes (12)			
Hon J.M. Brown	Hon Graham Edwards	Hon Mark Nevill	*(Teller)*
Hon T.G. Butler	Hon Kay Hallahan	Hon S.M. Piantadosi	
Hon E.J. Charlton	Hon B.L. Jones	Hon Doug Wenn	
Hon D.K. Dans	Hon Garry Kelly	Hon Fred McKenzie	

Pairs

Ayes	Noes
Hon H.W. Gayfer	Hon Tom Helm
Hon J.N. Caldwell	Hon Tom Stephens
Hon C.J. Bell	Hon J.M. Berinson
Hon W.N. Stretch	Hon Robert Hetherington
Hon Max Evans	Hon John Halden

Amendment thus negatived.

Clause put and passed.

Clause 31 put and passed.

Clause 32: Limitation of excessive rents in certain circumstances --

Hon N.F. MOORE: I have put on the Notice Paper an amendment to delete this clause but I will refrain from moving that amendment until I hear the Minister's justification for including this provision. The clause states that a tenant under an agreement may apply to a referee for an order declaring that the rent is excessive. It also states that an application may be made, notwithstanding that the tenant has agreed to the rent to which the application relates.

Subclause (2)(a) details one of the grounds on which the application may be made; that is, that since the tenancy was entered into there has been, without any default on the part of the tenant, a significant reduction in the chattels provided with the premises or in the facilities provided. That is acceptable, and I can understand a need for a reduction in rent in those circumstances. However, subclause (2)(b) states that an application may be made on the ground that the owner was wholly or partly motivated in his approach to the level of rent by a desire that the tenancy be terminated. How will a referee work out what motivates an owner? Motivation is a very subjective business; what motivates one person can be quite different from what motivates another. It is impossible for a referee to make that determination. Subclause (3) details the matters to be taken into consideration when the referee is making a determination. It is an extraordinary set of conditions upon which the referee has to make a judgment. Who will pay for the costs of a valuation if one is required under subclause (3)(b)? I would also be interested to hear how many occasions the Minister can think of in the past where excessive rents have been used to get rid of tenants and, basically, why we need this sledgehammer approach to a simple peanut.

Hon KAY HALLAHAN: The clause is self-evident and it will only be used in certain circumstances which are clearly spelt out in subclause (2). The conditions are listed in subclause (3). I understand that a tenant would have to supply that information to the referee who would decide on that information whether the owner was wholly or partly motivated by a desire to end the tenancy. Very often an owner will tell the tenant that he wants him to go and there is a rent hike. That statement could be made to the tribunal by the tenant along with other evidence that can be derived about surrounding rental properties. It is a reasonable provision and, in fact, it is one of the clearer clauses in the Bill.

Hon N.F. Moore: I agree with that.

Hon MARGARET McALEER: I did not understand this clause to refer to increases in rents. Is it not that a tenant may have accepted the rent from the word go and, having accepted it, may then claim it is too high? If that is the case the grounds for complaint are not valid; a

bad tenant could decide that he would love to rent certain accommodation, could accept it, and then go to a referee complaining that the rent is too high.

Hon KAY HALLAHAN: They cannot do it on that ground, but only on the grounds listed in the clause. The area in which persons can make that sort of claim is very restricted.

Hon N.F. MOORE: Hon Margaret McAleer, in her usual very astute way, has highlighted a difficulty. Do the provisions of subclause (2)(a) mean that there would have to be a change in the rent after the tenancy had initially been entered into? For example, if an agreement was entered into when the premises contained a refrigerator, and the refrigerator was removed, could it be said that the rent was excessive in that case?

Hon Kay Hallahan: That is fair enough.

Hon N.F. MOORE: Right. With reference to subclause (2)(b), the amount of rent payable could remain constant; that is, a tenant can enter into an agreement to pay $100 a week and, without there being any increase in that rent, the tenant could claim that the owner is motivated by a desire to terminate the tenancy and that the rent is excessive. Why include the proviso at the bottom of the subclause "notwithstanding that the tenant has agreed to the rent to which the application relates"?

Hon KAY HALLAHAN: I have assisted people in the past who have been in desperate circumstances and have agreed to contracts. That is why we have consumer affairs legislation altogether, because some people make decisions and enter contracts which relieve a situation only to find, in the cool light of settling down in security and with sensible thought, that it is an outrageous arrangement. The application will not be supported unless it is the view of the tribunal that the situation is extraordinary. The safeguard is that tenants can make an application on two grounds and the referee is there to make a decision depending on the information supplied to him. I have known situations where people have been in desperate straits and have entered contracts which were very poor, by anyone's standards. This allows for that odd situation to be taken into account.

Hon E.J. CHARLTON: This is where the strength or weakness of the tribunal lies. If an application is made on one of these grounds, it will demonstrate whether the tribunal system will operate effectively. We cannot castigate the tribunal if it makes the wrong decision or congratulate it if it makes the right one. These are some of the areas where we will see whether this thing works satisfactorily. There is a question mark over how effective it will be.

Hon NEIL OLIVER: When we look at the requirements put on to the referee, they seem to put him into the category of a sworn valuer. When we look at the estimated capital value of premises which will need to be valued, we must look at the current charges of a sworn valuer. We must consider the general level of rents in the locality, or in similar localities, and the outgoings in respect of premises. The charge for a sworn valuer about five or six years ago was $250. Who bears the cost of this sworn valuation?

Hon Kay Hallahan: There is no sworn valuation.

Hon NEIL OLIVER: It may not be a sworn valuation, but all the requirements set down in the Bill are identical to those required of a sworn valuer in arriving at a conclusion whether the rent is excessive or not. The minimum fee for valuations these days is $250 in a private situation. Will this go out to contract, or will it be undertaken internally within the tribunal?

Hon N.F. MOORE: The Minister again demonstrates that her concern is for those people who cannot think for themselves --

Hon Kay Hallahan: At a given time.

Hon N.F. MOORE: -- at a given time -- rather than what is right or what is wrong in law. She is saying that if somebody enters into a contract, signs a deal or makes a decision, some way should be provided for that person to get out of it. The Minister suggests that that person should be able to go along to the tribunal and claim that the owner who is charging that amount is trying to get rid of him. That is an absurdity. Why is paragraph (b) included? Let us take the example of a person signing a tenancy agreement with an owner to pay $100 a week rent. After the tenancy agreement has been going for, say, three weeks, the tenant finds he cannot afford to pay the $100, so he decides it is excessive. He goes to the tribunal and says, "I think $100 is excessive; the owner is trying to get rid of me and terminate the tenancy." That is illogical.

Hon Kay Hallahan: The tenant would have to have something to back it up. The tribunal would not accept it on that basis.

Hon N.F. MOORE: If the tenant and the owner have agreed to a rental of $100 a week --

Hon Kay Hallahan: The referee would have to have strong facts.

Hon N.F. MOORE: How could the owner be trying to terminate the tenancy by charging $100 week when that sum had just been agreed to?

Hon Kay Hallahan: What if everybody else is paying $30 a week? The tribunal would have to have grounds to go on.

Hon N.F. MOORE: Why have it in there in the first place?

Hon Kay Hallahan: Because there would be situations where it would apply; your example does not fit.

Hon N.F. MOORE: Could the Minister give me an example where it does apply? It is not necessary to have an increase in rent during the tenancy, so perhaps we could have an example where an increase in rent does not apply?

Hon KAY HALLAHAN: It does apply when there is an increase.

Hon N.F. Moore: It does not have to be an increase in rent.

Hon KAY HALLAHAN: That would be the application.

Hon N.F. Moore: It does not have to be.

Hon KAY HALLAHAN: It may not have to be, but that would be where it would apply. Take someone who signs a contract for a unit in a block of flats . After a week or two he talks to his neighbours and finds what is going on. Say this person has been ill or something like that and needs to find somewhere to live quickly. He signs up quickly because he has just come out of hospital, there is no-one to shop around for him. After talking to neighbours he finds that they are paying $45 a week while he is paying $100.

Hon N.F. Moore: The tribunal cannot say that is a motivation to get rid of the tenant. The tenant is paying that rent because it has been agreed.

Hon KAY HALLAHAN: I do not know why we have this dilemma. The tribunal would throw it out on that basis.

Hon N.F. MOORE: If subclause (1) provided that a tenant under a residential tenancy agreement could apply to a referee for an order declaring that an increase in rent in respect of a premises was excessive, I could understand the Minister's argument, but it talks about the rent payable being excessive, even when there was agreement between the tenant and the landlord when the agreement was first entered into.

Hon T.G. Butler: No.

Hon N.F. MOORE: I hope the honourable member does not decide to enter the debate.

Hon T.G. Butler: I might be able to put some sense into it, the way you are carrying on.

Hon N.F. MOORE: I invite the honourable member, with his superior knowledge of these things, to tell us how this is going to work, because the Minister cannot. I will not proceed with my amendment (h) to delete the clause, but I move the following amendment --

Page 23, lines 13 and 14 -- To delete the lines.

This will remove the situation which concerns me considerably, and that is that if a tenant signs an agreement with a certain figure, and that is agreed when the contract is made, the tenant cannot then use this clause to go to the tribunal and say that, notwithstanding that agreement, he now thinks the rent is excessive and he wants the tribunal to change it because he thinks the owner is motivated to get rid of him because he does not like the tenant.

Hon KAY HALLAHAN: I feel very strongly that this amendment cannot be agreed to. There are situations where an owner could treble the rent in an attempt to have a tenancy terminated. Taking the situation which the honourable member mentioned before about going to the tribunal after having entered into agreement, if there is nothing to substantiate the claim about excessive rent, the tribunal will simply dismiss it. I think Hon Norman Moore may well have a vision of how this will work and how the Small Claims Tribunal

works in its current form, but the amendment the member proposes is a serious diminution of the power of the Bill and I ask members not to support it.

Amendment put and a division called for.

Bells rung and the Committee divided.

The DEPUTY CHAIRMAN (Hon John Williams): Before the tellers tell I give my vote with the Ayes.

Division resulted as follows --

Ayes (10)			
Hon Barry House	Hon G.E. Masters	Hon P.G. Pendal	Hon Margaret McAleer
Hon A.A. Lewis	Hon N.F. Moore	Hon John Williams	*(Teller)*
Hon P.H. Lockyer	Hon Neil Oliver	Hon D.J. Wordsworth	

Noes (11)			
Hon J.M. Brown	Hon D.K. Dans	Hon B.L. Jones	Hon Doug Wenn
Hon T.G. Butler	Hon Graham Edwards	Hon Garry Kelly	Hon Fred McKenzie
Hon E.J. Charlton	Hon Kay Hallahan	Hon S.M. Piantadosi	*(Teller)*

Pairs

Ayes	Noes
Hon H.W. Gayfer	Hon Tom Helm
Hon Tom McNeil	Hon Tom Stephens
Hon C.J. Bell	Hon J.M. Berinson
Hon W.N. Stretch	Hon Robert Hetherington
Hon Max Evans	Hon John Halden
Hon J.N. Caldwell	Hon Mark Nevill

Amendment thus negatived.

Hon N.F. MOORE: In view of the numbers, clause 32 will remain as it is. I think it is a ridiculous clause and the referee will find it equally ridiculous when some of the issues I have raised here are taken before him, because they will demonstrate some of the absurdities of this clause.

Hon E.J. CHARLTON: I do not like clause 32 either. I have said before -- and I will say again -- that I will not pick holes in every clause, because we will have a review of the whole Bill in two years' time. That is one reason for my stand; the other reason is that I see members of Parliament, from all political parties, trying to protect people when they feel there is a need to do it in certain circumstances. For example, in respect of door-to-door salesmen, if someone signs up for something, they should stick with it. I seem to be in a minority in that respect; we are seeing legislation brought in to protect that sort of person. Bearing in mind that this legislation will be reviewed in two years' time, I have agreed to clause 32, even though I do not like it.

Hon N.F. MOORE: The purpose of the original amendment, which I am not supposed to talk about, was to do the same thing as we were trying to do about door-to-door salesmen. We are trying to take away the situation where somebody who agrees to something can get out of it in some other way. We have not agreed to a review clause yet, and, until we do, I will go through every clause and argue the case as I see it.

Hon NEIL OLIVER: I could not agree more with what Hon Eric Charlton said, but I do not believe this clause should be included, because it is totally unworkable. I have been here longer than Hon Eric Charlton and I have seen many occasions on which we have had promises to bring legislation back to have it reviewed. It was done by members on this side when they were in Government; it was always called "breaking new ground", or new legislation. I recall the off-road vehicle legislation which went through this place six or seven years ago; it has never been brought back. That is a totally unsatisfactory situation. That is why I voted for the amendment. I will continue to vote against clauses if I believe they are unworkable and impracticable.

Clause put and passed.

Hon KAY HALLAHAN: I would like to test the feeling of the Committee by proposing to deal with new clause 90, as proposed by Hon Eric Charlton. That might give the Committee some reassurance that there will be a review and that the Government intends to support that member's amendment.

Hon N.F. Moore: We are not going to pass stupid legislation because the Minister wants us to and because it is going to be reviewed.

Hon KAY HALLAHAN: That is not what the member said originally, so he does not mean what he says.

Hon N.F. Moore: We cannot accept things simply because there is to be a review, which we do not know there will be anyway.

Hon KAY HALLAHAN: I want to take away any indecision about that. The Government is interested in good legislation, as is everybody here, and therefore the Government will be happy to move forward. However, if it is not the will of the Committee, we will proceed as we are.

The DEPUTY CHAIRMAN (Hon John Williams): This is a new clause; therefore, the leave of the Chamber will be necessary to deal with it. One dissentient voice will deny leave.

Point of Order

Hon N.F. MOORE: There are two amendments, which would constitute new clause 90. One of these amendments will be moved by Hon E.J. Charlton and the other will be moved by me. In the event that the Chamber gives leave, will that apply to both amendments?

The DEPUTY CHAIRMAN: I will have to ask the Minister to clarify that, because there are two amendments there. Does the Minister wish to move one or both?

Hon KAY HALLAHAN: I made it clear that the Committee should consider new clause 90 proposed by Hon E.J. Charlton.

Hon N.F. MOORE: In the event that the Committee agrees to that proposition, does that preclude my talking about new clause 90, amendment ZA, which I propose to move?

The DEPUTY CHAIRMAN (Hon John Williams): No, it does not.

Committee Resumed

The DEPUTY CHAIRMAN: I remind the Committee that the Minister seeks leave to postpone all clauses until we have dealt with new clause 90. Is leave granted?

Leave granted.

Clauses 33 to 89 postponed, on motion by Hon Kay Hallahan (Minister for Community Services).

New clause 90 --

Hon E.J. CHARLTON: I move an amendment --

Page 52, after line 9 -- To insert the following --

Review of the Act

90. (1) The Minister shall carry out, or cause to be carried out, a review of the operation of this Act as soon as practicable after the expiration of 2 years from the coming into operation of this Act.

(2) The Minister shall prepare a report based on his review of this Act and shall as soon as practicable after the preparation thereof, cause the report to be laid before each House of Parliament.

The National Party wishes to see a review of this legislation after two years. We can debate who will do the review, who will have input, and so forth. When a review is carried out by a Minister he is responsible for providing access to that review for all people who are interested in the legislation and who want an opportunity to make an input into the review. When the report comes forward, the Parliament has an opportunity to debate it. That is the basis on which the National Party has put forward this new clause 90. It could be said that

the Minister performing such a review will only come up with what he wants put into the legislation. However, I can assure members that we have done our very best in relation to all the groups that have come to us expressing their concerns and ideas about this legislation, complex as it is. Amendments have been put forward that did not go as far as everyone would have liked them to go. However, they are a starting point from which everyone can look -- with some feeling of success -- at a workable situation.

The next two years can be considered a settling in period to see what will happen with the legislation. There will be some provisions in it that we consider okay at present that we may find during the next two years are unacceptable, and there will be other provisions about which we now hold great concern but which will probably work okay. That is the basis for our wanting new clause 90 inserted.

Hon N.F. MOORE: Members of the Committee are aware that I have a similar amendment on the Notice Paper. However, it is a sunset clause as opposed to a review clause. Members of the Standing Committee on Government Agencies would be very much aware of the difference between the two, because that Committee has discussed them. Hon E.J. Charlton has moved for a review clause, a matter that we have argued about here ad nauseam.

Hon Graham Edwards: And accepted.

Hon N.F. MOORE: The Minister for Sport and Recreation probably remembers that this House passed an amendment to a review clause that required a parliamentary committee to review an Act. However, it bowed to pressure from the other House only to prevent the necessity for a Conference of Managers which might have eventuated in a deadlock between the Houses on something which could be seen by the public as a minor issue.

Hon Graham Edwards: There was a Conference of Managers.

Hon N.F. MOORE: The Conference of Managers reached a decision.

Sitting suspended from 12 45 to 2.00 pm

Hon N.F. MOORE: We have been debating proposed new clause 90. Reviews of this nature have been discussed at length in this place. During debate on the Marketing of Eggs Amendment Bill, a clause such as this was rejected, then accepted after the threat of a deadlock between the two Houses. To avert that threat, the review was not insisted on.

Hon Graham Edwards: That was not the case.

Hon N.F. MOORE: That is what would have happened.

Hon Graham Edwards: The member was not at the conference.

Hon N.F. MOORE: I was not, but I am aware of the contents of the Constitution in connection with legislation. If a conference of managers does not agree, a deadlock occurs. The Minister could have rushed out into the world advertising a deadlock between the two Houses. However, it would be silly to have a deadlock between the two Houses over whether the review should be by the Parliament or by the Minister. That is why we backed off, not because we had in any way diluted our views about who should do the review. I prefer the review to be by Parliament -- if there is to be a review clause. A review by a Minister suffers the defects of any review --

Hon Kay Hallahan: Thank you very much.

Hon N.F. MOORE: Defects in a political sense. Ministers do not do reviews which say the Minister is a fool or that the administration of the Act is not working.

Hon Kay Hallahan interjected.

Hon N.F. MOORE: Ministers do things for political reasons --

Hon D.K. Dans: So do Parliaments.

Hon N.F. MOORE: -- and if the Minister has not worked that out yet and is the No 1 achiever in the Government, all I can say is I do not know what the rest of them are doing.

Hon Kay Hallahan: They are achieving at a little lower level.

The DEPUTY CHAIRMAN (Hon John Williams): If we return to new clause 90, the member who has the floor also has my ear.

Hon N.F. MOORE: I have never been of the view that we should have ministerial reviews such as this, although I have been complimentary of the Government's introducing reviews, as it is a step in the right direction. However, I do not think it has gone far enough. The Standing Committee on Government Agencies has a statement of principle on this question of review; that is, reviews of this nature ought to be done by a parliamentary committee rather than by a Minister.

Hon Graham Edwards interjected.

Hon N.F. MOORE: It is view of a committee of this Parliament, and I agree with it. I have put forward a better solution for the problem with this legislation. My proposed amendment says that this Act will cease to exist in two years.

Hon Kay Hallahan: So much for the member's ideas on reviews.

Hon N.F. MOORE: I am not asking for a review clause to be inserted. I am asking for a sunset clause which says the Act will cease on a certain date and, notwithstanding that, any agreement entered into at that time will still apply. Instead of the Minister's department writing a review -- laudable of the administration of the Act -- and having it tabled in the Parliament, the Act should cease to exist. The Government of the day shall then be required to bring in new legislation, if it wishes to persist with that form of arrangement between tenants and owners. That would be a far better way of ensuring what happens after two years is what everyone wants. A review clause cannot do anything; it does not change the situation.

Hon Graham Edwards: Action can be taken on the review.

Hon N.F. MOORE: What action can be taken?

Hon Kay Hallahan: To bring in amendments.

Hon N.F. MOORE: We cannot amend the Act. The clause says the Minister shall prepare a report and shall have it tabled and laid before each House of Parliament. The Parliament cannot then have the Act defeated. The Parliament takes note of the paper and can do nothing else. The Act can be operating in a dreadful way according to 99 per cent of the population, but the other one per cent has the ear of the Minister. The report is tabled; we may argue about it, we may agree or disagree, but this makes no difference to the Act. I argue that the Act should cease on a certain date due to a proper sunset clause. If at that stage the Government wishes to proceed we can then enact new legislation, which is a far better way to handle the problem than the suggestion by Hon Eric Charlton. I had agreed with him in earlier discussions that we would support a review clause. Having read the review clause and considering it -- bearing in mind my comments on review clauses in the past -- I think a more appropriate course of action would be to have a termination clause. I ask this Chamber to reject the review clause with a view to supporting a termination clause, which is more appropriate to this legislation.

Hon NEIL OLIVER: I oppose the acceptance of a review clause. We on this side of the Chamber agree there is a need for amendment. We object to this clause being put forward. A tripartite committee has been set up consisting of representatives from the Real Estate Institute of Western Australia, tenants, and owners. The Minister mentioned that this legislation flows from a committee's deliberations over a long period. The input from various areas to the committee has resulted in this legislation. If that is so, I do not understand the need for a further review. This form of legislation has already been introduced in other States which do not have Labor Governments. The National Party in Queensland has not accepted it.

Hon Kay Hallahan: They are about to, I understand.

Hon NEIL OLIVER: Is the Minister assuming that it will pass through Parliament?

Hon Kay Hallahan: That is what I understand. They have got the numbers.

Hon E.J. Charlton interjected.

The DEPUTY CHAIRMAN (Hon John Williams): Order! There seems to be confusion as to who is speaking.

Hon NEIL OLIVER: Hon E.J. Charlton says by way of interjection that if the Bill is introduced in Queensland it will pass. I am disappointed with that remark.

Hon E.J. Charlton: Why? It is a fact; you cannot argue with facts.

Hon NEIL OLIVER: I am disappointed. I am simply expressing my point of view.

The DEPUTY CHAIRMAN: If any other member wishes to express a point of view I expect him to do it in the proper way at the proper time.

Hon NEIL OLIVER: The reason for my disappointment is that this legislation stems from the period of the Whitlam Government. It is part of the Priority Review Committee report from which I quoted last night. An entire chapter is given over to this subject, which stresses the requirement for uniform legislation State by State.

Hon T.G. Butler: That is bad, is it?

Hon NEIL OLIVER: I am not against legislation which regulates the position of landlords and tenants. The problem seems to be that the lower courts cannot solve these matters without legal aid. A multitude of tribunals have been set up around the country to deal with disputes on every matter from Easter eggs through to Kodak films, and whether one gets the right number of exposures from a certain film. A committee considered this matter for a long time, called for input throughout the community, and came up with this legislation. On the basis of that, I cannot see how we can expect a committee of review to come up with a more acceptable approach.

Hon Kay Hallahan: I accept your point of view.

Hon NEIL OLIVER: Last night I spoke on behalf of low-income earners, and people living on the poverty line.

Several members interjected.

Hon NEIL OLIVER: If Hon Garry Kelly is accusing me of not addressing people on the poverty line, he should get to his feet and say so. If he wishes to represent another group he should get up and tell us. I oppose this amendment because I cannot see that any purpose would be gained by establishing another review committee. As I understand the workings of committees -- and Hon Graham Edwards, with his Army service, will know this --

Hon Graham Edwards: Tell us about yours.

Hon NEIL OLIVER: I am not talking about the Army now. If it looks as though a member of the committee is about to come up with a solution, the first thing the Chairman does is adjourn so that the committee can meet again, rather than reach a conclusion. What the Government seems to be doing is governing by committee of review.

Hon KAY HALLAHAN: With regard to the amendment before the Chair, although the Government has not included this in the Bill, it will carefully monitor the implementation of the Act and, for that reason, finds no conflict in having this review clause inserted. I find unbelievable the cynicism expressed by the two speakers from the Liberal Party.

Hon N.F. Moore: My cynicism has come about only since we became the Opposition, with the Government of this country falling into Labor hands.

Hon KAY HALLAHAN: If the Opposition were doing a good job, it would not be the Opposition. That is the reality of the situation.

Hon N.F. Moore: I did the best I could.

Hon KAY HALLAHAN: It could not have been good enough, that is all I can say.

Hon E.J. Charlton: Many a true word spoken in jest.

Hon KAY HALLAHAN: I find the remarks of the member regarding whitewashes to be unbelievably cynical. In spite of the fact that people seem to think this Government has unlimited resources, it does not, and every time a committee is set up it means that members who serve on that committee are not doing other duties. If the proposed review is provided for in the Act, industry groups and tenants' groups will know it is there and everybody will want to have their two bobs' worth about the way the Act is working. A report will then come to Parliament following which the Government can introduce amendments to the Act if necessary. I have no doubt that if any aspect of the Act is unworkable the Minister will come

back to Parliament with an amendment within two years. The idea that the review process will be a whitewash is more a statement about Hon Norman Moore's psychological state than a reflection on the effectiveness of the clause before the Chamber.

I advise Hon Neil Oliver that the South Australian legislation had its origins in a report about poverty, so this Bill should be helping people who are in necessitous circumstances whose interests are not protected under current law. That is one of the interest groups with which this Government is concerned. As I have already said, landlords will be well-served by this legislation.

I ask members of the Committee to support the amendment moved by Hon E.J. Charlton.

Hon N.F. MOORE: If the National Party has not been persuaded by the merits of my argument that it should defeat the review clause and proceed to the termination clause -- and, of course, the numbers are such that I cannot make that happen -- we will support the review clause, because it is the second-best option.

Hon NEIL OLIVER: I would like some clarification from the Minister regarding her statement about the South Australian legislation. If that legislation is as good as the Minister has assured the Chamber, why is it that since its introduction there has been a need to introduce an emergency system and, now, a rental relief scheme for low-income earners? Was this introduced before or after the legislation came into effect, or was it packaged with the legislation?

Hon Graham Edwards: What does this have to do with the review clause?

Hon NEIL OLIVER: I would be interested to know because I have heard that the rental relief scheme -- I am directing my question to the Minister at the Table and not Hon Graham Edwards --

The DEPUTY CHAIRMAN (Hon John Williams): Order! I wish members would not confuse the Chair by having two people on their feet at the same time.

Hon KAY HALLAHAN: The honourable member brought this up during the second reading debate and it has obviously stayed in his mind, so I would like to clarify it. The emergency housing fund and rent relief scheme to which he referred was introduced in every State because the Fraser Government made money available for that. It had nothing whatever to do with legislation in South Australia. It was introduced across Australia because of a Federal Government funding decision. In Western Australia we spent more of that money than did South Australia, so one can deduce that in South Australia there were not so many emergencies and difficulties as in this State, which appears to indicate that South Australia may have been better served by its legislation.

Hon E.J. CHARLTON: I appreciate the point raised by Hon Norman Moore; it is clear that at the end of the two years the Bill would come to a halt. We have to make up our minds whether we are going to proceed with the Bill in its present form on the understanding that after two years there will still be some sort of legislation between tenants and landlords. If we accept that, I cannot see the point of saying we should put the Bill through for a trial period of two years and if it does not work we will do away with it and start afresh. We all know that in two years' time, whether this Government or another Government is in power, the people who constitute that Government may have a different point of view and with the experience gained in the meantime we will be in a position to make a judgment. Whether that judgment is any better than it is now remains to be seen. Governments of the day -- this Government is no different from another -- bring in legislation which is absolutely obnoxious and hopeless and does not work. All we have to do with our parliamentary system is apply a bit of logic -- one can never put too much emphasis on that -- and hope that logic will prevail, and if there is a change of Government perhaps the people in that Government will do the job better.

I intend to proceed with my amendment; I am not saying it will fix things. I acknowledge what Hon Norman Moore said. If the Minister of the day whitewashes the whole thing and gives it a quick brush over to make it look okay, I feel confident the people of this State who are involved through this legislation will not allow that to pass unnoticed and will make enough noise and get onto their members of Parliament to make sure that the legislation is brought before the Parliament after the review. We have done this with other legislation of late; for example, last week we dealt with a Bill related to child welfare and court hearings.

This is a similar situation. This is breaking new ground and everyone has his own idea. I am prepared to take that on board and cop the consequences.

New clause put and passed.

Postponed clause 33: Duty to give receipt for rent --

Hon N.F. MOORE: This deals with the duty to give a receipt in the event that a tenant pays his rent essentially in cash or by cheque. Subclause (2) deals with the rent being paid into an account. The clause says an owner must give a receipt within three days of receiving the rent in cash or by cheque or face a penalty of $400. I can think of an example when I was living in Tom Price and owned a property in Safety Bay. I used to have the cheque sent to me and I would send a receipt. The way the mail was, I would have been fined $400 every month because the receipt would not have arrived in three days. I am not opposed to giving a receipt because it is necessary for people to have them for a variety of reasons, although modern business practice is that receipts are not always required. I am prepared to accept the need for a receipt, bearing in mind that subclause (2) precludes that requirement if the money is paid into a bank account. However, I feel three days is too short and I intend to move an amendment to extend it to seven days to overcome the problems which will inevitably arise for people living in remote areas whose mail is not as good as it should be and who may find themselves up for $400 every time they transgress what is quite an insignificant aspect of the legislation. I move an amendment --

Page 24, line 18 -- To delete "3" and insert "7".

Hon KAY HALLAHAN: I ask members to vote against this amendment. The Bill says that where an owner receives rent a receipt must be issued. That does not mean the receipt must be received at the other end within three days despite a long postal delay. The receipt must be issued, out of a receipt book presumably, on a particular day within three days of the owner's receiving the rent. I am not sure that members want to hear about the experience in other places, but the South Australian tribunal expressed the view strongly in discussions that the provisions relating to rent documentation were essential to the success of the legislation. Under our Bill an owner can give notice to quit if the rent is seven days late, so we cannot have a receipt being issued seven days later. The number of days for issuing a receipt will have to be less than seven to accommodate the other provisions in the Bill. I point out that this does not apply to bank accounts, and if a person is in Widgiemooltha and receives the rent money in the mail, he is obliged to issue a receipt within three days. It does not say that within three days a person is obliged to issue a receipt and post it so that it is received by the tenant within three days. The three-day period is the period in which the receipt must be issued. If people are seven days late with paying their rent, they can be issued with a notice to quit.

[Questions taken.]

Hon N.F. MOORE: The clause states that a person who receives any rent shall within three days of receiving the rent prepare and give to the person paying the rent a receipt specifying certain things. If "give to" the person does not mean "give to", then I suggest the words should be changed. I may be legally and technically wrong, but I understand "give to" to mean a transaction whereby one person gives something and another person receives it.

Hon KAY HALLAHAN: The member is wrong because on line 20 it states "or cause to be prepared and given". It is nice to be literal in our use of language, but if I want to give a receipt to someone and I live in Widgiemooltha, and the other person lives in another part of the State, I post a receipt to him. That is how I read the clause.

Hon N.F. MOORE: I would be interested to get independent advice on this.

Hon Kay Hallahan: A QC's opinion?

Hon N.F. MOORE: We are talking about a penalty of $400 which could be incurred every week. The Minister thinks we should just let this go by. She is saying that it can happen any time provided the owner writes a receipt, puts it in an envelope, and posts it.

Hon Kay Hallahan: That is how business transactions usually go on.

Hon N.F. MOORE: Yes, but not too many Acts of Parliament state that if a receipt is not given within three days a penalty of $400 is incurred. These days most outfits do not issue receipts.

Hon T.G. Butler: The member is getting short tempered.

Hon N.F. MOORE: Of course I am. It is because I am in this place at this time of the year; that is not my fault but because of the Government, which wants to pass this stupid legislation.. I am not here because I want to be here. I am sick to death of people like the member opposite making comments such as that. I would sooner be somewhere else right now, but I will do what I should do as a member of Parliament looking at this legislation which, from beginning to end, is basically faulty. I ask questions and I do not get proper answers. We are talking about fines of $400 and the member thinks we should just go home. If the member does not like it, he should get the Minister to take the Bill and go somewhere else. I am not satisfied with the Minister's explanation of the word "give" and the words "cause to be given", or that she is legally correct. She may be right and she may not be. I am not prepared to support the clause and I will persist with my amendment to change the three-day period to seven days so that in certain circumstances the owners will have a chance to abide by a provision which is unnecessary anyway, which carries a penalty of $400 which is excessive in the extreme, and should not be included in the first place.

Hon KAY HALLAHAN: I would like to reiterate some of the things I said before. In discussion with the South Australian tribunal, it was stressed that the provisions relating to documentation were essential. In South Australia, where similar legislation is in use, it has been found that documentation regarding rent is essential. Secondly, members should note that tenants can be given notice to quit if they have not paid rent in seven days. It is therefore quite impossible for us to propose that people can issue receipts up to seven days, and provide that as the period when the person has actually been given notice to quit. I ask members to support the clause.

Hon N.F. MOORE: Consider a person who pays by cheque and has in the past had a few cheques bounce; if the landlord does not write the receipt until such time as the cheque has been passed through the bank, is that taken into account in this clause?

Hon KAY HALLAHAN: I am not aware of that arrangement. We are talking about legislation which is meant to resolve problems. If some administrative problems arise, they can be clarified.

Hon N.F. Moore: Come on! We are talking about a clause which provides for a fine of $400. Should we not worry about that?

Hon KAY HALLAHAN: People are not going to be fined $400 for some administrative problem. Many Bills before this Chamber outline offences and penalties for them, but these are not necessarily imposed when some reasonable explanation is given. I have been in the Police Force, and I do not know of any law which is implemented to the letter without some consideration being given to the facts. The honourable member seems to be agitated about something which does not warrant that agitation.

Hon N.F. MOORE: My agitation has nothing to do with this clause; it relates to some of the interjections of members who have suggested that I am keeping them here. However, the Minister's last answer agitates me, because she does not know what will happen when a cheque is involved. Most people probably pay their rent by cheque, particularly those renting properties owned by someone living in the country where there is this mail problem I referred to. I asked whether the person who received the cheque and waited until the bank cleared it before writing the receipt, and that took more than three days, would be guilty under this clause. The Minister says she does not know; she could not give the detail, which she considered a trivial administrative matter. That is what the whole clause is about. If there is a problem with seven days, let us make it six. I am seeking to make a period of time available for people in certain circumstances, such as where cheques are involved, or somebody is living in Gascoyne Junction, to ensure that they do not transgress and get fined up to a maximum of $400.

Hon KAY HALLAHAN: I have given this matter further consideration, and I am advised that until the cheque is cleared by the bank, the owner has not received the rent. From that point the three days would follow. The member is looking unhappy.

Hon N.F. Moore: The Minister did not know that five minutes ago.

Hon KAY HALLAHAN: I have now received legal advice.

Hon N.F. Moore: I cannot receive legal advice, and I want to know whether the Minister's version is correct. Let us leave the whole thing and start again.

Hon KAY HALLAHAN: That is a silly idea.

Hon N.F. Moore: Of course; you have not read it anyway.

Hon KAY HALLAHAN: I regret that I did not think of that before I spoke last time. It is eminently sensible and straightforward that the cheque would have to be cleared by the bank, and then the recipient would be expected to write a receipt. He would have three days in which to write a receipt.

Hon N.F. MOORE: This highlights the difficulty of dealing with a Bill like this in these circumstances.

Hon Kay Hallahan: There is nothing different about these circumstances.

Hon N.F. MOORE: It highlights the difficulty of dealing with Bills like this in these circumstances.

Hon Kay Hallahan: We deal with every Bill like this.

Hon N.F. MOORE: I will persist with my amendment to seven days.

Hon G.E. MASTERS: The Minister has indicated that if it takes three days before a cheque is cleared, and then that person is notified that the cheque is cleared. That is four days realistically before the person is advised. We are talking about three days after receiving the money, which is seven days, a week. That is the seven days that Hon Norman Moore is talking about.

Hon Kay Hallahan: He wants another seven days after that.

Hon G.E. MASTERS: I do not think that is his intention.

Hon Kay Hallahan: He does say that.

Hon E.J. CHARLTON: I do not know whether the people we spoke to sought legal advice, I certainly did not, but they understood that aspect was all right. In view of the bank situation and postal delays, there should be some provision. What Hon Norman Moore says is that he has not had the opportunity to seek legal advice. Do we have the opportunity to seek legal advice on every piece of legislation? We do not. The only opportunity we have is when we have the Bill in our hands and we go out to do it. Whether it is this year, the day before Christmas or 2 January next year, we will still be in the same boat. We should leave the Bill as it is, and if someone is taken to the cleaners for $400 we will have a real serve about a Bill which is no good.

Hon N.F. Moore: You will take the blame.

Hon N.F. MOORE: The reason I refer to the need for a legal opinion is that the member has given me an interpretation of the word "give", which I do not think is right. I would like a legal opinion before I vote on it. If the member wants us to pass the Bill as it is so that everyone blames us, then he can carry the can.

Amendment put and a division called for.

Bells rung and the Committee divided.

The DEPUTY CHAIRMAN (Hon John Williams): Before the tellers tell I give my vote with the Ayes.

Division resulted as follows --

Ayes (10)

Hon Max Evans	Hon P.H. Lockyer	Hon Neil Oliver	Hon Margaret McAleer
Hon Barry House	Hon G.E. Masters	Hon P.G. Pendal	*(Teller)*
Hon A.A. Lewis	Hon N.F. Moore	Hon John Williams	

Noes (11)

Hon T.G. Butler	Hon Graham Edwards	Hon Robert Hetherington	Hon Doug Wenn
Hon E.J. Charlton	Hon John Halden	Hon Garry Kelly	Hon Fred McKenzie
Hon D.K. Dans	Hon Kay Hallahan	Hon S.M. Piantadosi	*(Teller)*

Pairs

Ayes	Noes
Hon H.W. Gayfer	Hon Tom Stephens
Hon Tom McNeil	Hon Tom Helm
Hon J.N. Caldwell	Hon B.L. Jones
Hon C.J. Bell	Hon Mark Nevill
Hon W.N. Stretch	Hon J.M. Berinson
Hon D.J. Wordsworth	Hon J.M. Brown

Amendment thus negatived.

Postponed clause put and passed.

Progress

Progress reported and leave given to sit again, on motion by Hon Kay Hallahan (Minister for Community Services).

ADJOURNMENT OF THE HOUSE: SPECIAL

HON J.M. BERINSON (North Central Metropolitan -- Leader of the House) [3.02 pm]: I move --

That the House at its rising adjourn until 11.00 am on Monday, 21 December.

Sittings of the House

HON E.J. CHARLTON (Central) [3.03 pm]: Obviously I am not suited for this job. Some of us who live out in the scrub had a few things to do and a few people to whom we have commitments for the period leading up to Christmas. I, for example, put off four engagements on Wednesday and Thursday; we were told that we would not be sitting today, and did not have any idea that this was going to happen, although one could have guessed because of the nature of the legislation before the House. We are not even halfway through the legislation and we will have to spend Monday, Tuesday and probably Wednesday of next week dealing with it. When one takes on this job, one must be prepared not to be able to keep one's commitments and to telephone people to say, "I'm sorry, I can't come"; people then hear that Parliament sat all night until 10.00 am one day and obviously they consider that to be stupid. Comments have been made about the need for more recognition and credibility of Parliament but as soon as we do this sort of thing, we lose any credibility as members of Parliament, as does the system and the Government itself.

I register my disapproval of and dissatisfaction with the situation. If I were somewhere else, I would tell members what to do and where to go; it seems that we are simply getting ourselves into a bind. I understand the Government's situation in respect of the Residential Tenancies Bill; however, the legislation should not have been introduced in the last few days of the sitting. That is why I have sat back and said as little as possible -- so that we could get the damned thing through, particularly as I know there will be a review of the legislation. The Government should leave all these penalties and so on in the Bill. However, the Government introduced the legislation a few days before Christmas and it has probably not been as well-researched as it could have been, by both the Government and the Opposition parties. I knew that agreement could not be reached on the legislation in its present form and I knew that the Opposition wanted to bring in all these amendments and to talk to people around the State to get their ideas, as did the Government, and that is why we are running so late. The National Party accepts that, but fair is fair: If we are going to come back here on Monday -- particularly when one considers the number of amendments and clauses that remain to be discussed -- the Government might be better off saying, "Okay, we have got this far; we don't intend to go any further; we may as well leave it over the recess months and

deal with it next session." I have tried to understand the situation but I point out that we have only got this far, regardless of our early start this morning. Indeed, every time we get in here early, it seems we have a debacle and we waste time; everyone has to take his fair share of the blame for that. I again register my dissatisfaction with the situation.

HON G.E. MASTERS (West -- Leader of the Opposition) [3.07 pm]: Neither my party nor I has any objection to sitting on Monday, if that is necessary in order to deal with this important legislation. We have already agreed to that arrangement. I would point out to Hon E.J. Charlton that many of us have commitments for the Christmas period and that these commitments have been devastated by the sitting arrangements of this session. It is not the fault of the Opposition -- neither the National Party nor the Liberal Party -- that there was a slow start to this session where we did literally nothing for days and indeed weeks; suddenly we had launched upon us a massive amount of legislation, some of which was the worst-drafted legislation that any Parliament in the history of this State has ever seen. Bill after Bill came forward with pages of amendments, not just from the National Party or from the Liberal Party but from the Government itself. The Government has amended its own legislation to a great extent. I have never before seen legislation so sloppily drafted, causing so much trauma and distress to members, to the stage where we are only a few days short of Christmas and struggling with an important piece of legislation.

Hon Norman Moore is doing a thorough and responsible job in dealing with this legislation, which once again is badly drafted. Hon E.J. Charlton is correct: Perhaps this legislation should be left on the Table of the Chamber, regardless of the Government's commitments to bring it forward quickly. However, it is the Government's own fault and it is risky to try to put this sort of legislation through quickly. The Opposition simply cannot close its eyes or walk away saying, "Let's see what happens to it." That is totally irresponsible and neither I nor the Liberal Party is in the business of letting that happen. If it is necessary to sit Monday, Tuesday and Wednesday, that is what we will do.

Question put and passed.

ADJOURNMENT OF THE HOUSE: ORDINARY

HON J.M. BERINSON (North Central Metropolitan -- Leader of the House) [3.08 pm]: I move --

That the House do now adjourn.

Leader of the House: Legislative Assembly Seat

HON A.A. LEWIS (Lower Central) [3.09 pm]: I will delay the House for only a short time. I do so in order to make a plea to the Leader of the House to save us from what the *Daily News* says is to happen -- "Premier Dowding!". I ask the Leader of the House to move quickly to an Assembly seat.

Question put and passed.

House adjourned at 3.10 pm

QUESTIONS WITHOUT NOTICE

Decorum of the Chamber

The PRESIDENT: While we are waiting for the Ministers to come into the House I remind the Ministers and, indeed, the officers of this House, that Standing Order No 67 applies to every one who comes onto the floor of the House.

LEADER OF THE HOUSE
Presence: Question Time

502. Hon G.E. MASTERS, to the Deputy Leader of the Government in the Legislative Council:

Is Hon Joe Berinson due in the House for this question time?

Hon KAY HALLAHAN replied:

I am notified that the Leader of the House will not be here today.

PREMIER AND DEPUTY PREMIER
Retirements

503. Hon G.E. MASTERS, to the Deputy Leader of the Government in the Legislative Council:

In view of the events of today I am disappointed that Hon Joe Berinson will not be in the House for question time because I wanted to direct this question to him in his capacity as Attorney General.

(1) Has there been any consultation over the last 12 hours with regard to the Dowding-Parker alliance?

(2) When are we likely to have an indication from the Government of a firm commitment?

Hon KAY HALLAHAN replied:

(1)-(2)
I am in no position to give any indication on that particular topic.

Hon D.K. Dans: When the Labor Party makes a decision, you will know.

LABOR PARTY
Caucus Meeting

504. Hon G.E. MASTERS, to the Deputy Leader of the Government in the Legislative Council:

Would the Minister advise, not only for the Opposition's benefit, but also for the benefit of the media and the public, when the next Caucus meeting is likely to take place, even if it is an emergency meeting, so we can at least have an indication?

The PRESIDENT: That question is out of order.

ACTS AMENDMENT (PREVENTION OF ACCESS TO RECORDS) BILL
Births, Deaths, and Marriages Records

505. Hon P.G. PENDAL, to the Leader of the Opposition:

(1) As he is the member handling the Acts Amendment (Prevention of Access to Records) Bill, I ask him whether that Bill guarantees that the records presently held by the State Government on births, deaths, and marriages will not be passed on to the Federal Government for the purpose of setting up a national surveillance system in place of an ID Card system?

(2) Is the member concerned about the Government's refusal to deal with the legislation?

Hon G.E. MASTERS replied:

(1) The whole purpose of the legislation is to ensure that the records of births,

deaths, and marriages will not be handed over to the Federal Government which is, as I understand it, determined to introduce a national surveillance scheme in one form or another.

(2) Of course I am concerned about the delay, and I question the Federal Government's motives in this respect. Obviously we have every reason to believe that the Labor Party's foreshadowed new Premier will be supportive of the concept of a national surveillance system more than the old guard of Burke-Bryce.

As an Opposition, the Liberal Party will seek an absolute assurance from the new leadership that all records of births, deaths, and marriages will be kept confidential to the State. We are concerned over the change in the Labor Party's leadership in view of our experience in this place and the extreme views of Hon Peter Dowding.

Several members interjected.

Hon G.E. MASTERS: We have no knowledge of whether the Labor Party right wing, the centre left, the left, the third floor alliance, or the unattached, will support the Liberal Party's concern. I understand that the third floor alliance and Mr McKenzie's left may well be considering some sort of alliance, and I hope that with Mr McKenzie's influence we can make some progress with this Bill.

The short answer is: The Opposition is concerned with the lack of progress of this very important legislation and the Government's obvious objective in delaying it is to pass as much information as it can to the Federal Government as soon as possible to prepare its national surveillance scheme.

I am sorry and distressed to read in the newspaper of the new leadership of the Labor Party which will be far more extreme than the present leadership.

HON P.G. PENDAL
Dress

506. Hon E.J. CHARLTON, to Hon P.G. Pendal:

Does the colour of his red handkerchief indicate a close relationship to someone?

The PRESIDENT: That question is out of order.

SPORTS FUNDING
Ceiling

507. Hon P.G. PENDAL, to the Minister for Sport and Recreation:

I preface my question by saying that the answer to the last out of order question is "No".

Can the Minister clarify whether the $3 million ceiling on Instant Lottery funds for sport will, in fact, be lifted?

Hon GRAHAM EDWARDS replied:

No.

INSTANT LOTTERY DISTRIBUTIONS
Diminution

508. Hon P.G. PENDAL, to the Minister for Sport and Recreation:

(1) Can he indicate whether the source of Instant Lottery funding is a diminishing one?

(2) Is it consequently causing concern to sporting bodies in Western Australia?

Hon GRAHAM EDWARDS replied:

(1) No.

(2) Yes.

SPORTS FUNDING
Continuation

509. Hon P.G. PENDAL, to the Minister for Sport and Recreation:

I thank the Minister for being so forthcoming with his information. Can he outline what steps the Government is taking to secure ongoing and guaranteed funding to sporting bodies in Western Australia?

Hon GRAHAM EDWARDS replied:

It is very pleasing for me to be able to speak as Minister for Sport and Recreation in a Government which has a record that is recognised by the sporting bodies in this State as being the best record of any State Government and, indeed, the best record --

Hon N.F. Moore: You are kidding yourself.

Hon P.G. Pendal: Have you read your own report?

Hon GRAHAM EDWARDS: -- of any Government of this State.

I am also pleased to be able to say that the people have been quite prepared, and, for instance, within the last days, we have seen a number of leaders of sporting associations do so, to say that quite openly and without any reticence. The future of sport, under this Government, is assured and it is rather unfortunate that there is some fear mongering going on. It is also unfortunate that this Opposition does not have a single policy it can put forward on sport.

Hon P.G. Pendal: We provided Instant Lottery.

Hon GRAHAM EDWARDS: It does not have any policy to support sport in the future. It is no wonder that the associations in this community are extremely concerned that we should ever return to a Liberal Government because they know that if that happens the future of sport in this State is not assured.

Government members: Hear, hear!

The PRESIDENT: Order! I remind honourable members on both sides of the House when answering questions that before they answer them in future they read Sessional Order No 14.3.3.

INSTANT LOTTERY DISTRIBUTIONS
Introduction

510. Hon P.G. PENDAL, to the Minister for Sport and Recreation:

I thank the Minister for the forthcoming nature of his answers.

Which Government introduced Instant Lottery funding to sport in Western Australia?

Hon GRAHAM EDWARDS replied:

That was introduced by the previous Government --

Hon P.G. Pendal: The previous Liberal Government.

Hon GRAHAM EDWARDS: -- under the ministry of Bob Pike, who did more to destroy sport and to undermine its well-being in this State than perhaps any other individual. It is unfortunate that at that stage he received the overwhelming support of his Government.

Hon P.G. Pendal interjected.

Hon GRAHAM EDWARDS: It seems that the member does not wish to listen to

the answer; if he does he should be quiet. It was interesting to note that at that stage it was the most disastrous form of sports funding in Australia --

Hon P.G. Pendal: It has paid for all your election promises.

Hon GRAHAM EDWARDS: The member does not want to listen to the answer. It was a disastrous form because it was dealt with on the basis of numbers involved in a sport.

The PRESIDENT: Order! Both members are out of order. Firstly, Hon P.G. Pendal is out of order for interjecting while the Minister is answering the question; secondly, the Minister obviously did not have time to read Sessional Order 14.3.3 before he answered the question. I suggest that he does so before he answers the next question.

Hon GRAHAM EDWARDS: I had not finished the answer to that one.

The PRESIDENT: I thought you had.

Hon GRAHAM EDWARDS: I will bring my answer to a conclusion.

Sports funding was disastrous because it was based on numbers in sport, and people playing darts were funded massive amounts of money which was denied those involved in what might be termed more recognisable forms of sport.

Hon N.F. Moore: The darts people will be pleased to hear that.

SPORTS FUNDING
Ceiling

511. Hon P.G. PENDAL, to the Minister for Sport and Recreation:

This is my final question on this subject. Which Government, having witnessed the introduction of that source of funding to sporting bodies, introduced a ceiling of $3 million on the level of that funding?

Hon GRAHAM EDWARDS replied:

I am not surprised that the member has indicated it is his final question because, once again, he has been done over by his lack of knowledge of the background and of sport generally in this State. Unfortunately his colleagues share that lack of knowledge. This Government has the very proud record of having introduced and given more support to sporting associations in this State than any previous Government. I reiterate the answer I gave earlier; the sporting associations of this State recognise that they are treated more favourably by this Government than sporting associations are treated by any other Government in any other part of Australia.

Hon P.G. Pendal: They are not believing your propaganda.

The PRESIDENT: Order! I ask honourable members to come to order.

Hon E.J. Charlton: I want to go home.

The PRESIDENT: I am not in the business of controlling the travelling arrangements of the honourable member who interjected. If we are to have a questions without notice session, it will be carried out in the way set down in the rules; that is, members can ask questions and Ministers can answer them. Any debates or interjections are out of order.

LEADER OF THE HOUSE
Legislative Assembly Seat

512. Hon G.E. MASTERS, to the Leader of the House:

(1) Has he read the article on page two of *The Australian Financial Review* of Friday 18 December which states in part --

> . . . the firm decision by Attorney-General, Mr Joe Berinson, not to move from the Upper House and lead the party into the next State election due in February 1989.

Mr Berinson told Mr Burke during the weekend that he was content to stay on as Leader of the Government in the Legislative Council and he was not interested in moving to the Legislative Assembly.

(2) Is that statement in the newspaper correct?

Hon J.M. BERINSON replied:

(1)-(2)

On the last occasion when the honourable member asked me a similar question, I said I would not add to speculation on it, and neither will I now.