

STATUTES (REPEALS AND MINOR AMENDMENTS) BILL 2013

Second Reading

Resumed from 25 June.

The ACTING SPEAKER (Mr N.W. Morton): Members! Member for Butler and member for Victoria Park, I am asking for silence while the Clerk reads the orders of the day.

MR J.R. QUIGLEY (Butler) [3.33 pm]: This omnibus amendment bill, the Statutes (Repeals and Minor Amendments) Bill 2013, contains a number of house-cleaning matters on a range of acts, including tidying up the language and bringing it up to date. The bill was subject to an inquiry by the upper house Standing Committee on Uniform Legislation and Statutes Review, which tabled its report in the other place on 8 August 2013. I have to clarify something with the member for Victoria Park who is at the Clerk's table. A lot of the amendments deal with updating language that has been varied by subsequent legislation. The classic example of this is the reference in a number of pieces of legislation to the Local Court which, since the passage of the Magistrates Court Act, has become the Magistrates Court. Instigating documentation for matters in the Magistrates Court is no longer by way of complaint but by way of charge, so this finds its way into a number of the amendments before the chamber this afternoon. This will not take long, Leader of the House.

The contentious amendment for the opposition is that which was highlighted by the member for Victoria Park in his contribution to the second reading debate; that is, the amendments to the Marketing of Potatoes Act 1946. This is the longest of the amendments coming before the chamber this afternoon and is to do with prosecution notices and presumptive evidence, and will make it marginally easier to prosecute anyone who has the temerity to grow and sell a potato outside of the strictures of the Marketing of Potatoes Act and the Potato Marketing Corporation's monopoly. I do not intend to take much more time other than to say that it is curious that a Liberal government would continue to support this regulated market, a government that would tell us it is rooted in the principles of private enterprise and the power of the free market.

Dr A.D. Buti: We got a free dinner out of it last Tuesday!

Mr J.R. QUIGLEY: I got a free dinner out of it, too, quite frankly from two good restaurants that are near my home—Clarke's and Adam's Cafe Tonino's. Being of Irish stock, I do not know whether it is in our DNA, but I really do like my spuds and I would have them with nearly every meal—not all fluffed up as mashed potato with butter, cream and all that gunk in them, but just microwaved and spread with a bit of margarine and eaten with the skin on. I think potatoes are very healthy and a good way to take a bit of starch at a reasonably low GI—but that is another point.

I cannot understand, with 80 commercial growers in Western Australia, why so much effort would be put into protecting this market. It is unbelievable. The opposition can see the ironies. It was this government that sought to take the opposition to task over protecting retailers and trading hours. The government said we had to open up trading hours and let the market, the people, decide. However, with potatoes, the government cannot let the consumers and the retailers decide. The Galati family and the Spudshed achieved a certain degree of infamy because they were being pursued for growing the humble potato as though they were growing and selling illicit substances. I remember, going back some years, when the raids carried out by the potato marketing board were on television. One would think that they were growing prohibited substances and not the humble spud. The costs to Western Australia to enforce the provisions of the act were not inconsiderable.

I know that we will support this legislation and all the amendments. As I said, this Statutes (Repeals and Minor Amendments) Bill 2013 has been through the Standing Committee on Uniform Legislation and Statutes Review in the Legislative Council, which recommended that each of the clauses be supported. In the Legislative Council, the opposition supported each one of the clauses and we will do so again here. I do not know what the Leader of the Opposition has in mind after I have finished speaking. We will certainly not go into consideration in detail on this bill, and I do not think there are any other speakers, but given a bit of free airtime —

Mr P. Papalia: There are other speakers.

Mr J.R. QUIGLEY: We have other speakers; I am sorry. Given this bit of free airtime, I could not let the opportunity pass without once again highlighting the incongruity of the government's position in protecting this monopoly. Some people in this chamber might remember that quite a few years ago we had rostered petrol stations. The weekend papers used to carry the list of which stations were on roster. People would drive 10 or 15 kilometres from their home to look for a rostered station, only to find a queue of cars. We were told that the sky would fall in if the regulations that prevented the sale of petrol outside normal retail hours were lifted and there were no rostered stations—everyone could sell petrol and that would be the end of it. Of course, the market moved on. One would not like to guess what the cost of a litre of petrol would be today under rostered stations.

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For instance, in Butler, there would be one station that cornered the market for that weekend and could charge whatever it liked, knowing that the customers could not drive 100 metres down the road from the Caltex station to the Shell station; they would have them captive up there. It is the same with potatoes really. The Potato Marketing Corporation of WA can control the supply.

My other predilection in my diet besides potatoes is stone fruit. I really like stone fruit and I look forward to summer and stone fruit. I usually cut up a couple of nectarines or suchlike and mix them in with my Bircher muesli for breakfast, and it provides a bit of sweetness to the gruel.

Mr J.E. McGrath: And honey?

Mr J.R. QUIGLEY: I stay away from that. I am probably kidding myself by having fructose. It is still sugar, but it adds a bit of sweetness to the gruel. I am always a bit saddened when I go to my local supermarket and see the Bartlett pears there but no stone fruit on the shelf. However, I stopped the other day because I saw some lovely reddish nectarines and thought, “These are a bit late for summer.” When I looked at them again, I saw that they were \$7.99 a kilogram, which is commensurate with midsummer prices of about \$6.99.

Ms R. Saffioti: Were they imported?

Mr J.R. QUIGLEY: Yes, they were American nectarines. We have opened up the markets under the Australia–United States Free Trade Agreement. This has not seen the end of nectarine growers in Western Australia. It has meant that stone fruit from another country is available to us in the depth of winter. But if we come across a good crop of spuds in Victoria at a very competitive price, we say that it is illegal to bring them over here and offer them to the public. We are to be punished somehow for doing that and I do not know why. It reminds me of that advertisement for Bacardi rum in which a chap is walking home drunk when he is attacked by a Doberman. Whilst drunk, he points his two fingers at the dog and the dog rolls over onto its back and acts like a little puppy. It seems that the potato growers have learnt that trick of pointing their two fingers at both political parties. We sat on that side of the chamber for eight years, and now members opposite are there, and the protection of this market remains sacrosanct. It is as though the growers have come along with this Bacardi rum trick and waved their two fingers at —

The ACTING SPEAKER: Member, you started well talking about potatoes, but I need to be swayed to see the relevance when you talk about Bacardi rum and stone fruit.

Mr J.R. QUIGLEY: It is the way in which illogical things happen. Where is the rhyme or reason for maintaining this monopoly other than someone pointing some magic finger at this place and beguiling us all into some sort of trance in which we say that the only way that we can properly market potatoes in Western Australia is under the auspices of a controlled market? I do not buy it, but I know that it will not change under this legislation. In its amendment, this bill offers a further facilitation in terms of presumed evidence upon the prosecution of a grower or retailer under the act. Occasionally these bills come before the Parliament and we have to clean up a whole lot of legislation. As I said, I will not go through each of the clauses now because that has been done in detail by the uniform legislation committee, whose report was tabled for members, and members of the public who are interested, on 12 September 2013, after which the bill was speedily passed through the Legislative Council. I will conclude. Thank you very much.

MS R. SAFFIOTI (West Swan) [3.47 pm]: I rise to make a short contribution to this debate on the Statutes (Repeals and Minor Amendments) Bill 2013. This is a housekeeping or administrative bill, in a sense, and a number of pieces of legislation are amended through this omnibus bill. I will make a couple of comments, starting with the amendment to the Marketing of Potatoes Act 1946 that is proposed in this bill. I am following the member for Butler, who made some comments about how the retention of the Potato Marketing Corporation is a unique policy position of this government. This government sold itself on being a reducer of red tape—a “freer upperer” of the market. This is an example in which the government is not implementing what it says it will do and its ideology. In respect to the marketing of potatoes, it is worthwhile reading the proposed amendment into *Hansard* because it goes to the key point—that is, why are we still amending an act that really should not be in place in today’s economy or today’s society? The amendment in clause 28 of the bill states —

- (1) This section amends the *Marketing of Potatoes Act 1946*.
- (2) Delete section 22(4)(d) and (e) and insert:
 - (d) either —
 - (i) that the person charged did not produce to the inspector any sales docket, delivery note or relevant consignment advice from the grower; or
 - (ii) that the person charged produced to the inspector a sales docket, delivery note or relevant consignment advice but —

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- (I) it did not contain the prescribed information; or
- (II) it did not purport to have been issued by or on behalf of the Corporation or the holder of a relevant permit under section 25;

And it goes on and on.

Here we are again seeing more amendments to what is really an archaic piece of legislation. Many in this house may know, but I will outline it again, that I come from a family of orchardists. My parents, grandparents, uncles and aunts were orchardists and I grew up on a farm, so I understand the pressures on those who grow fruit and vegetables. The member for Butler alluded to stone fruit and we grew a lot of stone fruit—peaches and nectarines—over my dad’s farming life. Therefore, I understand the pressures, and the complexities in particular, in the marketplace. Although we seem to be deregulating the rest of the fruit and vegetable industry, we seem to want to re-regulate and continue to regulate the potato industry. We have seen, for example, the import of stone fruits being allowed, which the member for Butler just outlined. We have seen the import of grapes being allowed, and that has affected a lot of producers in the Swan Valley. A lot of producers and growers are asking about consistency in policy. Although other parts of the economy, and other parts of the fruit and vegetable industry have been told to basically suck it up, in a sense, and keep innovating and changing to deal with imports, in one particular industry the government is saying that it is okay to have a level of protection. Last night the member for Victoria Park mentioned some statistics and went through some cost issues related to potatoes. He also went through the amount of potatoes one can legally carry and transporters having to open their trucks, or whatever vehicle they might be driving, to inspectors. It is quite interesting to have the Liberal Party reaffirming the Potato Marketing Corporation and the current legislation through this omnibus bill. I did not attend the function put on here at Parliament House by the Potato Marketing Corporation a couple of nights ago. I have never seen the corporation hold that sort of function at Parliament House in all my years around the place. I thought it was quite interesting that it would choose to hold that function here during the week. Again, just to put it on the record, the real issue is fairness, and the fact is that the rest of the fruit and vegetable industry does not have such protection. Those producers have all had to survive in quite a fierce and competitive marketplace, so one has to keep questioning why we continue to have this Potato Marketing Corporation.

A number of other acts are amended by this bill, and many of them relate to the Minister for Transport’s portfolio. I am upset that the Minister for Transport left the chamber after consideration of the Council’s amendments to the Taxi Drivers Licensing Bill. I was quite shocked about what happened there. Basically, a mistake was identified by the member for Cannington, and all we wanted was for the minister to admit that there was a mistake and move on; I think that is all the member for Cannington wanted. A mistake was made, and we all make mistakes. I am sure that if the minister had just admitted that a mistake had been made and that it was not intentional, we could have moved on and had a proper discussion about that amendment. I had a series of questions that I wanted to ask about that amendment. It was quite unusual.

The ACTING SPEAKER: Members, your conversation is escalating.

Ms R. SAFFIOTI: As I said, this bill amends a lot of transport legislation, and I was alluding to the extraordinary performance that we just saw by the Minister for Transport. Another key thing, frankly, is that if the Minister for Transport wants to attack members in this place, he can do it, but he has to accept that people will return fire. If the minister wants to make those attacks—I think he said something about me in question time—he has to expect people to return fire. He should not put himself on a pedestal—when people attack him, he attacks us.

I want to make one point about the Reid Highway–Lord Street intersection upgrade. For years upon years, the established protocol has been that when a minister visits a member’s electorate, they let the member know. The minister did not do that on the day he came to open that intersection. That intersection is in my electorate and I did not get invited to the opening.

Point of Order

Mr P.T. MILES: Debate on this piece of uniform legislation can be a bit varied and wide, but the member is clearly way off track in what we are dealing with. I ask the Acting Speaker to pull her into order.

The ACTING SPEAKER (Mr N.W. Morton): Member for West Swan, I am scanning the amendments to see which one you are referring to, so if you could just draw us back to the relevance of your comments, it would be greatly appreciated.

Debate Resumed

Ms R. SAFFIOTI: I am referring to clauses 35 and 36, which are the amendments to the Road Traffic Act 1974 and the Road Traffic Legislation Amendment (Disqualification by Notice) Act 2010. Of course, one of the key

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issues in my electorate is road safety and this legislation governs road safety. In relation to that, the Reid Highway–Lord Street intersection is a very important piece of infrastructure that was upgraded with traffic lights. As I said, I did not want to raise the fact that normal protocol was thrown out the window and that Main Roads invited Liberal Party members but did not invite a Labor person, which throws into question its political operations. However, if the minister wants to come in here and talk about what is right and what is not right, not notifying local members when he visits their electorates is not right. As I said, if the minister wants to play hard, we will play hard back. He cannot launch attacks in question time and not expect people to reciprocate. To get back to what the member for Cannington was asking for, he was simply trying to get an acknowledgement —

Point of Order

Mr P.T. MILES: The member is wildly off what the bill is about. The member referred to the Road Traffic Act, and rightly so; however, we are talking about a fund being changed to an account, and that is what I would ask her to talk about.

The ACTING SPEAKER: The member for West Swan’s comments need to relate to clauses 35 and 36, not to the taxi bill that we were considering before.

Debate Resumed

Ms R. SAFFIOTI: As I said, this bill amends a number of transport bills, including the Rail Safety Act, the Road Traffic Act and the Road Traffic Legislation Amendment (Disqualification by Notice) Act. I went to the second reading speech of this bill. Who is handling this bill, member for Wanneroo?

Mr P.T. Miles: I am.

Ms R. SAFFIOTI: Where is that second reading speech? Was it that one page? Was that it?

Mr P.T. Miles: Apparently so.

Ms R. SAFFIOTI: Apparently so? The person handling the legislation came in with 18 pages and 44 clauses. I tried to understand what all these amendments were doing, so I thought I would pull out the second reading speech. I thought that, surely, given that the parliamentary secretary just said that we are changing the word “fund” to “account”, it would be in the second reading speech.

Mr P. Papalia: There is a lot of latitude in that speech.

Ms R. SAFFIOTI: Yes. It is one page and a bit, and all it says is that the government normally does these sorts of bills, but it does not give any explanation for what it is doing. For example, in the parliamentary secretary’s response to the second reading debate, I would not mind him telling us exactly what the impact of the change to the Potato Marketing Corporation is. I took the original bill and I looked at the amendment, and I just want to clarify the exact impact of that change.

Mr P.T. Miles: You clearly haven’t read the report that it came from then.

Ms R. SAFFIOTI: No, I read the second reading speech, because the parliamentary secretary read it in Parliament, did he not?

Mr P.T. Miles: No, I did not.

Ms R. SAFFIOTI: Who did?

Mr P.T. Miles: The Deputy Premier.

Ms R. SAFFIOTI: If the member for Wanneroo, as parliamentary secretary, is handling the bill, he had better make sure that his future second reading speeches have a bit more detail. I do not want to delay the house unnecessarily, but I have a couple of key points—namely, I question the continued relevance of the Marketing of Potatoes Act and have queries in relation to transport. There are a number of changes to the act. I hope the member opposite will stand up to explain exactly what the impact of each change will mean; otherwise, we might need to go into consideration in detail to establish the real impact of these changes.

MR P. PAPALIA (Warnbro) [4.00 pm]: I, too, want to make a few comments with regard to this omnibus bill, the Statutes (Repeals and Minor Amendments) Bill 2013. Following in the footsteps of the member for Victoria Park and others, including the member for West Swan, I need to place on the record a couple of observations regarding the Potato Marketing Board. Notably, this is probably one of the few occasions we get post-election to comment on the Liberal Party’s defence of the socialist-era structure that is the Potato Marketing Board, and the confirmation with this bill and the amendment to the Marketing of Potatoes Act 1946 that the Liberal Party fully embraces what is absolutely undeniably a socialist-era protectionist framework here in Western Australia. I need to place on the record that when WA Labor members went to the last election, we had a very clear stance that we would remove the Potato Marketing Board. This was unpopular in some Labor

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quarters, but not many. I was the shadow Minister for Agriculture and Food at the time who was lucky enough to receive input from the sector. People were unhappy with what we were doing. I concede that I was not able to allay their concerns in any way. Ultimately, I had to say, “Look, I understand; I empathise with you, but, unfortunately, we as a party have determined that we really cannot any longer defend this protectionist structure when it is isolated. It is the only one of its type anywhere in the country—if not the world.”

Unfortunately, that observation was made during the election campaign in Western Australia, but it drew national attention shortly after the election in agricultural communities and from observers in the field. I now quote an article from *The Land* written by David Leyonhjelm on 27 March 2012 entitled “WA’s socialist potatoes”. He made some very valid points that I think should be recorded here. Liberal Party members of Western Australia’s state Parliament should listen to this and should consult their consciences as they continue to defend the Potato Marketing Board into the future. Every issue is a conscience issue in the Liberal Party, we are told; its members have the ability to cross the floor and stand up for their principles. These are principles that can be traced back to their founder, Robert Menzies—and I think he would be rolling in his grave if he were to read the following. David Leyonhjelm states —

A DECADE after the Soviet Union collapsed, confirming the moral and economic failure of socialism, Australian agriculture continues to harbour vestiges of it. Ironically it is the party of Robert Menzies, who in 1951 tried to ban the Communist Party, that persists in defending it.

Under the WA Marketing of Potatoes Act, growing potatoes in WA for sale to consumers is prohibited except by registered growers in accordance with conditions determined by the Potato Marketing Corporation (PMC).

Those conditions are Orwellian, if not Stalinist. Potato growers must be registered and their farms licensed. They require a permit to grow an approved quantity of potatoes of approved varieties, must complete a ‘planting declaration’ form within seven days of completing planting, submit a ‘Notice of Intention to Harvest’ at least seven days prior to beginning harvest, and submit a ‘Notice of Harvest and Delivery’ within seven days of completing that harvest.

Merchants must also submit ‘Notices of Deliveries Received’, ‘Consignment Advices’ (containing detailed information of varieties received, intended destinations, grower details and so on) and various other forms and returns.

All potatoes grown in WA, other than those for processing or export, must be sold to the PMC which sells them at a higher price.

It goes on to observe —

... in true Soviet style —

Potato Marketing Corporation —

inspectors have the power to stop and search a vehicle if it is suspected to be carrying more than 50 kg of potatoes. The inspector can demand the name and address of the driver plus any paperwork related to the journey, and impound the documentation plus any potatoes and associated packaging. Inspectors also have the power to search premises, confiscate equipment and crops and prosecute farmers. It is an offence to delay, hinder or obstruct them.

It goes on. I will not read any more, but I will say that it is undeniable that the powers accorded to the Potato Marketing Corporation inspectors under the Marketing Potatoes Act 1946—defended at an election and then defended to the hilt subsequently by the Liberal Party of Western Australia—are draconian. They are incredible. They probably exceed those powers of feline inspectors under the Cat Act which are pretty outrageous and extraordinary and were subject to a degree of debate in the last Parliament. They are right up there. In fact, I think the PMC powers exceed those powers. It is undeniable that it is a complete anomaly to continue to defend this structure, regardless of how nice the people are involved in the cabal that runs the organisation that control—perhaps that is not the correct terminology! I withdraw that. Regardless of how nice people engaged in potato farming in Western Australia at the moment under the Marketing of Potatoes Act are—and they are, and they are hardworking, responsible and professional—it is really questionable to continue to defend the structure. It is wrong that any political party continues to defend the board’s structure in 2014. If a political party will defend it, and Liberal Party members have clearly determined that they will defend the Potato Marketing Corporation to the bitter end, it is beholden on them to stand and explain themselves. They should state why they have abandoned their free-market principles, why they wish to impose those principles, and, probably more appropriately and importantly, why they have abandoned those principles in every other sector. Why have they exposed so many other sectors in the agricultural world to the free-market challenges associated with imports from interstate and overseas? Most recently, that has been seen in the field of table grapes, whereby

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the Liberal Party is crushing any opposition to importing table grapes and the threat that that represents to the local industry. However, Liberal members remain loyal to the Potato Marketing Corporation and to the Marketing of Potatoes Act 1946—an act introduced at a time when the world looked different. All the justifications for maintaining the act have expired by now. Were Liberal Party members to analyse what they have done and are defending, they might come to the conclusion that it is indefensible.

I do not think the parliamentary secretary really believes that we should retain the Marketing Potatoes Act, but I am sure he was out there in the courtyard last night engaged in the —

The ACTING SPEAKER (Ms J.M. Freeman): Member!

A member interjected.

Mr P. PAPALIA: The night before last enjoying the —

The ACTING SPEAKER: Member! I call you back to the clause concerning the Marketing of Potatoes Act 1946, and the amendment is about charges for sales dockets and producing sales dockets. I would like to make you aware of Erskine May's Parliamentary Practice concerning relevance in debate; that is, it must be directed to the question under discussion or a motion or amendment intended to be moved. I will not go through it, but I raise it so the member can bring his comments to the point of the amendments and the issues he raised previously around areas like prosecution—the member may want to focus on those aspects.

Mr P. PAPALIA: As I was saying, while the member was out there he would have spoken to members of the Potato Marketing Corporation and engaged in a discussion about why it is so essential that the Liberal Party defend this Stalinist era of protectionism. I hope that the parliamentary secretary will stand later and explain why it is so essential. This is his opportunity.

The last state election was fought on the matter of whether the Potato Marketing Corporation should be retained or not. The Liberal Party won, and here it is introducing legislation to update and defend the Marketing of Potatoes Act 1946. I look forward to the parliamentary secretary's explanation about why the structure of the Potato Marketing Corporation is so dear to the heart of the Liberal Party. I welcome his contribution. When he stands, I assume he will be able to explain why, when one visits the Potato Marketing Corporation website, there are 13 licensing forms for completion by anyone with the courage, tenacity and endurance to decide to embark upon growing potatoes in Western Australia. I would welcome an explanation from the parliamentary secretary, who has been very keen to keep us to the point of the debate. The point of the debate is that some very specific changes to the Marketing of Potatoes Act 1946 are being introduced by the Liberal Party of Western Australia through the Barnett government. It is beholden upon the parliamentary secretary to explain why they are so essential and indeed why the Marketing of Potatoes Act 1946 is so valuable to Western Australia that the Liberal Party continues to defend it.

MR F.A. ALBAN (Swan Hills) [4.12 pm]: I will only speak for a few minutes on the Statutes (Repeals and Minor Amendments) Bill 2013. I want to address some of the issues raised a minute ago. I have the glory of having been a potato grower—a real one!

Mr P. Papalia: Not in Western Australia though!

Mr F.A. ALBAN: Yes, I was. The member is not informed! Since 1956 actually, when my father came to Australia. Potatoes were the very first things that he grew.

Mr P. Papalia: Did you have 13 licences?

Mr F.A. ALBAN: We gave up in 1979.

I understand that clause 28 changes two words, “prima facie”, and it modernises the act. This is about the orderly marketing of a product. It gives Western Australian potato growers certainty of market and income. At least that is how I remember it; things may have changed in the last 30 years! It provides the public with the opportunity to buy safe, prime, local product. It provides a greater range of selection for the less commercial varieties of potato. Members would have seen a dozen or more varieties of potato the other night. Some are not commercial. However, the Potato Marketing Board is making sure that it is viable for growers. Consumers are getting a better selection. These are some of the arguments.

Mr P. Papalia: Are you saying that some of those potatoes we saw the other night are not available in the shops?

Mr F.A. ALBAN: They are available in the shops, but it is not viable for a grower to grow those small kiplers —

Mr P. Papalia interjected.

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The ACTING SPEAKER (Ms J.M. Freeman): Members! Hansard cannot hear because you are interjecting.

Mr F.A. ALBAN: They do not produce enough to make it viable for growers. As part of the growers' commitment to potatoes, that variety is grown. The other variety—the name fails me at the moment—can be grown at something like 30 tonnes to the acre, whereas the others can be grown at perhaps 10 per cent of that.

The ACTING SPEAKER: Member, I am allowing you some latitude on the basis that latitude has already been enabled in this debate. I bring you back to what is the precise relevance of this argument; although I understand from reading Erskine May's Parliamentary Practice that it —

... may not always be perceptible but a Member who wanders from the subject will be reminded by the Speaker.

The question to be put relates to clause 28, which is changes to section 22(4)(d) and (e) of the act. Can the member please keep himself within the purview of relevance.

Mr F.A. ALBAN: The debate, including debate on clause 28, was about the Potato Marketing Board. My comments are only about that because that is the area I have some past expertise in. I say quite publicly, as far as I am aware, member for Warnbro, this model is the envy of every other producer including our fruit and vegetable growers; and including, member for West Swan, our grapegrowers.

Several members interjected.

Mr F.A. ALBAN: They understand the problems of grapegrowers in the valley and the problems of the importation —

Several members interjected.

The ACTING SPEAKER: Members!

Mr F.A. ALBAN: They have mentioned they understand the pressures that grapegrowers are under.

Ms R. Saffioti interjected.

The ACTING SPEAKER: Member for West Swan! Four times; bring it in if the member is not answering it. Let the member continue.

Mr F.A. ALBAN: The member for West Swan mentioned grapegrowers and the importation of grapes from California. The same problems will be replicated if we allow the importation of product from elsewhere.

Mr P. Papalia: You don't like grapegrowers or you don't like —

Mr F.A. ALBAN: No. I am telling members that if grapegrowers had a choice, they would have the same model as the potato board. There are other dangers. Legislation in the west is higher and well above every other country and every other state. There are the dangers of chemical regulations. We know that with fruit from China. We know that from disease importation from California. That is a concern in the valley.

Mr P. Papalia interjected.

Mr F.A. ALBAN: I am making my point. The member has made his; thank you.

It has worked well. It is not something I am aware of lately—I have not followed it the last few years—but it is a model that has worked well in the past. I understand that the public and certainly all the potato growers support this. This is not some political heist or politically motivated bill for our sake. This bill changes only two words, which I understand are related to the marketing board. It is an omnibus bill that relates to other measures. I did not want to go past that point because the members for West Swan and Warnbro both mentioned that the Potato Marketing Board is some socialist evil to be easily dismissed. Yes, it is dated and yes, it was relevant at the time, but there are a few changes to make it relevant to the twenty-first century. I will repeat once more: this bill has overwhelming grower and public support. It is not a political conspiracy.

MR P.T. MILES (Wanneroo — Parliamentary Secretary) [4.18 pm] — in reply: The speeches for the last few moments have been very interesting, but obviously I will come back to what we are dealing with, which is the Statutes (Repeals and Minor Amendments) Bill 2013. The report is a report from the other house. It is a report of the Standing Committee on Uniform Legislation and Statutes Review. The chairman of that committee, Hon Kate Doust, and her team spent many hours finding all these little mistakes, including spelling mistakes, as well as trying to bring bills up to a more modern structure in law. It is relatively routine. There is an associated explanatory memorandum, member for West Swan. It is not a traditional EM; it has quite an extensive appendix. It is an insert from the report. I do not know whether the member got that when she asked for the bill earlier. It clearly explains every single amendment, including why they have come about. Some members relied on clause 28 for their debates; that is, the Marketing of Potatoes Act 1946. Basically, it will remove two words, as

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the member for Swan Hills said—“prima facie”. Apparently that needs to be cleaned up for legal reasons. That is what the committee said. The government accepted all the committee’s findings. It went through the other house very quickly. The bill was introduced into the house by the Deputy Premier. He is busy with other duties at the moment and that is why I am carrying it through now. I think everybody appreciates that some acts are being amended.

Mr P. Papalia interjected.

Mr P.T. MILES: In fact, member for Warnbro, we have already got rid of some of those acts, and I dare say that the number of acts will be reduced over the coming years. That is all I have to say. I commend the bill to the house.

Question put and passed.

Bill read a second time.

Leave denied to proceed forthwith to third reading.

Consideration in Detail

Clauses 1 to 3 put and passed.

Clause 4: *Genetically Modified Crops Free Areas Act 2003* amended —

Mr P. PAPALIA: Parliamentary secretary, I note that this clause amends the Genetically Modified Crops Free Areas Act, and states —

In section 9(4) delete “a Local Court” and insert:

the Magistrates Court

Can the parliamentary secretary explain why that is the case?

Mr P.T. MILES: As the explanatory memorandum explains —

The *Local Courts Act 1904* was repealed by the *Courts Legislation Amendment and Repeal Act 2004*, section 4. Local Courts have been replaced by the Magistrates Court.

Mr B.S. WYATT: Can I get some clarification from the parliamentary secretary about any jurisdictional issues that may have been considered in the transfer? Obviously, the parliamentary secretary has already outlined why “a Local Court” had to be deleted and replaced with “the Magistrates Court”, but are there any jurisdictional issues in respect of that change?

Mr P.T. MILES: This is a transitional arrangement. After the Local Courts Act 1904 was repealed and the new legislation came in, so this clause just confers the same transitional arrangements.

Mr B.S. WYATT: The parliamentary secretary made mention of the local court, and I assume that a local court repeal act got rid of the local court. Have there been any circumstances in which the Genetically Modified Crops Free Areas Act 2003 came unstuck as a result of the fact that we are only now moving to change the name to the Magistrates Court, or has that previously just simply been dealt with through the use of the Interpretation Act for any of those changes in the court?

Mr P.T. MILES: No. Because this is transitional, this clause is just a reflection of what has been done in the other act. It has no bearing; it is simply to tidy up the legislation.

Mr B.S. Wyatt: So there has not been a case proceeding through the court that found itself unable to proceed because it still referred to the local court?

Mr P.T. MILES: No.

Clause put and passed.

Clause 5: *Residential Tenancies Act 1987* amended —

Mr B.S. WYATT: I have a similar question to the one I asked about clause 4. Again, has there been any implication for matters proceeding through the court that were unable to proceed or were modified or in any way inhibited as a result of the reference in the Residential Tenancies Act to “local court” instead of “Magistrates Court”?

Mr P.T. MILES: No, there have been no cases in which it has had any impact.

Clause put and passed.

Clause 6: *Criminal Investigation (Identifying People) Act 2002* amended —

Acting Speaker; Mr John Quigley; Ms Rita Saffioti; Mr Paul Miles; Mr Paul Papalia; Mr Frank Alban; Mr Ben Wyatt; Mr Bill Johnston

Mr B.S. WYATT: I seek clarification. I know that the parliamentary secretary told the member for Warnbro that some of these issues are dealt with in the explanatory memorandum, but there are a few acts that I am keen to get into the *Hansard* record. This clause relates to the Criminal Investigation (Identifying People) Act 2002. Could the parliamentary secretary explain the impact of deleting “made or sworn a complaint in respect” and inserting “commenced a prosecution”? Could the parliamentary secretary explain not only why that is being done, but also the likely impact of that on prosecutions?

Mr P.T. MILES: There has been no impact on prosecutions.

Mr B.S. WYATT: Why is this change being made?

Mr P.T. MILES: Again, it is just to tidy up the existing acts and make it easier for the future.

Clause put and passed.

Clause 7: *Petroleum (Submerged Lands) Act 1982 amended* —

Ms R. SAFFIOTI: The explanatory memorandum states —

The word “complaint” is not used in the *Criminal Procedure Act 2004*. Instead that Act refers to the charge of the offence. Accordingly the reference to a complaint is deleted for the more appropriate words “charge of the offence”.

What has been the implication of having this incorrect wording over recent years and why does that need to be changed? What is the cause of this change? Has there been a particular incident that has necessitated this particular change?

Mr P.T. MILES: All that the government is trying to do here is keep the acts aligned with the same language, and so there is no problem; it is just a matter of making it easier for everybody to understand the same terminology.

Clause put and passed.

Clause 8: *Petroleum and Geothermal Energy Resources Act 1967 amended* —

Mr B.S. WYATT: I think the minister just answered this, but I was half listening. In respect to the changes made to clause 7, deleting “the complaint” and inserting “the charge of the offence”, I assume that clauses 8, 9 and 10 are similar amendments for that purpose. I think the parliamentary secretary has just said that, but could he confirm that?

Mr P.T. MILES: Yes; member for Victoria Park, they are all exactly the same. It is a matter of keeping the same standard across the acts.

Mr B.S. WYATT: Did another piece of legislation prompt this change? Was there a change to a federal act? Why have we moved to make all these changes across a number of pieces of legislation?

Mr P.T. MILES: These changes have come about because of the Criminal Procedure Act 2004. That contains the new updated language. Therefore, we are just going back and putting the same language in all the other bills.

Mr B.S. WYATT: The question I have now is similar to the question I asked before. In light of the fact that this is a result of a change to the Criminal Procedure Act in 2004, does the fact that we have referred to “the complaint” in these four pieces of legislation—in clauses 7, 8, 9 and 10—mean that those pieces of legislation found themselves wanting in a prosecution against them because of the incorrect or different terminology?

Mr P.T. MILES: There has been no problem. There is nothing lacking or wanting; the government just wants to modernise some of the acts and bring them up to standard.

Clause put and passed.

Clauses 9 and 10 put and passed.

Clause 11: *Electoral Act 1907 amended* —

Ms R. SAFFIOTI: This will occur during the next number of clauses; that is, the changing of the word “secretary” to “registrar”. Why is that required? Do any other pieces of legislation still use the word “secretary” rather than “registrar”?

Mr P.T. MILES: The Mentally Impaired Accused Review Board no longer has a secretary; it has a registrar. Therefore, it is a matter of changing the act to reflect that change.

Ms R. SAFFIOTI: Does a registrar undertake a wider range of functions than a secretary would normally undertake? Is it just a change in terminology or is it a change of role as well? I know that the word “secretary” is

not often used in the workplace nowadays. Does a registrar do the same work with a different title or is it a completely different role?

Mr P.T. MILES: No, there is no change in the focus; it is just the title of the person. It is only relevant to these acts that we are dealing with. We are not changing anything about the person's role; we are just changing the name of that role.

Clause put and passed.

Clauses 12 to 14 put and passed.

Clause 15: *Legal Profession Act 2008* amended —

Ms R. SAFFIOTI: This clause seeks to make quite a particular change. Under the definition of “accountant”, it seeks to delete “National Institute of Accountants” and insert “Institute of Public Accountants”. While I am not an accountant, I understand that the Institute of Public Accountants has been around for a long time. What will be the impact of having the term “National Institute of Accountants” compared with “Institute of Public Accountants”? This seems like more of a significant change than some of the earlier changes we have discussed.

Mr P.T. MILES: This amendment was brought about because the organisation wishes to change its name and we are just complying with its wishes.

Ms R. SAFFIOTI: Has that institute changed its name? If so, when did it do that? For example, if that name change occurred a couple of years ago, there would have been a gap in the coverage in this area. When did that name change occur and has there been some sort of gap that needs to be remedied?

Mr P.T. MILES: We do not know the exact date that it changed. It was a request of the institute. It has obviously changed since the act came into play in 2008. There is no doubt at all about what the organisation is because its ACN never changed after it changed its name.

Clause put and passed.

Clause 16: *Geraldton Sailors and Soldiers' Memorial Institute Act 1929* amended —

Mr B.S. WYATT: I have a similar question to the question the member for West Swan asked under clause 15. This clause seeks to delete “the Returned Sailors' Soldiers' and Airmen's Imperial League of Australia” and insert “the Returned & Services League of Australia WA Branch Incorporated”. I am assuming that that is simply because of that name change or is it because the RSL has assumed the roles of the previous organisation or is it the same organisation?

Mr P.T. MILES: It is purely because the Returned Sailors' Soldiers' and Airmen's Imperial League of Australia has changed its name to the Returned and Services League of Australia Inc. Therefore, the Geraldton Sailors and Soldiers' Memorial Institute Act needed to be updated to reflect that name change so the general public would know what it is more commonly referred to.

Clause put and passed.

Clause 17 put and passed.

Clause 18: *Children and Community Services Act 2004* amended —

Ms R. SAFFIOTI: This is quite a significant change. This section amends the Children and Community Services Act 2004. We are deleting “Minister for Public Sector Management”, which I understand would be the Premier of the day as he is normally the minister for public sector management, though not necessarily, and replacing that with “Public Service Commissioner”. We are changing the person, in today's terms, from the Premier to Mr Mal Wauchope. This is quite a significant change. What necessitated this change and what will be the impact of this change?

Mr P.T. MILES: It was overlooked at the time when the 2010 act was going through. This will just tidy up that small oversight that occurred when it went through both houses.

Ms R. SAFFIOTI: I can understand that. The Public Service Commissioner was established through some changes made about three years ago, in 2010. What has been the implication of having “Minister for Public Sector Management” in section 125A(3B) and not “Public Service Commissioner”?

Mr P.T. MILES: We have no instances of any implications at all.

Ms R. SAFFIOTI: I want to continue this line of questioning because this is quite a significant change. Surely there must have been some reason to amend the name. What role has the minister for public sector management been playing that the Public Sector Commissioner should have been playing?

Acting Speaker; Mr John Quigley; Ms Rita Saffioti; Mr Paul Miles; Mr Paul Papalia; Mr Frank Alban; Mr Ben Wyatt; Mr Bill Johnston

Mr P.T. MILES: When the 2004 act was amended in 2010, this was overlooked. However, there is now a body that looks after the remuneration and allowance for CEOs instead of the minister. In this case, I think the member said the Premier looked after that. It was overlooked when the bill came into this house for amendments in 2010 and this is to correct that oversight.

Ms R. SAFFIOTI: I am trying to understand the impact of this. The parliamentary secretary says that Section 125A(3B) refers to the salaries and conditions of the CEO. Is the parliamentary secretary saying that since 2010 the minister for public sector management has determined allowances, been involved in the appointment of the CEO and undertaken functions that would normally have resided with the Public Sector Commissioner?

Mr P.T. MILES: Yes, the Public Sector Commissioner has been doing this job since 2010 and has been making those determinations, until this amendment was brought before the house.

Ms R. SAFFIOTI: Sorry, with all due respect, I think the parliamentary secretary must have meant that the minister for public sector management has been playing the role of assessing and appointing the CEO when it should be the Public Sector Commissioner. Can the parliamentary secretary please clarify that?

Mr P.T. MILES: The commissioner makes recommendations to the minister of the day and then the minister of the day signs off on those recommendations; that is what we are talking about.

Mr W.J. JOHNSTON: I imagine that the parliamentary secretary would have expected this amendment to have been made when the act was amended in 2010. I wonder whether there has been any occasion since the act was amended when the Public Sector Commissioner has sought to exercise the authority and found they did not have it, or is that a moot point because it has never been exercised?

Mr P.T. MILES: No, we do not suspect anything. The commissioner normally makes his recommendations to the minister and the minister signs off on it, and that is how it is done. There has been no movement from the process. This is tidying it up. This amendment should have been done when the amendment bill went through the house in 2010.

Clause put and passed.

Clause 19 put and passed.

Clause 20: *Credit Act 1984* amended —

Mr B.S. WYATT: This clause is interesting. It deletes “reference date” and inserts “1 July 2010”. Can the parliamentary secretary explain to the house why we are inserting this date over the term “reference date”, which I assume is defined in another place in the Credit Act?

Mr P.T. MILES: This is a typographical error in the act. The act still refers to “reference date” when it should read “1 July 2010”. The act is printed with “reference date” and we are inserting “1 July”.

Mr B.S. Wyatt: “Reference date” is an error in the act when it went through in 1984; it should have been “1 July 2010”.

Mr P.T. MILES: This typographical error occurred when the amendments were made in 2010.

Clause put and passed.

Clauses 21 and 22 put and passed.

Clause 23: *Health Act 1911* amended—

Ms R. SAFFIOTI: This is quite an interesting change —

(2) In section 3(1) delete the definition of *public place* and insert:

public place includes every place to which the public ordinarily have access, whether by payment of fee or not;

What was the definition of “public place” beforehand and what change is being made here?

Mr P.T. MILES: The definition is identical except that we are deleting “except in Part IXB”.

Clause put and passed.

Clauses 24 and 25 put and passed.

Clause 26: *Housing Act 1980* amended—

Ms R. SAFFIOTI: What has necessitated this change and what are the implications of it?

Acting Speaker; Mr John Quigley; Ms Rita Saffioti; Mr Paul Miles; Mr Paul Papalia; Mr Frank Alban; Mr Ben Wyatt; Mr Bill Johnston

Mr P.T. MILES: We are deleting the words because elsewhere in the act it already expresses that a corporate name is involved so we do not need to call it the Housing Act 1980.

Clause put and passed.

Clause 27 put and passed.

Clause 28: Marketing of Potatoes Act 1946 amended —

Ms R. SAFFIOTI: This is the big one—the Marketing of Potatoes Act 1946. Can the parliamentary secretary explain what is the change, why this change is needed and why the Marketing of Potatoes Act 1946 is needed?

Mr P.T. MILES: The amendment is not intended to change the effect of the section or to make any prosecutions easier; it is just responsible for implementing the act and pointing out that the section of the act was hard to understand partly because the section is inherently complex and, on review, it was found to be not well drafted. The amendment proposed in clause 28 will reinstate section 22 with greater clarity and it will not alter anyone's rights, duties or powers or change the effects of section 22 in any other way. We are just deleting the words "prima facie".

Mr B.S. WYATT: The parliamentary secretary is quite correct that section 22 of the Marketing of Potatoes Act 1946 is not clear. I will place on the record what is currently stated in the act. Section 22 deals with the evidentiary provisions of the regulated sale and delivery of potatoes. This section highlights the very reason why the growing, sale and marketing of potatoes has become so problematic under this regulated system. This clause will delete section 22(4)(d) and (e). Subsection (4) currently states —

At the hearing of a charge of any offence against this section, evidence —

...

- (e) that the person charged did in fact produce to the inspector a sales docket, or delivery note or relevant consignment advice, but did not contain the prescribed information or that —
 - (i) the sales docket, or delivery note or relevant consignment advice, did not purport to have been issued by or on behalf of the Corporation or the holder of a relevant permit under section 25; or
 - (ii) it was not in fact issued by or on behalf of the Corporation or the holder of a relevant permit under section 25; or
 - (iii) if it did so purport or was so issued, the potatoes were not contained in any bags or other containers, or were not contained in bags or other containers branded or marked in accordance with particulars shown in the sales docket or delivery note or relevant consignment advice, or did not correspond with the description given in the sales docket or delivery note or relevant consignment advice,

shall be deemed to be *prima facie* evidence that the person charged purchased, or as the case may be, took delivery of, the potatoes in a manner contravening the provisions of this Act.

It is as though we are dealing with crack cocaine!

Mr W.J. Johnston: It is more restrictive than artificial cannabis.

Mr B.S. WYATT: I think that Hon Phil Edman will be introducing something such as this to prevent those awful sprays that he was squirting into his mouth earlier today. It is quite extraordinary that this provision regulates the growing and selling of potatoes in Western Australia. I do not know what it means, but it seems to me that unless a person has a sales docket that is about as thick as this document that I am holding, because all the information that they will need will be outlined in that docket, they will probably be successfully charged. It is extraordinary. I heard the contribution of the member for Swan Hills. It seems that the Red Tape Reduction Group that was set up by the government so long ago—in the echoes of time at the beginning of 2008–09—missed a doozy in respect of red tape in Western Australia. We are dealing with one industry. If we take the argument of the member for Swan Hills further—I think this is what he was saying—we should have a grape marketing corporation, a tomato marketing corporation and a marketing corporation for every stone fruit that is grown. That is what the member for Swan Hills argued. He made the point that it allows for a guaranteed rate of return. There are not many industries that have a guaranteed rate of return. The member said at the Potato Marketing Corporation function on Tuesday night that we had potatoes that would not otherwise be commercially grown. The industry is creating the opportunity for potato growers to grow potatoes that are not in demand by Western Australians. It is like the milk lakes of Europe. We are distorting the market to protect the 80 growers. We are not thinking about the consumers. I agree with the parliamentary secretary. He is correct; it is a complicated bill.

Acting Speaker; Mr John Quigley; Ms Rita Saffioti; Mr Paul Miles; Mr Paul Papalia; Mr Frank Alban; Mr Ben Wyatt; Mr Bill Johnston

Mr P. PAPALIA: I am enthralled by the member for Victoria Park and I wish to hear more.

Mr B.S. WYATT: We cannot expect an efficient industry to develop with these sorts of ancient, complicated regulatory requirements. The parliamentary secretary has said that the amendment will not change the current burdens and will not make it easier to prosecute somebody who cannot correctly explain the source of the potatoes that they hold, and that is good; and that it will not increase the burden on anyone, whether they be a potato grower, a potato holder or a potato consumer, and I take him at his word on that. I was going to move a simple one-sentence amendment to abolish the Marketing of Potatoes Act 1946, but, unfortunately, I cannot. I am sure it was dodgy advice!

The ACTING SPEAKER: Can you withdraw that!

Mr B.S. WYATT: I withdraw that. Of course it was not dodgy advice. I certainly do not reflect in any way on the Clerks of the Parliament. I cannot move that amendment, but I have a sneaking suspicion that a number of people on the other side of the house might have scuttled across and joined me in that vote. We are making amendments to a swag of legislation, but perhaps consideration should have been given to making much broader changes rather than simply to one section here or one section there. Perhaps the government should start considering why those acts need to be there in the first place.

Clause put and passed.

Clauses 29 to 42 put and passed.

Clause 43: Warehousemen's Liens Act 1952 amended —

Mr W.J. JOHNSTON: I note that on 19 June we passed the Warehousemen's Liens Amendment Bill 2013 and wonder why this amendment was not contained in the bill. Why are we not taking the opportunity to change the term "warehousemen" to a gender-neutral title? It is usually said by the current government that it does not have time to deal with these matters to bring in gender-neutral language and that it would be too expensive et cetera to do so, but given that we amended the act last week and we are amending the act today, why could we not have dealt with the question of the old-fashioned language at that time? There are two questions: why did we not fix the language, and why are we making an amendment through this bill when we dealt with that legislation just last week?

Mr P.T. MILES: This bill has been lying around for some time. Last week we dealt with amendments to the Warehousemen's Liens Act, which has overtaken this bill. What we are dealing with in this clause has already been dealt with in the new act.

Mr B.S. Wyatt: Can we delete the clause?

Mr P.T. MILES: No. If we deleted this clause, we would have to send it to the other place, which would then send it back; it would become a nightmare, so we would rather extinguish it at this point.

Ms R. SAFFIOTI: I would like to follow up from the member for Cannington, who made a very good point. He always does, but in this instance he made a very good point. Why can we not change the language to be gender neutral?

Mr P.T. MILES: It is a very good question. However, we dealt with this issue in the chamber last week. If it was an issue for the opposition, it should have proposed an amendment then. We do not have the capacity to do that at this time in this bill.

Ms R. SAFFIOTI: I recall that it was raised at the time we debated the Warehousemen's Liens Amendment Bill 2013. Is this something that parliamentary counsel teams are working on now by going through legislation and looking for old-fashioned or sexist language and bringing in a bill to repair the language?

Mrs G.J. Godfrey: What a good idea.

Ms R. SAFFIOTI: Thank you, member for Belmont. As the Leader of the Opposition pointed out, that was a good interjection. Is parliamentary counsel looking at this issue in this bill in particular, although I am sure there are hundreds of other bills that also have sexist language?

Mr P.T. MILES: I acknowledge the smile that is coming from the Acting Speaker (Ms J.M. Freeman). I have been on committees for a long time, and I am still trying to understand where the member for West Swan and the member for Mirrabooka are coming from. The member has made a valid point. I will take that on notice and bring it to the Attorney General, and also pass it on to the Minister for Women's Interests, because that can be looked at and we can start progressing gender-neutral language.

Mr B.S. WYATT: I have a question for the parliamentary secretary. If I had a warehouse full of potatoes and I could not produce a sales docket, delivery note, or relevant consignment advice, would I be prosecuted?

Acting Speaker; Mr John Quigley; Ms Rita Saffioti; Mr Paul Miles; Mr Paul Papalia; Mr Frank Alban; Mr Ben Wyatt; Mr Bill Johnston

Clause put and passed.

Clause 44 put and passed.

Title put and passed.

Leave granted to proceed forthwith to third reading.

Third Reading

MR P.T. MILES (Wanneroo — Parliamentary Secretary) [5.03 pm]: I move —

That the bill be now read a third time.

MS R. SAFFIOTI (West Swan) [5.03 pm]: I do not want to prolong the debate unnecessarily. I understand an agreement was reached today. I was not party to that agreement, so I have to take the word of the Leader of the House—which I am not inclined to do! I will take his word that an agreement has been reached to allow this bill to proceed through the third reading stage today. We will stick by that agreement. Although opposition members had very interesting contributions to make at the third reading, we will not make them and we will facilitate the passage of the bill.

Mr I.C. Blayney: The great speeches that were never made!

Ms R. SAFFIOTI: I will have regrets when I am in a nursing home about the speech I could have given on 26 June 2014. In the interests of bipartisanship, we will allow the bill to pass through the third reading stage.

Question put and passed.

Bill read a third time and passed.