

should not begrudge the subsidising of routes in country districts where it is not now an economic proposition to build railways. I think it is a recognised principle in respect of transport that the strong should help the weak. I move—

That the Bill be now read a second time.

On motion by Mr. Watts, debate adjourned.

ADJOURNMENT—ROYAL SHOW.

THE PREMIER (Hon. J. C. Willecock—Geraldton) [10.56]: I move—

That the House at its rising adjourn until Thursday, the 7th October.

Question put and passed.

House adjourned at 10.57 p.m.

Legislative Assembly.

Thursday, 7th October, 1937.

	PAGE
Questions: Railways—(1) Freight on express trains; (2) Narrow and broad gauges	1101
State Government Insurance Office Select Committee, report presented	1101
Bills: Financial Emergency Tax Assessment Act Amendment, 1s.	1101
Jury Act Amendment (No. 2), 1s.	1101
Municipal Corporations Act Amendment (No. 2), recon., reports	1101
Air Navigation, Com.	1102
Nurses Registration Act Amendment, Com.	1121

The SPEAKER took the Chair at 4.30 p.m., and read prayers.

QUESTIONS (2)—RAILWAYS.

Freight on Express Trains.

Mr. STYANTS asked the Minister for Railways: 1, What is the freight on one ten-gallon drum of milk from Perth to Kalgoorlie by express train? 2, What is the freight on a new ten-gallon drum sent,

empty, from Perth to Kalgoorlie—(a) by express train, (b) by goods train?

The MINISTER FOR RAILWAYS replied: 1, 3s. 2 (a) 5s., (b) 1s. 6d.

Narrow and Broad Gauges.

Mr. NORTH asked the Minister for Railways: 1, Is any portion of the State railway system laid with a view to easy conversion to the Australian standard gauge in due course? 2, What is the difference in cost between a jarrah sleeper suitable for the 3ft. 6in. gauge and one for the Australian standard gauge (4ft. 8½in.)?

The MINISTER FOR RAILWAYS replied: 1, No. 2, Approximately 2s.

STATE GOVERNMENT INSURANCE OFFICE BILL SELECT COMMITTEE.

Report Presented.

The Minister for Employment (Hon. A. R. G. Hawke) brought up the report of the select committee.

Report received and read and ordered to be printed, and the Bill as amended reprinted.

On motion by the Minister for Employment ordered: That consideration of the Bill as amended be made an order of the day for the next sitting.

BILLS (2)—FIRST READING.

1. Financial Emergency Tax Assessment Act Amendment.

Introduced by the Premier.

2. Jury Act Amendment (No. 2).

Introduced by the Minister for Justice.

BILL—MUNICIPAL CORPORATIONS ACT AMENDMENT (No. 2).

Recommittal.

On motion by the Minister for Works Bill recommitted for the purpose of further considering Clauses 33 and 62.

In Committee.

Mr. Sleeman in the Chair; the Minister for Works in charge of the Bill.

Clause 33—Amendment of Section 179:

The MINISTER FOR WORKS: When the Bill was in Committee before, the member for West Perth moved an amendment dealing with the planting of lawns, gardens,

etc., and the watering of such places. At the time I indicated that I was not quite satisfied with the amendment. I find that the Water Supply Department are not satisfied that they are yet capable of supplying all the water required. In any case, an amendment to the Metropolitan Water Supply Act would be required to authorise the laying of the necessary pipes, etc. I, therefore, move an amendment—

That in paragraph (f) of proposed paragraph (47a), as amended in a previous committee, after "gardens" in lines five and six the following words be inserted "with water drawn from the private water supply belonging to the owner of such pipes and taps, or with water lawfully obtained by such owner from the Minister or statutory body controlling the supply of water in the district in which such water is required for such purposes."

If this amendment is passed, people will not be under the impression that because the Act will have been amended they will be entitled to get water from the Water Supply Department for the purposes set out. With an appropriate amendment to the Metropolitan Water Supply Act at any time that other difficulty could be overcome. The amendment will, I believe, meet all present requirements, and also provide for contingencies if and when the Act governing water supplies is amended. I point out that we must respect the statement of the Engineer for Metropolitan Water Supply that the department will not necessarily be able to supply all the water that may be required.

Amendment put and passed; the clause, as further amended, agreed to.

Clause 62—Amendment of Ninth Schedule:

The MINISTER FOR WORKS: I move an amendment—

That after "amended," in line 2, there be inserted—"by deleting the words 'counterfoil number' where they appear in each of the forms contained in the said Ninth Schedule and."

This is a consequential amendment in view of an alteration already made by the Committee.

Amendment put and passed; the clause, as amended, agreed to.

Bill again reported, with further amendments.

Standing Orders Suspension.

On motion by the Premier so much of the Standing Orders suspended as to enable the reports of the Committee to be passed at the present sitting.

Reports.

Reports of Committee adopted.

BILL—AIR NAVIGATION.

In Committee.

Mr. Sleeman in the Chair, the Minister for Works in charge of the Bill.

Clauses 1, 2, 3—agreed to.

Clause 4—Application of Commonwealth Air Navigation Regulations to air navigation, etc., within the State:

Hon. C. G. LATHAM: The clause refers to the regulations attached to the Bill, and proposes to adopt them. We have before us the regulations now in force, but by passing the clause we shall adopt not only those regulations but also any others which the Commonwealth may choose to make. An amendment contained in the Federal Air Navigation Amendment Act, No. 93 of 1936, strikes out the words "the Commonwealth and the Territory" and inserts in lieu the words "in relation to trade and commerce with other countries and among the States and within any territory of the Commonwealth." That amendment goes much further than the original Act, No. 50 of 1920. The original Act, by Section 4, empowers the Commonwealth to make regulations. When that Act as passed, the proposal was to adopt certain regulations made at a conference held in France on the 30th October, 1919. Since then the Commonwealth's power to make regulations has been extended to trade and commerce with other countries and among the States and within any territory of the Commonwealth. I contend that this means we are handing over control of transport facilities to the Commonwealth to handle the matter as they like, without any further reference to us. That is the reason I have pointed out the position that will arise if we agree to the proposal. This is a most extraordinary piece of legislation, inasmuch as the Commonwealth can pass laws on a basis different from ours, and we will have no power of amendment. We merely say, "You can make whatever regulations you like." In our Acts, we have

to set out in detail the matters in respect of which regulations can be framed.

Hon. P. D. FERGUSON: This is a blank cheque.

Hon. C. G. LATHAM: Yes; we are asked to give a blank cheque to the Commonwealth Government. It is for that reason that I am so disturbed. I was speaking to a member of the Federal Parliament, and he seemed most concerned that I had raised any opposition to this measure. I claim that it is here that we should thrash out the matter thoroughly. While I am prepared to accept the Minister's statement, I am not satisfied that the position is satisfactory from the State's point of view. I am not convinced that we are simply authorising the Commonwealth to exercise control in regard to air navigation. We are giving the Commonwealth all the protection they desire, but I am anxious about affording protection to the State. If in the future air navigation means something more than it does to-day, it must be clear that we should be very careful regarding the powers we hand over to the Commonwealth. The Minister has not convinced me that this proposal does not mean handing over to the Commonwealth all the powers I have in mind, which will be exercised under the provisions of the Constitution Act. If we do that, I cannot for the life of me see how we can get back those powers again. I cannot see any difference between giving the Federal Government power regarding the regulations and passing an Act of Parliament; they amount to the same. I want to draw the attention of members to the position as a final warning. I do not desire it to be said later on that I agreed to hand over to the Commonwealth powers that I did not think we should vest in them. We are asked to hand to the Commonwealth control over aeroplanes, as to their airworthiness and so forth, but I do not believe in handing over powers that will affect trade and commerce along the lines I have indicated. If we agree to the Bill in its present form, we shall hand over power to the Commonwealth to amend their legislation and their regulations as they deem fit without consulting us at all, and we will have to adopt them. Despite the views of the member for West Perth, the Minister and the Crown Law Department, who claim that we are merely adopting the regulations and saying to the Commonwealth Government, "We want you to enforce these regulations for us," I contend that is referring power to the Commonwealth in accordance with the

provisions of the Constitution Act, and we should be very careful regarding what we do. I do not think there is any other interpretation to be placed on it. New South Wales has not adopted this legislation.

Mr. Marshall: It would be wiser for us not to pass it yet.

Hon. C. G. LATHAM: The New South Wales Government are evidently not satisfied that they have been asked to do the right thing. Probably because of their attitude I am inclined to be a little more cautious than I otherwise might have been. Other State Parliaments may consider the position satisfactory, but the Eastern States are differently situated from Western Australia. The Murray River is all that separates Victoria from New South Wales, and a survey line marks the border between New South Wales and Queensland. The population is more dense there, and in the East there may be a greater necessity for this legislation. I am anxious we shall not hand over power to the Commonwealth and then regret our action later on. I do not want the Commonwealth to interfere with our transport system.

The Premier: You are not very consistent in view of your referendum speeches.

Hon. C. G. LATHAM: My masters have spoken, and have definitely instructed me not to do this.

The Premier: And now you see the light.

Hon. C. G. LATHAM: In view of the decision of the people, I would not dare to do otherwise. It would be tantamount to my saying that I was wiser than a majority of the people. I may be wiser than some of them.

The Premier: And you accept their verdict.

Hon. C. G. LATHAM: It is not my duty to defy the people. Their decision is fresh in their minds, and it is surprising to me that the Premier has adopted the line of action indicated in the Bill. He spoke against handing over these powers.

The Premier: I did.

Hon. C. G. LATHAM: And then he allowed the Bill to be introduced.

The Minister for Works: He did not speak against this proposal.

Hon. C. G. LATHAM: I am not too sure. I would like to know where the difference comes in. The regulations will have the same effect as an Act of Parliament; they will be the law. There seems to be some anxiety on the part of the Commonwealth for Western Australia to pass this legislation. If we agree

to it they will have a lever against New South Wales. They will be able to say, "Queensland, South Australia and now Western Australia have passed the legislation." Probably Victoria will adopt it shortly, and then full pressure will be brought to bear on New South Wales. I agree that we should have one control to ensure the safety of the public in the air with regard to navigation and the airworthiness of planes, but I do not think the Commonwealth should have any power over transport of trade and commerce within the State.

The Premier: We do not think the Bill gives that to them.

Hon. C. G. LATHAM: I think this problem could have been dealt with in a better way. We could have entered into an agreement with the Commonwealth Government.

The Minister for Works: What sort of an agreement?

Hon. C. G. LATHAM: An agreement providing that there should be uniform regulations as between the States, and that the administration of those regulations should be in the hands of the Commonwealth authority.

The Minister for Works: That is what we have done.

Hon. C. G. LATHAM: I do not think so. If we knew what was ahead of us it would be all right, but in future no regulations framed under this legislation will be submitted to us for our approval. I would certainly like this measure held up for the time being. I would like to see New South Wales agree to it before we are asked finally to give our assent.

Mr. THORN: I hope the Committee will not agree to the clause. We are asked to authorise something we were definitely instructed by the electors not to agree to do. I have grave doubts about this proposal, and I am sorry the Government consented to its introduction. I believe agreement could have been arrived at for uniform legislation in each State, with uniform regulations, enabling the problem to be dealt with properly, without handing over all these powers to the Commonwealth. I believe the Bill is dangerous. Surely we should not desire to vest in the Commonwealth power regarding matters appertaining to the State. Apart from that in this Bill we are giving away revenue that we so badly need in the way of license fees. Why cannot we retain those fees? It is necessary to have uniform control over air transport but it is not

necessary for us as a State to give this power away to the Commonwealth. I hope I have supporters on both sides of the House in this matter, and that we will not agree to hand over these powers.

The MINISTER FOR WORKS: Those who advocated handing over entirely the control of air navigation and transport to the Commonwealth dealt with a different question from that with which we are now dealing. When I questioned the Federal Attorney General as to the advisability of reserving certain powers to ourselves, his reply was that there was no need to do so. What we did have to say was what powers we proposed to vest in the Commonwealth. I suggested that in the Bill which all the States of the Commonwealth had to draw up, rights should be preserved in respect of transport. I was told there was no need for that, and that all that need be done was that the Bill should give authority to the Commonwealth to administer the regulations in connection with air navigation. Our own Crown Solicitor makes this clear, too, in the ruling which I read. There is an entire difference between the question put to the people and this question. The reason why those of us who were anxious to conserve State rights refused to give the Commonwealth the power they sought, and advocated that that power should not be given, was that we desired the State to retain the right to control transport. That is still being done. We said that we would be prepared to give the Commonwealth the right to control air navigation throughout the Commonwealth. Our opposition was due to the fact that the Commonwealth wanted to take full power both in regard to air navigation and the control of all air transport. Those who were prepared to hand over to the Commonwealth not only the control of air navigation but the control of air transport within the State, are now becoming anxious, and they say that the people decided that air navigation should not be handed to the Commonwealth. The people decided that the whole matter of air navigation and transport was not to be in the hands of the Commonwealth Government entirely. There is quite a difference in what was advocated by the Leader of the Opposition, namely, that these powers should be taken over by the Commonwealth, so that they could do as they liked in respect of air navigation and transport throughout Australia. That is

an entirely different proposition from what we adopt under the Bill, namely, the Commonwealth regulations in respect to air navigation. It is set out quite clearly what they are.

Hon. C. G. Latham: The Bill does not set out what they are.

The MINISTER FOR WORKS: The Leader of the Opposition pointed out that the New South Wales Parliament had not passed a similar Bill. The New South Wales Government were a party to the agreement amongst the States along these lines; but not wishing to suppress anything, I explained that the New South Wales Government had experts dealing with air navigation. Their objection is not to regulations that may be promulgated in the future. What they are doing is closely examining regulations already in existence. They are going to do that clause by clause.

Hon. C. G. Latham: What is the good of doing that?

The MINISTER FOR WORKS: They want to satisfy themselves that these regulations are in accordance with their views.

Hon. C. G. Latham: What about future regulations?

The MINISTER FOR WORKS: I am trying to explain that that is not why the matter is held up. They are dealing with existing regulations. In regard to handing over power to the Commonwealth, we are not giving away anything. This is a State Bill along lines agreed to by all those at the conference. We are not giving away any power but simply passing a law similar to that to be passed by the States adopting the Commonwealth regulations. Having by that adoption obtained uniformity, we hand over to the Commonwealth, and each State does the same, power to administer and police the regulations.

Hon. P. D. Ferguson: And make new regulations.

The MINISTER FOR WORKS: Yes, but they have not been given the power under this Bill to make regulations in respect to transport. I will defy anyone to show that. It amounts to this at present—and there has been a High Court ruling in this connection—that the State retains power in respect to air navigation and air transport within the State. Therefore the only power the Commonwealth can get is such as we hand to them. As the Crown Solicitor has pointed

out, we have not the power under the Constitution to hand to the Commonwealth something which is our sovereign right.

Hon. C. G. Latham: That is under Section 51.

The MINISTER FOR WORKS: Yes; we could not do it even if we desired. The Crown Solicitor states:—

Any legislation by the Commonwealth which for example interfered with the State Transport Co-ordination Act, 1933, or with the control of transport within the State would be of no effect and no enactment of the State Parliament or the Commonwealth Parliament can alter the position unless, of course, we "refer" the power of making that class of legislation to the Commonwealth under the Commonwealth Constitution.

We have not done that.

Hon. C. G. Latham: I am afraid that this Bill does that.

The MINISTER FOR WORKS: No, we have not done that. The Crown Solicitor adds:—

There is no constitutional reference at all by the present legislation. All the recent legislation does in effect is to adopt for the purpose of the State the navigation regulations of the Commonwealth.

Because we do not want several authorities to administer the navigation regulations, we make the one authority do so. The Crown Solicitor goes on:—

If these regulations contained any provision which sought to usurp any of the powers of the State in regard to internal transport, then even the adoption by the State would have no effect because the State Parliament is not entitled by means of a mere adoption Act to take away the rights of the people under the Federal Constitution.

I think that is very clear. His definition is that we adopt the Commonwealth regulations. It is not suggested that there should be seven sets of regulations in Australia.

Hon. C. G. Latham: So long as we know what the regulations are.

The MINISTER FOR WORKS: We know what these are; they deal entirely with air navigation. If any of the States should take exception to the regulations, a conference can immediately be called and it will depend entirely upon the good will of the States whether the authority is to be continued. The Crown Solicitor adds:—

As this Act is not in the nature of a reference Act within the meaning of the Commonwealth Constitution, if the Commonwealth passed any regulations even within the scope of the Bill now before the House (that is to

say, a regulation dealing with safety precautions) which did not satisfy the State, the State would be in a position by its own Act to provide that the offensive regulation would not apply in Western Australia, and what is more, the Parliament of this State can at any time, even if this Bill is passed, repeal it absolutely.

Mr. Marshall: Tell me the clause in the Bill that provides for our taking action in respect of an offensive regulation.

The MINISTER FOR WORKS: The Bill ratifies an agreement. The whole question was discussed by the representatives of the States who took the precaution to oppose handing over power *holus bolus* to the Commonwealth. The Leader of the Opposition is aware that the States opposed that. The Bill does not hand over power completely; it merely authorises the Commonwealth to carry out certain work on our behalf. The Bill states that and it is as clear as the draftsman can make it.

Mr. Patrick: We had a conflict of opinion between the Crown Solicitor and a high legal gentleman in this House the other night.

The MINISTER FOR WORKS: It was pointed out at the conference that unless the regulations could be amended or altered by the one authority, there would be no prospect of getting the authorisation of the States. As a matter of fact we are doing that now. We are giving a blank cheque, but only with regard to the matters referred to in the Bill. We are not giving the Commonwealth the right to make regulations in respect of transport.

Hon. N. Keenan: For what reason do you say that?

The MINISTER FOR WORKS: The Bill is as plain as the draftsman could make it; it deals with air navigation and it applies to air navigation, aircraft, the regulation of aerodromes, etc., and the conference agreed that legislation should be introduced in the Parliament of each State to give the Commonwealth control over the several matters within the States. The point is that we are the authorising body. Had the referendum been carried the States would have had no say; the Commonwealth would have been the authorising body and would have passed the law without consulting the States. In this instance the States are the authorising authorities and will pass the law and will declare how much power they will give to the Commonwealth. I assume

that the Commonwealth could have interfered very drastically with the laws already in existence dealing with air navigation had the referendum been carried, and the Commonwealth law would have overridden the State law. The State law still stands. We agreed at the conference that the Commonwealth should administer and police the regulations. Each State in granting to the Commonwealth certain powers, will have the right, according to the authorities at the conference, to take away the power. The authority that can pass the legislation will be able to repeal it also. Just as the Bill we are now discussing will make the law, it can also repeal it. Let us assume that the Commonwealth does something objectionable. I think the most objectionable thing it could do would be to attempt to interfere in any way with the State laws. Assuming that the Commonwealth did that, it is clear that the six States could repeal this law, and thereby take away the authority of the Commonwealth. That the States have that power was never in doubt at the conference. The States were merely asked to delegate certain powers so that uniform legislation could be put into operation throughout the Commonwealth. It is remarkable that there should now be any nervousness about delegating those powers to the Commonwealth. Most of the Country Party members opposite have not supported it because they do not want to interfere with State transport. But this does not interfere with State transport. I have not heard one argument against the Commonwealth having control of air navigation. We have the power to-day to make our transport laws, and we do not give away any part of that power in this Bill; indeed, it could not be given away except by legislative Act on the part of all the States. Had the referendum been carried, the Commonwealth would have been given complete control over the whole thing. I do not think it necessary for us to indulge in any special pleading, but I do not know that we have ever attempted to enforce any air navigation rules in this State. Air navigation has been actively developing ever since the war, yet this State did not question the right of the Commonwealth to exercise certain powers. If the Commonwealth are not to be allowed to enforce these regulations, I want to know whether the State is going to do it. If we do not give the Commonwealth this power, we shall

have to do the job ourselves, for someone must exercise the power, and the Commonwealth have not the power unless it be delegated to them.

Mr. Raphael: You are going against the decision of the people at the referendum.

The MINISTER FOR WORKS: Nothing of the kind. I have already explained that in giving the Commonwealth this power we are simply making the Commonwealth our agents.

The PREMIER: The position in regard to the Bill is very clear. When we had the referendum suggested, this Government considered what the air navigation proposals meant. In Australia for many years there have been regulations regarding the safety of air navigation and the competency of air pilots, and all those various things; that has gone on for years and years. The Commonwealth Government desired power to deal uniformly with air navigation and transport. But when that proposal was put to the people by referendum, there was opposition to it in every State. We in this State put up very serious opposition to the granting of powers of that kind. Having opposed the thing at the referendum, and having used every method to conserve the interests of the State, I was informed by the Prime Minister that it was desired that the Commonwealth should have certain powers in order to bring about uniform regulations regarding air navigation, and so he hoped the State would be represented at a conference to deal with that aspect. The Minister for Works, representing this State, went to the conference, sure in his own mind just how far he would commit the State in regard to airworthiness and air navigation, but determined not to commit it at all in regard to transport. The Bill does not say anything about transport. It is very clear. It proposes that there shall be uniform rules throughout the Commonwealth in regard to air navigation, airworthiness of aircraft, the licensing of pilots, and that sort of thing.

Mr. Hughes: Read Clause 79 of the regulations.

The PREMIER: That does not matter. Under the Transport Act, the Commissioner of Police has power in regard to the carrying of road passengers, and the Transport Board issues licenses to road vehicles. The Commonwealth Government would occupy in relation to the safety of aircraft the position that the Police Department occupy in regard to the safety of vehicles used for motor

transport. The police could take exception to the registration of any vehicle that was defective in any respect. Similarly the Commonwealth could say that an airman had not sufficient experience as a pilot, or that a machine had mechanical defects and should not be operated. If no exception were taken, the Transport Board would say, "You may now engage in transport."

Hon. P. D. Ferguson: What would be the position if the Commonwealth regulations said that an aeroplane should not be used for the transport of certain goods?

The PREMIER: The Commonwealth might specify dynamite as being something dangerous to the public, or they might prescribe that planes should not pass over the East Perth power house where valuable machinery is installed, or that other things should not be done that might threaten the safety of the public or of public property.

Hon. P. D. Ferguson: Could not any regulation detrimentally affect transport?

The PREMIER: No. We were afraid that that might happen, and so we sent the Minister for Works to the Eastern States to conserve the position. Further, we sent the Crown Solicitor to advise him, and the Crown Solicitor conferred with the legal authorities from other States who also wished to conserve the transport rights of their States. All those authorities agreed that our position was absolutely safeguarded. After having raised so much objection to the Commonwealth's controlling transport, we would be the last to introduce a Bill that would give the Commonwealth that power. We have been assured by the Commonwealth Attorney General, as well as by the legal officers of the various States, that the measure would not enable the Commonwealth to interfere with transport. I do not know what further assurance could be obtained. I believe the member for Nedlands said that if it could be shown in the High Court that the Bill had been passed on the clear understanding that transport was not included, the High Court would rule any regulation to the contrary ultra vires the Act. The Commonwealth Attorney General expressed the solid conviction that what we set out to conserve had been conserved.

Hon. P. D. Ferguson: Constitutional authorities say there is a great difference of opinion on that.

The PREMIER: No.

Hon. P. D. Ferguson: Yes, as to our ability to repeal this legislation.

The PREMIER: As we have been assured that the position of the State has been safeguarded, we have no hesitation in recommending the Bill to the Committee.

Mr. MARSHALL: I do not think that we are definitely handing over authority to the Federal Government that we could not reclaim by repealing the measure, but I disagree with the argument of the Premier and the Minister for Works. If this Bill becomes law we automatically accept all the regulations that the Federal authority might make.

Hon. C. G. Latham: That is right.

The Premier: But they have no power to make regulations with regard to transport.

Mr. MARSHALL: Let the Premier be patient while I analyse the Bill to see whether it contains any reservation regarding transport. He agrees that under any regulation made, the Federal authority would have full control without further reference to this Parliament. Such a regulation would automatically become part of the law. The Commonwealth authority could make regulations to cover any form of air transport.

The Premier: No; they could not.

Mr. MARSHALL: The Commonwealth Government have a railway system. Would the Premier agree to give the Federal Government the right to make regulations governing our railways?

The Premier: Now you are slipping.

Mr. MARSHALL: If we gave the Federal Government authority to make regulations to control our railways, not to interfere with transport, they could prescribe a certain type of engine or wagon or require a driver holding a certain kind of certificate for a particular engine. Would not that interfere with our transport system? It is no use the Premier attempting to slur over the matter. He must admit that if the Bill becomes law, the regulations that are made by the Federal authorities will be enforced in this State. The Minister for Works went a long way to convince me that it would be unwise to pass this measure. He read out what took place at the conference he attended. He showed clearly that every delegate entertained doubts as to whether such an enactment as this should be passed. Several of them suggested that there should be an annual meeting to confer upon the proposed regulations before they became opera-

tive, to ensure that they were suitable to the various States. If we pass this Bill we shall have no such right, because our authority will be at an end. It will be possible for any objectionable regulations to be passed, and we shall be unable to interfere with them. If the Bill contained a clause stating that these regulations would apply only after they had been approved at a conference representative of all the States, we would not be doing so very much harm. If the regulations were calculated to interfere with our transport, a meeting of representatives could be called and the objections dealt with.

The Premier: What if the regulations were passed at such a conference?

Mr. MARSHALL: The delegates at the conference debated the wisdom of passing this legislation. Then it was they suggested an annual meeting so that the regulations would not become effective until all the States had agreed to them. The Bill contains no such safeguard. If we pass it as it is, we must accept the regulations whether they are objectionable or otherwise. The Premier also pointed out that before the referendum was submitted the Federal authorities controlled aviation. He stated further that if we did not accept this Bill, we would have to set up our own organisation to control aviation, thus taking the place of the work previously done by the Federal Government. If that is the position, shall we not still have to set up an authority to control air transport?

The Premier: We have the State Transport Board.

Mr. MARSHALL: If so, why cannot the Transport Board do the lot?

The Premier: They do.

Mr. MARSHALL: That is not the Premier's argument.

The Premier: It is.

Mr. MARSHALL: The Premier said that before the referendum was taken the Federal Government controlled aviation. His only objection to the referendum was that they wanted to take control of transport. He then went on to say that if we did not pass this Bill we must set up an authority to take its place.

The Premier: I did not say anything of the kind.

Mr. MARSHALL: It was the Premier who said it, as "Hansard" will show. He said we will have to set up an authority.

The Premier: I did not say anything of the kind.

Mr. Patrick: It was the Minister for Works.

Mr. MARSHALL: I say it was the Premier. He threw out a challenge to the Opposition to say what they were going to do.

Mr. Patrick: That was the Minister for Works.

Mr. MARSHALL: I do not care who it was, but I say it was the Premier.

The Premier: I did not say it.

Mr. MARSHALL: I can recall a lot of occasions when authority has been handed over to the Federal Government, and members have shed tears of blood a few years later. It is useless and ridiculous for the Premier and the Minister for Works to say that, without ill effect on our transport system, we can empower the Federal authorities to make regulations laying down who shall be a pilot, and what type of aeroplane he shall use, for what type of work the plane shall be used. Apparently, if the Government introduce a Bill of this nature we must adhere to it whether it is logical or otherwise. If we pass the measure we shall in a short time be arguing about its effect on our transport or about repealing it.

Mr. LAMBERT: The question is whether we should divorce ourselves from our Interpretation Act, which makes it mandatory to lay regulations on the Table in both Houses, either House having the power to disallow them. Such a divorce would be one effect of passing the Bill, which to me seems a most novel and most dangerous departure from our practice. The Bill should contain a proviso making all regulations framed under it by the Commonwealth subject to our Interpretation Act. That would obviate the danger to which the member for Murchison has drawn attention. In passing the Bill we shall validate the existing regulations, and to that extent we shall know where we stand; but all future regulations should be subject to our Interpretation Act.

Mr. WATTS: I do not feel disposed to support the clause, because, in my opinion, while it purports to meet the laudable desire to obviate the difficulties which would be caused by seven sets of regulations, it does not take the only course by which that end can be achieved. The Minister for Works, in his usual happy manner, has chided me for venturing to set up my opin-

ion against that of the learned gentlemen who addressed themselves to the matter at the conference in the Eastern States. I do not, in fact, propose to set my opinion against theirs; but in matters of considerable importance to the Commonwealth and this State opinions expressed by those gentlemen have proved to be wrong. For instance, the opinion given by Mr. Menzies on the dried fruits question in connection with Section 92 of the Commonwealth Constitution was wrong. Mr. Menzies was definitely of opinion that that section did not bind the Commonwealth, but when it came to the High Court of Australia and finally to the Privy Council the decision was that Mr. Menzies was wrong in his opinion. The gentlemen referred to give their opinions *bona fide*; but there are other means of achieving what is desired in this matter, and those other means should be adopted rather than those which the clause proposes.

Sitting suspended from 6.15 to 7.30 p.m.

Mr. WATTS: When we adjourned for tea, I was pointing out that enough had been said in this House and during the discussions at the conference in the Eastern States to show that there may be a genuine doubt as to the actual effect of these proposals. During the course of his reply to the second reading debate, the Minister quoted the observation of the Federal Minister, Mr. Menzies, when the former raised certain objections along the lines of those mentioned during this debate, to which Mr. Menzies had said, "I would not raise those points if I were you." I do not know why the Minister should have taken comfort, as apparently he did, from that observation by Mr. Menzies because, if the Minister, as presumably he did, had some doubts as to the procedure that was to be adopted, the fullest discussion should have taken place. If it had taken place, there would probably have been less necessity for the present discussion, and possibly the Bill would not now be before us.

Hon. P. D. Ferguson: Evidently Mr. Menzies did not want those doubts to be raised here.

Mr. WATTS: I want to know why those doubts should not be expressed. It is not a question of pitting one opinion against another. Rather is it a question of what

may be the ultimate result of adopting something about which so many, at one time or another, have had doubts. The judicial interpretation placed on any given section of an Act may prove very different from that which the framers of the legislation contemplated. To say that because very high legal opinion had been expressed in one direction or another is not to say that ultimately there will not be considerable divergence from that opinion. In the daily Press we have read of the High Court reversing not only the judgment of the Court of Criminal Appeal in this State but expressing an opinion differing from that of those who, I have no doubt, advised the Crown that the charge should be laid. We cannot know what will be the ultimate result of legislation until it has been the subject of legal reference to the highest courts in the land. We may be satisfied that while there is no such reference, everything is all right: but I venture to assert that the time will come, sooner or later, when steps will be taken to ascertain just how far this legislation may extend. Therefore it seems to me that we should look at this matter from that point of view and not allow ourselves to be carried away because of the necessity for some uniformity in these matters, into thinking that the way proposed is the one to be followed because it is the only one submitted to us. Some discussion has taken place regarding the referendum held some time ago in connection with the proposed amendment of Section 51 of the Federal Constitution. That section gives the Commonwealth power, in short, to make laws in the Commonwealth in respect of various matters that are set out therein. The referendum proposal was to give the Commonwealth authority power to make laws in reference to air navigation and aircraft.

Hon. C. G. Latham: And that was all.

Mr. WATTS: Quite so; that was all. Is there a great deal of difference between the proposals submitted in the referendum question and those embodied in the Bill? It was agreed that legislation should be introduced in the Parliaments of each State to make provision for the application of the Commonwealth air navigation regulations, as in force from time to time, to air navigation and aircraft within the jurisdiction of the State. For the moment we may ignore the words "within the jurisdiction of the State," because I think that phrase enters into both

questions. It was because the Commonwealth wished to obtain authority over something that was within the jurisdiction of the State that they submitted the question at the referendum. So it is with the proposal embodied in the Bill. Hence we may regard the words "within the jurisdiction of the State" as common to both proposals. We find from the Bill that an agreement was arrived at "to make provision for the application of the Commonwealth air navigation regulations, as in force from time to time, to air navigation and aircraft." A law made under Section 51 of the Constitution would undoubtedly have had force with regard to air navigation and aircraft in the State, and a regulation once made under the Federal air navigation law, which contains the only power to make regulations, would surely be the law that affects air navigation and aircraft within Western Australia. By the use of those words in the Bill and in the referendum question, it is a little difficult to distinguish what is the difference between the powers sought to be obtained by the referendum and those sought to be obtained by means of the Bill before us. Having that doubt very much in mind, one must come to the conclusion that there ought definitely to be found some other way of dealing with the matter so that we may know we are not making any "reference" to the Commonwealth Government of powers that are at present vested in the State. During the second reading debate I pointed out that "reference" under paragraph 37 of Section 51 of the Commonwealth Constitution Act had never been the subject of judicial interpretation in Australia. I took the opportunity to quote from a book entitled "Studies in the Australian Constitution," edited by Professor Portus, in which he very definitely stated that no such judicial decision had been given, that no one knew what "reference" it was, that it was the means of getting Commonwealth control under certain methods, and that the power had not been made use of because of the difficulties in the way. It was not known what would be the effect of Commonwealth legislation passed as a result of such "reference," if the State concerned afterwards sought to take that power away. In the absence of a judicial decision as to what is such "reference," unless we are completely and wholeheartedly satisfied there is no fear in the future that this may be regarded as a "reference," then

I think we should find some other way of dealing with this subject. I am not in a position to invent an entirely new Bill for the consideration of the House for more reasons than one, but in view of what has been said I propose to move an amendment which will read as follows:—

That the following words be added to Clause 4:—"All such regulations shall be published in the 'Government Gazette,' and shall be subject to the provisions of paragraphs 1 (d) and Subsections (2) and (3) of Section 36 of the Interpretation Act, 1918."

I am more or less adopting the view of the member for Yilgarn-Coolgardie who expressed the opinion that unless all these regulations which are promulgated and will be in force and effect in Western Australia are subject to the provisions of the Interpretation Act relative to being laid upon the Table of both Houses with the right of disallowance, no such regulations should be allowed to have force and effect in this State. I believe my amendment will suit the case, although I admit it has been prepared somewhat hurriedly.

Mr. CROSS: I intend to move an amendment before the hon. member submits his. I move an amendment—

That in line 6 the words "mutatis mutandis" be struck out with a view to inserting in lieu "subject to any necessary changes."

I do not know why that Latin term is included at all. It would seem as though those that drafted the Bill desire to throw a cloak of mystery over the intentions of the Bill. I understand that "mutatis mutandis" means "subject to any necessary changes" or "subject to any necessary adjustments." I want to know who is going to make the changes. I do not know why this custom of using Latin words, which goes back for a good many years and appears in the very oldest statutes, should not be dropped. I cannot understand why our statutes cannot be drafted in plain English. Possibly it is considered that "mutatis mutandis" is a short phrase, but I do not know that it is any better than the use of English words, because while some people might understand what it means, not everybody does. Were those words struck out and the other words inserted, a different light would be thrown on the position altogether, because we want to know who is going to make the proposed changes to the regulations. If they are

going to be prepared by the Commonwealth Government I am not going to agree to that, because I do not trust the Eastern States authorities overmuch. While it is true that uniform legislation in regard to air navigation is desirable, this State should have a say in the preparation of amendments to the regulations.

Mr. McDONALD: I hope the words will not be struck out. It is hardly a Latin phrase.

Mr. Cross: It is not English.

Mr. McDONALD: It has been just as much incorporated in the English language to-day, or almost as much, as the word "digger" has been incorporated in the Australian language, and "parlez vous" which was taken from the French. We all know what these words mean. There is no danger involved in the use of them. It is not easy to put into the appropriate English language exactly what is expressed by the words "mutatis mutandis." It is a very common phrase used in legal enactments, not only in this Parliament, but in all English Parliaments, and I see no reason why it should not be retained.

Mr. Marshall: Have we not anything in the English language which would convey the same meaning?

Mr. McDONALD: It has a definite legal interpretation, and has been included in Acts of Parliament for hundreds of years.

Mr. Marshall: That is all the more reason why it should be struck out.

Mr. McDONALD: It has been incorporated as part of the English language in drafting legislative enactments, and has a definite meaning.

Mr. LAMBERT: Before the tea adjournment I spoke upon the necessity for providing a safeguard by making this clause subject to our Interpretation Act.

The CHAIRMAN: Order! The question is whether the words "mutatis mutandis" should be struck out.

Mr. LAMBERT: I should like to ask whether it is competent for the member for Canning to move his amendment in view of the amendment which has been moved by the member for Katanning.

The CHAIRMAN: The member for Katanning has not moved anything yet; he only proposed to move an amendment.

Amendment put and negatived.

Mr. WATTS: I move an amendment—

That the following words be added to Clause 4:—“All such regulations shall be published in the ‘Government Gazette,’ and shall be subject to the provisions of paragraph 1 (d) and Subsections (2) and (3) of Section 36 of the Interpretation Act, 1918.”

Mr. LAMBERT: Speaking before the tea adjournment I suggested some such amendment as this, and I am thankful to the member for Kataunung for having framed it, even though in language to suit himself. It is dangerous that we should pass legislation and, in doing so, divorce ourselves from the Interpretation Act. We would not do it if we were legislating of our own initiation, and certainly we should not do it to allow other authorities to frame regulations for us. I hope the hon. member's amendment will be agreed to. Even under that amendment we shall still be giving to the Commonwealth all the necessary powers.

The MINISTER FOR WORKS: I point out that all these regulations have to be gazetted.

Mr. Watts: In the “Commonwealth Gazette”!

Hon. C. G. Latham: It is difficult to get copies of that publication.

The MINISTER FOR WORKS: All such regulations will be gazetted, and when they apply to Western Australia a copy of the “Commonwealth Gazette” will have to be made available. I do not know what advantage it will be to have the regulations published in our own “Government Gazette.” They will certainly have the authority of law when they are published in the “Commonwealth Gazette.” So what is to be gained if we set out in the Bill that, in addition, those regulations will have to be published in the “Government Gazette” of every State?

Mr. Watts: No, only our own.

The MINISTER FOR WORKS: Even so, why should they be so published? If there were any suggestion that the Commonwealth would go outside their agreement I could understand this nervousness on the part of members. Those who were prepared to hand over the whole thing lock, stock and barrel, are now nervous of handing over even this power.

Hon. C. G. Latham: Who wanted to give them all away?

The MINISTER FOR WORKS: Some of the members opposite.

Hon. C. G. Latham: I think that desire was on the Government side.

The MINISTER FOR WORKS: Oh no.

Hon. C. G. Latham: Yes, it was. I will read the Premier's speech to you.

The CHAIRMAN: The hon. member cannot read anything just now.

The MINISTER FOR WORKS: The Bill merely gives the Commonwealth power to police existing regulations.

Hon. C. G. Latham: And any other regulations they like to bring in.

The MINISTER FOR WORKS: Surely it will be sufficient if those regulations be published in the “Commonwealth Gazette.” Yet now it is proposed that they shall be published also in our own “Government Gazette.” I cannot believe that the Commonwealth are going to do anything ridiculous in regard to air navigation regulations. For years past the Government have had these powers—or at all events they thought they had them and acted accordingly—and this State took no notice of it whatever.

Hon. C. G. Latham: The Commonwealth had power over transport also.

The MINISTER FOR WORKS: No, they never had that power.

Mr. Doney: I suppose we are only now beginning to realise the seriousness of it.

The MINISTER FOR WORKS: Some member suggested that we ought to have an agreement. But who should draw up that agreement?

Hon. C. G. Latham: I think you would be a very good authority to assist in drawing it up. We could then let Parliament deal with it.

The MINISTER FOR WORKS: No I am too modest. I even took experts with me to the conference. Mr. Menzies at that conference declared that all the Governments agreed that there ought to be uniform air rules. He said also that each State Government reserved the right, subject to the observance of general rules, to make its own laws with respect to transport requirements, and also to the establishment of aerodromes. What is the use of saying that the States did not come to an agreement? There it is.

Hon. C. G. Latham: Put it in the Bill.

The MINISTER FOR WORKS: We have reserved all the powers except those delegated to the Commonwealth.

Hon. P. D. Ferguson: What are you going to delegate to the Commonwealth?

The MINISTER FOR WORKS: Air navigation powers.

Hon. C. G. Latham: And any other regulations they like to make under the Act.

The MINISTER FOR WORKS: But only with respect to air navigation and aircraft, not with respect to transport.

Hon. C. G. Latham: In respect of their Act.

The MINISTER FOR WORKS: The conference was not a meeting of confidence men intent on taking advantage of each other.

Hon. C. G. Latham: I do not think it was a case of confidence tricks at all.

The MINISTER FOR WORKS: Some members seem to think the Commonwealth were out to indulge in sharp practice, and that the agreement means anything that one cares to read into it. For once the Commonwealth had no means to force an agreement. The States conceded only such powers as were considered necessary. Provision is made for the publication of the regulations in the Commonwealth "Government Gazette" and I fail to see that anything more is necessary.

Mr. McDONALD: If we are not parting with some of our sovereign powers, the amendment would not do much good.

Mr. Rodoreda: It will not do any harm.

Mr. McDONALD: As the Minister said, months might elapse before the House met to consider a regulation. On the other hand, if we are parting with sovereign powers, the amendment would be of no use because it would not help us. There is no question of our intention; this debate has made our intention clear. Then we have all the proceedings of the conference, plus the circumstance that only a few months ago the people of Australia refused to grant the Commonwealth unrestricted and permanent powers over aviation. Some members have spoken of the Commonwealth Parliament as if it were the Parliament of a foreign and possibly hostile State. The Commonwealth Parliament is our Parliament. Ever since there has been aviation the Commonwealth Government have exercised all these powers and nobody has demurred.

The Premier: And they have not interfered with transport.

Mr. Rodoreda: We have not had any transport yet.

Hon. C. G. Latham: The Commonwealth did not take the power until 1936.

Mr. McDONALD: If the Commonwealth Government had thought of exercising powers prejudicial to any State, they would

have done so already and we would have had occasion to be dissatisfied before this.

Mr. Marshall: If your contention is correct, the referendum on secession should have been defeated.

Mr. McDONALD: No, the people objected to giving the Commonwealth permanent and unrestricted powers over aviation.

Mr. Marshall: I said the referendum on secession. Your eulogistic remarks of the Commonwealth Parliament are quite in conflict with the views of the general public.

Mr. McDONALD: That may or may not be so. My conviction is firm that this Bill could not possibly be construed as giving away any part of the sovereign powers we now possess. The member for Murchison suggested that before regulations were passed there should be a meeting of representatives of the States to approve of them.

Mr. Marshall: There would be some value in them then.

Mr. McDONALD: But the power to make regulations for the safety of aircraft might have to be exercised without delay. Recently, owing to accidents that caused serious loss of life, the civil aviation authorities decided that certain aircraft should be suspended from flying pending further investigations. If those machines had been allowed to continue flying, increased dangers and additional fatalities might have been involved. Therefore we should not insist that the Federal authorities should not make regulations until all the States had considered those regulations. If we pass the amendment we might be the only State to insist upon that condition, and thus a large part of the idea of uniformity would be destroyed.

Hon. C. G. Latham: The measure could be repealed at any time.

Mr. McDONALD: True, but such a step would not be lightly taken.

Mr. Watts: We would not lightly disallow regulations.

Mr. McDONALD: The repeal of the whole Act would be a step taken with full responsibility for holding up uniformity throughout the Commonwealth. We may rescind regulations that are laid upon the Table of the House in respect to some matter which does not involve repealing the whole Act, but by doing so we may destroy the uniformity of the system throughout Australia. We are now dealing with a peculiar form of regulation where immedi-

ate action may be necessary, and where uniformity would be essential. We are, therefore, compelled to place some reliance upon the good sense of the authority who will administer the regulations. Unless we create an unwieldy system, we shall be compelled to place reliance upon that authority, at the same time retaining power to say that if such authority is not properly exercised we will take it away by repealing the Act. I am for the Bill, the whole Bill and nothing but the Bill.

Hon. C. G. LATHAM: I do not agree with the remarks of the member for West Perth. We know the regulations we are asked to approve in conjunction with this Bill, but it is expected of us, if we pass the Bill, that we shall adopt any other regulations that may be introduced by the Federal Government, irrespective of what they may be.

Mr. Cross: Without our having any say in the matter.

Hon. C. G. LATHAM: We should have some control over any new regulations that may be promulgated. The arguments of the member for West Perth are not as logical as those he usually submits.

The Premier: But you agree with his views.

Hon. C. G. LATHAM: As a rule one can do so because he is so logical and sound. We have now reached the stage when we propose to allow the Federal Government to frame regulations of which we shall know nothing. The Premier stated that they had power over transport long ago. In 1936 the Federal Government passed an amending Act to provide for the making of regulations in relation to trade and commerce with other countries and among the States, and within any territory of the Commonwealth.

The Premier: That was *ultra vires*.

Hon. C. G. LATHAM: Then why are we introducing this legislation?

The Premier: We are adopting it.

Hon. C. G. LATHAM: It has been introduced to set things right because it has been decided that that legislation was *ultra vires*. The States, therefore, got together and we are now referring this authority to the Commonwealth Government.

The Premier: We are adopting the Act.

Hon. C. G. LATHAM: We say we are going to give them power to bring down any other regulations, and that we will

automatically adopt them. I know we should have uniformity of control.

Mr. Cross: But we want a say in it.

Hon. C. G. LATHAM: We can hand over to them the control of pilots and anything to do with the airworthiness of aircraft, but we should keep control of the air transport system of this State. When I read the Premier's speech I was convinced that the amendment of the member for Katanning was justified.

The CHAIRMAN: Does that speech deal with this clause?

Hon. C. G. LATHAM: It does. Even then he was afraid to give the Federal Government this power. He said it was a subterfuge. Is it not a subterfuge thus to override the decision of the Court? We should have uniformity in these matters, but the power given should be limited in the way I have indicated. We passed certain legislation bearing on dried fruits. This was approved by the Crown Law authorities, but subsequently we found it was ruled out of order by the Privy Council. I am prepared to give the Federal Government power to administer, on behalf of this State, regulations for the proper conduct of air navigation, but I am not prepared to give them an open cheque. The amendment will give Parliament an opportunity to check this legislation. Probably the Federal Government are honest: their desire is always to have additional power, provided it is remunerative to them. We should know beforehand what authority we are giving to them by this Bill, whereas we are simply saying that in future we will approve of any regulations that are passed.

Mr. WATTS: I agree that if our suspicions that this is a reference of authority to the Federal Parliament are incorrect, my amendment will be of no value, but if that is not so, the amendment will be of some use. After all, it will apply only to regulations that are promulgated by the Commonwealth authorities after the passing of this legislation. I realise the necessity for that. There is much to be said for it, too. We have seen the regulations which have already been promulgated, and we know what is in them. Upon them we can base our judgment. There have been no serious complaints regarding them. But in the future there may be objections to regulations promulgated by the Common-

wealth which would be definitely detrimental to the interests of some portion of the people of Western Australia. If there be any such regulations, they should be made to run the gauntlet of both Houses of this Parliament, so that they may be disallowed in the same way as regulations made by our own Governor-in-Council are disallowed if unsatisfactory to the people concerned. The Minister for Works said I had moved the amendment for some reason not disclosed. It did not occur to the hon. gentleman that the reason why Section 36 of the Interpretation Act should apply to the regulations was not disclosed to him. I firmly believe the Minister knows what the intention of Section 36 is—to give either House of this Legislature the right to disallow regulations if the House considers the Governor-in-Council was ill-advised to make them, whether because they are contrary to the interests of some of our people, or contrary to the interests of some part of the State, or because ultra vires. We ought to have the same right over any future regulations made by the Federal Government, if the Bill becomes law. I see no sound reason for objecting to that proposal.

Amendment put, and a division taken with the following result:—

Ayes	16
Noes	23
Majority against	7

AYES.	
Mr. Royle	Mr. Marshall
Mrs. Cardell-Oliver	Mr. Patrick
Mr. Doust	Mr. Raphael
Mr. Ferguson	Mr. Rodoreda
Mr. Hughes	Mr. Thorn
Mr. Johnson	Mr. Warner
Mr. Latham	Mr. Watts
Mr. Mann	Mr. Doney

(Teller.)

NOES.	
Mr. Collier	Mr. Nulken
Mr. Coverley	Mr. Panton
Mr. Fox	Mr. Sampson
Mr. Hawke	Mr. F. O. L. Smith
Mr. Hegney	Mr. Styants
Mr. Keenan	Mr. Tonkin
Mr. McDonald	Mr. Troy
Mr. McLarty	Mr. Welsh
Mr. Millington	Mr. Willcock
Mr. Munro	Mr. Withers
Mr. Needham	Mr. Cross
Mr. North	

(Teller.)

PAIRS.	
AYES.	NOES.
Mr. Brockman	Miss Holman
Mr. J. M. Smith	Mr. Wilson
Mr. Stubbs	Mr. Wise

Amendment thus negatived.

Hon. P. D. FERGUSON: I shall vote against the clause. Notwithstanding what

the Minister for Works has said about this side of the Chamber, from twenty-odd platforms in the State I opposed during the recent referendum the granting of any further powers to the Commonwealth Parliament.

Hon. P. Collier: But your organisation was in favour of this.

Hon. P. D. FERGUSON: The organisation with which I am associated made no decision on the aviation proposal.

Hon. C. G. Latham: Only as regards marketing.

Hon. P. D. FERGUSON: Parliament would be unwise to pass the clause, which is destined to do more harm than good to this State if aerial transport is going to be a big thing in Australia. Notwithstanding what has been said by the member for West Perth and the Minister for Works, it is a fact that at the conference attended by the Minister the representatives of the Commonwealth pulled the wool over his eyes. Mr. Menzies, after trying to refute the arguments raised by the Minister, said to him—

If I were you, Mr. Millington, I would not raise these points.

Mr. Menzies did not want the Minister to raise the points here as he had raised them in the East. Does not that indicate that the Commonwealth Government did not want the very objections which have been raised by this side and by some hon. members opposite brought forward here? The Minister has been so complaisant that he failed to mention to the Committee the objections he raised at the conference.

The Minister for Works: I told the House. That is how you know.

Hon. P. D. FERGUSON: Of course. How else could I know?

The Minister for Works: Then don't be so silly!

Hon. P. D. FERGUSON: How else could I know unless the Minister had told us? I have quoted from the Minister's own report on the conference that he attended.

Mr. Cross: Then he could not have suppressed the information.

The CHAIRMAN: Order! The Minister will have a chance to speak.

Hon. P. D. FERGUSON: The Minister has informed us that we will have power to repeal this legislation if it is found to operate to the detriment of Western Australia. On the other hand, the Federal Attorney General, Mr. Menzies, has said there is a

grave divergence of opinion among constitutional lawyers on the point that powers once delegated to the Commonwealth cannot be recovered by the States. There is a divergence of opinion as to whether powers are being delegated under the Bill. What is the good of taking risks, seeing that if we give away the powers contained in the measure, we may not be able to secure them again? I quote from the Federal Air Navigation Act, 1936, Section 4 of which reads—

The Governor General may make regulations for the purpose of carrying out and giving effect to the Convention—

The Convention referred to is the Convention for the Regulation of Aerial Navigation, signed in Paris on the 13th October, 1919—
—and the provisions of any amendment of the Convention made under Article 34 thereof and for the purpose of providing for the control of air navigation (a) in relation to trade and commerce with other countries and among the States, and (b) within any territory of the Commonwealth.

Here we have a Commonwealth Act that provides that the Federal Parliament shall have power to make regulations for the control of aerial trade and commerce with other countries or between the States of the Commonwealth, and under that law they could make regulations dealing with air navigation. The danger lies in the fact that any regulations the Commonwealth may frame in years to come will be part and parcel of the legislation that it is proposed we shall agree to this evening. If we pass this Bill and the statement of the Commonwealth Attorney General that there is a considerable body of legal opinion that holds that powers once delegated cannot be recovered by the States is correct, and it is subsequently found that regulations promulgated by the Commonwealth operate detrimentally to Western Australia, how shall we be able to rectify the position in this Parliament? The amendment moved by the member for Katanning would have safeguarded the position up to a certain point, but that amendment having been defeated, I am forced to oppose the clause.

Mr. MARSHALL: I move an amendment—

That the following proviso be added to the clause:—“Provided that no such regulation shall be construed so as to limit or affect any of the rights or powers of the State in relation to trade and commerce within the State of Western Australia.”

That will make doubly sure.

The Minister for Works: I do not know about that.

Mr. MARSHALL: There is a difference of opinion as to the extent of the powers we are asked to hand over to the Commonwealth. The word “regulation” appears from time to time in the clause, and we must not be unmindful of the fact that the Commonwealth can amend their Act whenever they so desire, particularly if they wish to oblige the Eastern States. We must be particularly cautious in this matter. I agree with the Minister when he said that those who attended the conference were quite prepared to accept the statement made to them that commercial aviation would not be covered by the proposed regulations. Commercial aviation is in its infancy here, but great strides are being made in other parts of the world. If we are wrong in our understanding that the Commonwealth regulations will not affect commercial aviation, we may live to regret our decision unless we include some safeguard such as I propose in my amendment. I have not yet heard any convincing argument to lead me to believe that if we agree to the clause without some such necessary reservation, we shall not interfere with the control of aerial transportation within the State. Experience has taught us that laws that may be applicable to the Eastern States have proved objectionable when applied to Western Australia. I have heard almost every member of this House criticise the administration and legislation of the Federal Government and, from time to time, arguments have been advanced in favour of amending the Commonwealth Constitution because of its injustice as affecting Western Australia. Mistakes having been made in Federal legislation in the past, it can easily be that mistakes will occur in the future. We cannot say how the courts will interpret the laws we pass. We fondly believe that Acts passed contain what we think, but when they are reviewed by the courts totally different interpretations are placed upon them. Regulations have been disallowed on scores of occasions, and Acts we passed have been interpreted in a way we did not anticipate. My amendment will put this particular matter beyond all doubt and if it is agreed to, it will make sure that commercial aviation within the State will not be affected.

The MINISTER FOR WORKS: I do not know how far-reaching this will be.

Mr. Marshall: Not as far-reaching as your Bill without it.

The MINISTER FOR WORKS: We are merely continuing the existing control so far as air navigation is concerned.

Hon. P. D. Ferguson: This is only a reasonable safeguard.

The MINISTER FOR WORKS: I could understand people being nervous if we were adopting something which was not already in existence. I have not heard of the Commonwealth putting up regulations that have been seriously challenged.

Mr. Warner: Is this not the first time that we are agreeing to regulations that have not been made?

Mr. Marshall: That is the point.

The MINISTER FOR WORKS: We do that every time we pass laws.

Hon. C. G. Latham: But we have control over them after they are passed.

The MINISTER FOR WORKS: That is provided for now.

Hon. C. G. Latham: Not here.

The MINISTER FOR WORKS: These regulations would be made by a Commonwealth Order-in-Council, and there would have to be compliance with the usual Commonwealth procedure. I cannot imagine that the Commonwealth will do anything against the interests of any one State or of the States as a whole. It has not happened in the past. The idea that the Commonwealth control is suddenly going to become dangerous and a menace to the State is strange. It is better not to pass this measure at all than to include all sorts of restrictions that would undermine the control that the Commonwealth must have. One of the matters discussed at the conference was the power to enforce regulations. It was suggested during the discussion that there should be dual control by the State and the Commonwealth, but then it was pointed out that it would be very difficult to know under which Act or law to proceed; whether the State or the Commonwealth would be the authority. Finally it was decided that there must be one authority and that there must be no doubt about the authority. That is why the complete policing of the regulations is in the hands of the Commonwealth Government. After the experience with the test case which I mentioned—the Goya Henry case—it was considered essential that these regulations when promulgated should be definite and that the authority should be definite. The amend-

ment seeks to reserve to the State some particular power, but the only thing we are giving away is what is specified here. The rest of the powers we reserve for ourselves. It was said I raised certain objections at the conference. That was my business—to inquire what powers would be given away and what powers would be retained. Mr. Menzies and others pointed out that it was unnecessary to have these reservations embodied in the Act. It was Mr. Mullen of Queensland who first drew attention to the fact, and said that the matter was already provided for in the Constitution. Mr. Menzies said, "No State can make a contract with the Commonwealth that it will not exercise its constitutional powers. What it is saying here is that we will make an agreement on all those matters as to aircraft and air navigation. The conference at its last meeting agreed that the Transport Regulation Act should still operate in the States." He added, "If I were you, Mr. Millington, I would not make any specific mention of the points you raise," his contention being all through that we already have certain powers reserved. Such powers as we do not specify that we have given away, we still retain. Consequently I look upon this amendment as needless.

Amendment put and a division taken with the following result:—

Ayes	17
Noes	20

Majority against 3

AYES.	
Mr. Boyle	Mr. Patrick
Mrs. Cardell-Oliver	Mr. Sampson
Mr. Doust	Mr. Shearn
Mr. Ferguson	Mr. Styant
Mr. Hughes	Mr. Thorn
Mr. Johnson	Mr. Warner
Mr. Latham	Mr. Watts
Mr. Mann	Mr. Doney
Mr. Marshall	
NOES.	
Mr. Collier	Mr. Needham
Mr. Coverley	Mr. North
Mr. Fox	Mr. Nulsen
Mr. Hawke	Mr. Pantou
Mr. Hegney	Mr. F. C. L. Smith
Mr. Keenan	Mr. Tonkin
Mr. McDonald	Mr. Troy
Mr. McLarty	Mr. Willcock
Mr. Millington	Mr. Withers
Mr. Munroe	Mr. Cross

(Teller.)

(Teller.)

AYE. PAID. NO.
Mr. Stubbs Mr. Wise

Amendment thus negatived.

Mr. HUGHES: I am surprised to find what an oracle Mr. Menzies has become throughout this debate. Apparently Mr. Menzies, who was not previously a very desirable citizen, has suddenly become an

oracle, and because he says that something is so, we are to take it for gospel.

Hon. P. D. Ferguson: Is not he the highest legal authority in the land?

Mr. HUGHES: No, certainly not. Personally, I do not think Mr. Menzies would ever say the things about this Clause 4 that have been attributed to him to-night. I do not for a moment believe that he would say that Clause 4 could be in any way altered by the preamble to the Bill. However, in any case, Mr. Menzies could only give his opinion, and his opinion has been repeatedly turned down by the superior courts. The Bill nullifies the whole effect of the referendum. As the result of that referendum, the people of this State said the Commonwealth were not to have certain powers, but now this Parliament is taking on itself to overrule the referendum and say that those powers shall be given to the Federal Government. And the reason put up for this by the Minister for Works is that the Commonwealth have exercised those powers for a considerable time without objection being taken by the States. That is true of every usurpation of power by the Commonwealth or any other authority. Until it is discovered that the powers are ultra vires, no one challenges them. Only then do the people find out that the Commonwealth have been enforcing laws illegally. When the people of Western Australia were given an opportunity to say whether or not they would endorse the use of those powers by the Commonwealth, they promptly said, "No." That was the first opportunity the people had to challenge the use of those powers by the Commonwealth. It has been said that at any time this Parliament could repeal this enactment and so destroy the powers it gives to the Commonwealth. But it is not always easy to repeal an Act once it is on the statute-book. We have the financial emergency legislation in this State, which was passed specifically to meet an emergency; and long after that emergency has gone, the Act remains on the statute-book.

The CHAIRMAN: That has nothing to do with the Bill.

Mr. HUGHES: So it is idle to say that at any time Parliament could repeal this enactment. Parliament may not be in session to repeal it just at the time when it ought to be repealed. There is nothing to

prevent the Commonwealth from altering every one of the existing regulations and putting in a new set which will then be binding upon Western Australia until this legislation is repealed. So the safest way is not to depend upon getting the Act repealed, but rather to refrain from enacting it. The Bill hands over to the Commonwealth power to make any regulations they may choose in the future. Clause 79 of the existing regulations reads as follows:—

Aircraft shall not be used by any person in the operation of a regular public transport service except under the authority of and in accordance with a license issued to that person by the board.

And they give the terms upon which the licenses are to be issued. So what is the use of saying the Bill does not interfere with transport services, when we propose to give the Commonwealth this power to regulate transport services? And whereas we think we give them certain powers under this or any other regulation, we shall find that those administering them will take more power to themselves than is actually given by the regulations.

Mr. Marshall: Which departmental officer does not do that?

Mr. HUGHES: And it is by no means easy to upset these regulations. How many people can afford to spend £25,000, as Mr. James did, in order to upset a regulation? Under these regulations the authorities will take power to themselves to attach conditions to the licenses. Even our own Transport Board are attaching illegal conditions to the licenses they are issuing to-day. Lots of people are submitting to that illegal usurpation of power because they cannot afford to fight the Transport Board. And that is the position that will be set up under the Bill. There is not much room for doubt as to what Clause 4 means, for in its very first line it speaks of regulations from time to time in force. Those words "from time to time" were inserted by the draftsman to make it doubly sure that any amendment made in the regulations shall be effective. He would have provided that the regulations attached to the measure were to be the regulations governing air services in this State. That would have involved an amendment of this legislation every time the regulations were amended. In order to take away the power of this Parliament the words "from time to time" have been added. The clause

contains the words, "The regulations in force in relation to air navigation." There are no limitations whatever on the term "air navigation"; it is inserted without any definition and without any attempt to limit the operation of the measure. If the Bill became law the Commonwealth could immediately bring down a new set of regulations governing air navigation. It would be idle to go to the courts and say we never intended that the Commonwealth should be given power to deal with air navigation in any shape or form. I have heard it said that the member for Nedlands suggested that that might be done. He knows better than anybody else that, so long as the words of Clause 4 are clear, no reference can be made to the preamble. It would be of no use saying, "Go to the preamble and see what Parliament intended should be enacted."

Hon. C. G. Latham: The preamble is not a part of the law.

Mr. HUGHES: No, it could be consulted only in the event of ambiguity. I do not think the member for Nedlands said anything of the sort. Clause 4 would have to be construed as set out in the measure, and under it there is no limit at all on air navigation, and everything having reference to the conduct, management and flying of aircraft would come under the general term of air navigation. If this Chamber is prepared to take the responsibility of abrogating the decision at the referendum and to hand over absolutely the control of air navigation to the Commonwealth, it should be done in a straightforward way so that people may know exactly what we are doing. To put up a set of regulations purporting to give limited power when, in the enacting clause, we are giving absolute power, is either self-deception or a deliberate attempt to get the regulations through under camouflage. This Chamber should be prepared to vote on the substance of the question. It will be of no use saying later on, "We did not think the Commonwealth Government were going to take additional power."

Mr. Marshall: They will not be taking it; we shall be giving it.

Mr. HUGHES: In recent years there have been bitter complaints that powers given to the Commonwealth have proved to be different from what was expected. There is a tendency in this State to reduce rather than enlarge the Commonwealth's sphere of opera-

tion. During recent years whenever there has been a question of giving more power to the Commonwealth the people of Western Australia have refused, and we, as the representatives of the people, should also say, "No." We have no right to camouflage, as is being done under this Bill, the giving away of power against the wishes of the people. Any such attempt under the oracular authority of Mr. Menzies should not be tolerated. Why should we, simply because Mr. Menzies has said something, surrender our own right to read plain English? I believe a lot of words have been put into Mr. Menzies's mouth that he never uttered, and a lot of legal interpretation has been attributed to him that I feel sure he would not agree with. I am positive that the first man who would admit that this measure gave absolute regulation-making power in respect of air navigation would be Mr. Menzies, and he would be bound to tell the people that the preamble had no bearing on Clause 4. I hope the clause will be voted out. If we are going to adopt the regulations, let us adopt them as a statute without giving any prospective amending power. The Minister for Works has asked, "If we do not hand over control of aviation to the Commonwealth, who is going to control it?" In a State like Western Australia with its enormous area, aviation is an activity into which the State might well enter. It is a form of transportation that will be of greater value to Western Australia than to the Eastern States, and if we could see far enough ahead, we would probably associate aviation services with our railways. Then, after private people had instituted aviation services as feeders to the railways, we would not have to go back, as we did with motor transport, and start imposing restrictions. We would be on sound grounds in undertaking State control and State operation of aviation services. I see no reason why the Government cannot control and manage aviation in this State just as well as can the Commonwealth, even if it does mean establishing a department of aviation here.

Clause put, and a division taken with the following result:—

Ayes	21
Noes	16
<hr/>	
Majority for .. .	5
<hr/>	

AYES.

Mr. Collier
Mr. Coverley
Mr. Cross
Mr. Fox
Mr. Hawke
Mr. Hegney
Mr. Keenan
Mr. McDonald
Mr. McLarty
Mr. Millington
Mr. Munsie

Mr. Needham
Mr. North
Mr. Panton
Mr. Sampson
Mr. F. C. L. Smith
Mr. Tonkin
Mr. Troy
Mr. Willcock
Mr. Withers
Mr. Nulsen

(Teller.)

NOES.

Mr. Boyle
Mrs. Gardell-Oliver
Mr. Doust
Mr. Ferguson
Mr. Hughes
Mr. Johnson
Mr. Latham
Mr. Mann

Mr. Marshall
Mr. Patrick
Mr. Shearn
Mr. Styant
Mr. Thorn
Mr. Warner
Mr. Watts
Mr. Doney

(Teller.)

PAIRS.

AYES.
Miss Holman
Mr. Wilson
Mr. Wise

NOES.
Mr. Brockman
Mr. J. M. Smith
Mr. Stubbs

Clause thus passed.

Clause 5—Certain powers and functions vested in Commonwealth authorities:—

Hon. C. G. LATHAM: This clause delegates the powers to the Commonwealth Government. I know it is of very little use discussing the matter any further. It is the policy of the Government. They are unificationists, and are giving effect to that policy.

Mr. Marshall: I take exception to that. It is unfair criticism. This matter does not concern unification.

Hon. C. G. LATHAM: The Bill hands over certain powers to the Commonwealth Government. A day or two ago the Dominion League wrote and asked me to do certain things in the House, but their very supporters are walking over and supporting the unificationist party.

Mr. Marshall: They are very unreliable.

Hon. C. G. LATHAM: There is very little chance of defeating this dangerous clause. We have had the advice of our legal friends. It is not always profitable to us to take their advice, although it is usually profitable to them. Once we have handed over this authority, we have handed it over for good.

The Minister for Works: You knew all that when you invited the people to vote "Yes."

Hon. C. G. LATHAM: By this Bill we are defying the people, who declared that we should not hand over any additional powers to the Commonwealth Parliament. We will regret the day this Bill was put through.

The Minister for Works: The power is only a limited one.

Hon. C. G. LATHAM: I am astonished at the Minister. When the Commonwealth Parliament passed the 1936 Act, regulations were framed dealing with public transport services. One of those regulations declared that aircraft should not be used by any person in the operation of regular public transport services except under the authority of, and in accordance with the license issued to that person, etc. There is no doubt this clause will hand over the absolute control of air transport to the Federal Government, controlled under any regulations that may be framed in the future.

Hon. W. D. JOHNSON: I cannot understand the persistency of the Government in sticking to this Bill against which I have consistently voted. It does not reflect the speech of the Minister who introduced it. The clause under discussion gives the Commonwealth Government greater powers than the State Government proposed to give to them. There is a doubt in the minds of members, and some safeguarding provision should be inserted to remove that doubt. That is why I have opposed the Bill right through. It makes no effort to clarify what is obscure. The measure is not clear, because it is a measure of Commonwealth drafting. It is drafted in such a way as to suit the Commonwealth, with a total disregard for the rights of States. I am not afraid of Federal expansion, but I want it carried out in a proper way. Let it be done straightforwardly, and not by a Bill of this description, as to which Mr. Menzies says it does not mean this and does not mean that. What Mr. Menzies has stated is not reflected in the Bill. I wish to make it clear why I have voted against the measure.

Clause put, and a division taken with the following result:—

Ayes	19
Noes	17
Majority for				2

AYES.

Mr. Collier
Mr. Coverley
Mr. Fox
Mr. Hawke
Mr. Hegney
Mr. Keenan
Mr. McDonald
Mr. McLarty
Mr. Millington
Mr. Munsie

Mr. Needham
Mr. North
Mr. Nulsen
Mr. Sampson
Mr. Tonkin
Mr. Troy
Mr. Willcock
Mr. Withers
Mr. F. C. L. Smith
(Teller.)

NOES.

Mr. Boyle
Mrs. Cardell-Oliver
Mr. Doney
Mr. Doust
Mr. Ferguson
Mr. Hughes
Mr. Jounsson
Mr. Latham
Mr. Mann

Mr. Marshall
Mr. Patrick
Mr. Shearn
Mr. Styan
Mr. Thorpe
Mr. Warner
Mr. Watts
Mr. Cross

(Teller.)

Clause thus passed.

Clauses 6, 7—agreed to.

Preamble:

The MINISTER FOR WORKS: I move an amendment—

That after the word "aircraft," in line 6, there be inserted "and in particular to the airworthiness of aircraft."

These words appear in the original draft of the Bill.

Amendment put and passed; the Preamble, as amended, agreed to.

Title—agreed to.

Bill reported with an amendment.

BILL—NURSES REGISTRATION ACT AMENDMENT.

In Committee.

Resumed from the 14th September; Mr. Hegney in the Chair, the Minister for Health in charge of the Bill.

Clause 2—Amendment of Section 3 of principal Act (partly considered):

The CHAIRMAN: The Leader of the Opposition has moved an amendment—

That in paragraph (a) the words "all classes of" be struck out, and "general" inserted in lieu.

The MINISTER FOR HEALTH: I oppose the amendment, though if the whole of the amendments placed on the Notice Paper by the Leader of the Opposition were agreed to, this particular amendment would not matter. After consultation with the Parliamentary Draftsman, I want the words "all classes of" retained and to add to the paragraph "except infant health nursing and midwifery nursing." Unless the words "all classes of" are allowed to stand, it will be necessary to insert in the Bill a definition of nursing. The Bill, as drafted, together with the addition of the words I propose to have inserted later on, will make it perfectly clear as to what can and cannot be done.

Hon. C. G. LATHAM: Now that the Minister has indicated his intention to move an additional amendment to the Bill, I do not know that there is any necessity further to press my amendment. The effect of his proposal is to define "nursing" as meaning general nursing.

Amendment put and negatived.

The MINISTER FOR HEALTH: I move an amendment—

That at the end of paragraph (a) the following words be added:—"except infant health nursing and midwifery nursing."

Amendment put and passed.

Hon. C. G. LATHAM: I move an amendment—

That paragraph (c) be struck out.

I am sorry the Minister will not agree to the amendments I have placed on the notice paper. There is a distinction between the Nurses Registration Act and the Health Act. The former deals with the registration of nurses, sets up a board for examination purposes, and, to a certain extent, controls nurses. The Health Act provides for looking after the health of the people and, under Part XII, provision is made for the registration of midwives. I would point out that prenatal, maternity and infant health work constitute health matters, and I am sorry the Minister has decided not to amend the Health Act to bring all these nurses under the control of the Health Department. The Minister takes a keen interest in health matters, and I was anxious that he should take full control over all phases.

The Minister for Health: Can you show me anything in the Health Act that gives us power to issue certificates to infant health nurses?

Hon. C. G. LATHAM: No, but I would point out that nurses are trained at the King Edward Memorial Hospital, and, as the Midwives Registration Board is provided for in Part XII of the Health Act, all that would be necessary would be to amend that Act to provide for what I desire.

The Minister for Health: I am amending that. I want to put them under one board instead of having two or three boards.

Hon. C. G. LATHAM: I think it very unwise to take that control away from the department. The Minister proposes to lose power that I want him to retain.

Mr. NEEDHAM: I hope the Minister will not accept the amendment. When the prin-

pical Act was passed, there were no infant health training centres. In my opinion, qualified nurses should be registered under the Nurses Registration Act according to the various sections to which they belong. Nowadays infant health centres are operating all over the State, and therefore it is imperative that paragraph (c) be retained in the Bill. The Nurses Registration Board of South Australia registers general, children's and mental nurses and midwives. There is no infant health training undertaken in South Australia. The Nurses and Masseurs Registration Board of Queensland registers general, midwifery, child welfare and mental nurses. The Nurses Board in Victoria registers general and infant welfare nurses. The Nurses Registration Board of New South Wales registers general, midwifery, mental and infant nurses. The Leader of the Opposition proposes a retrograde step. In four States registration is provided for, and when we propose to fall into line with them, he objects to the procedure adopted.

Mrs. CARDELL-OLIVER: Apparently there is some confusion in the minds of members of the Committee. I made inquiries from the various organisations concerned, and discussed the position with nurses holding responsible positions in the metropolitan area. I interviewed the secretaries of the A.T.N.A. and the W.A. Nurses' Association. The former has between 1,400 and 1,500 registered nurses on its roll, and the latter has 384 members, some of whom are trainees. The secretary of the Nurses' Association assured me that in her opinion her organisation was prepared to support the Minister's Bill as it stands. The secretary of the A.T.N.A. supported the amendments that have been proposed, and the reason for that is that on the 17th November, 1936, at a combined meeting of the Nurses' Registration Board and the Midwifery Board, it was decided that infant welfare nurses' registration was a matter for the Midwifery Board. Under the Nurses' Registration Act the administration of the infant health activities is at present in the hands of Dr. Atkinson, Miss Lynch (secretary of the A.T.N.A.), Miss Symes (matron of the Perth Public Hospital), Miss Curwood, an examiner of the Board, and a Government representative not yet appointed. None of these members is actively engaged in baby welfare or midwifery nursing, yet they are

prepared to accept an amendment such as this. On the other hand the midwifery board consists of Dr. Atkinson, Miss Lynch, Matron Walsh of the King Edward Memorial Hospital, Miss Harvey, the first matron of the King Edward Hospital, who is also an examiner for midwifery, and, I believe, Dr. Thomson. Three members of this board are actively engaged in midwifery and ante-natal nursing, and I believe the three women hold child welfare certificates. If these two professional boards who control the administration of the registration of nurses and the midwifery section agree that infant health should come under the midwifery section of the Public Health Department, I cannot see why we should raise any objection to it in this Chamber. I think they are better judges than I and most hon. members. They contend that if baby welfare registry comes under the Nurses' Registration Board it may be under the administration of nurses who do not necessarily hold their baby welfare certificates. On the other hand, if it comes under the Health Act they would be under the control of nurses with three certificates. The contention of the Leader of the Opposition was that ante-natal care, midwifery and child welfare are not conditions of sickness but matters of public health. That is a sound contention. The nurses' contention is that training of infant welfare nurses is essentially a public health function a continuation of midwifery training which deals with ante-natal work, delivery and the recovery of the midwifery patients. For that reason the A.T.N.A. supports the decision of the Nurses' Registration Board given on 17th November, 1936. Therefore, unless there is going to be some amendment placing the training of infant welfare nurses under the Public Health Department, I shall have to support the amendment before the Committee.

The MINISTER FOR HEALTH: I cannot accept the amendment. There are two or three things that will certainly be done that can be done by regulation, but I am not going to amend the regulations until I get the Act through. I cannot see why we need to keep two registration boards in existence in this State. I intend to abolish one of them. It will be done by regulation, but I am not going to abolish one of the boards without giving the members representation on the board that will be created. It is,

however, a wilful waste of time and money to have two boards constituted, one to register medically trained nurses, and the other to register midwifery nurses with no registration board at all for infant health purposes. I find on inquiry that the examination set for the midwifery cases are set by the Australian Trained Nurses' Association at the head office in Sydney. The registration board do not even set the examination. The Australian Trained Nurses' Association set both examinations, that for the medically trained nurses and that for the midwifery nurses. There is no examination yet for infant health nurses, and as I said in reply to the Leader of the Opposition the other night if there is one class of nurse in this State deserving registration it is the infant health nurse. She has to pass both the examinations that two boards set up, and another examination, namely, the hospital examination of the infant health section. So that she has to go further than the other two combined. There is one infant health nurse in this State who does not hold the three certificates, but she is the only one who has not the three certificates. Every other infant health nurse has got her medical certificate, her midwifery certificate, and also the infant health certificate.

Hon. W. D. JOHNSON: Is it possible for another nurse to get that position without the three certificates?

The MINISTER FOR HEALTH: The woman who has not the three certificates is doing magnificent work. She is a fully qualified woman but she has not the three certificates. All the others have and no other one could get the job without having the three certificates, not under the existing regulations and conditions. If the Bill is passed as it is, within three months we should have a board created that would set the examination for all three classes of certificates. If this Bill were passed and there were no amendments to the regulations, a nurse with three tickets would have to pay 3s. a year registration fee. That is not intended, but the fee is fixed by regulation, and I intend to amend it so that a woman who has three certificates will be able to secure registration at 1s. per year. I admit that there are different people on the two separate boards, but it is very rare that any member of either of the boards is one of the examiners for the registration certificates. The board themselves select the doctors who put the nurses through the examinations, or they suggest the doctors, and

in some instances a member of the board has been an examiner, but that is rare. As a matter of fact, the doctors that are doing the final examination for the registration certificate do not even know the names of the girls. They put the girls through both the theoretical and the practical test and submit their report to the board. If the examiners pass them, then of course the board also passes them. I do not think there is on the registration board a doctor who has made any very prolonged study of obstetrics.

Hon. C. G. LATHAM: You have said that Dr. Thomson has.

The MINISTER FOR HEALTH: Yes, but he is not on the Nurses' Registration Board. In any case, there is not in Australia a doctor with the knowledge that Matron Walsh has. I cannot see the force of keeping two boards in operation when neither of them sets the examinations for the registrations, either in general nursing or in midwifery. Let us have one board that will represent all branches of nursing, and let the one board do the lot.

Hon. C. G. LATHAM: The Minister has given us a deal more information than he gave us on the second reading. What I am concerned about now is a woman coming over here from the Eastern States with an infant health certificate. I understand that over there they are not as highly qualified as they are here. Are we going to subject such a woman to another examination, or will the Minister be satisfied with her qualifications?

The MINISTER FOR HEALTH: At present we have no examination in infant health other than the hospital examination; but it is intended to put such nurses under the board or, alternatively, they will have to pass a final examination for a certificate. When such a nurse has done that, I would not say we would not in any circumstances employ her; but I will say that if there is a nurse in Western Australia with a triple certificate the other one will not get the job. Again, when we get a nurse with the right certificate, it will be she who will get the work. But if a nurse from the Eastern States with her mothercraft certificate is acceptable to the board, and if we want nurses for that work, and if there is not a doubly qualified nurse looking for the job, I would feel inclined to employ the one from the Eastern States. I want the Leader of the

Opposition to realise that I desire that nurses trained in this State in the three branches, or in all four branches, including the children's nursing, when they get their certificate will be assured of reciprocity anywhere in Australia. But of course difficulties, first one and then another, crop up. Certainly most of them can be overcome by regulation. I question whether at present any other State would accept a certificate issued by the King Edward Memorial Hospital. Without any legislation for infant health nurses, that hospital is not yet recognised as a training school for infant health nurses, or at all events not as being of the same standard as the Tresillian Training College in New South Wales. When we get that composite board their certificate will, I am sure, secure reciprocity.

Mrs. CARDELL-OLIVER: The Minister has made the position very much clearer than it was, and I am aware that he desires to do his best for the nurses. Even so, the position is not yet quite clear. I know what Matron Walsh wants. Her idea was that this should be a section of public health because child welfare, midwifery and ante-natal work are public health activities. They deal with people who are well, and not with sick people. Generally speaking, children would not be taken to the clinics unless they were sick.

The Minister for Health: It is not the place to take them when they are sick.

Mrs. CARDELL-OLIVER: But they are taken there for attention often because they are not getting enough milk. If these matters are put under one board I do not think the Minister will be meeting the wishes of the nurses I have indicated.

The Minister for Health: They have agreed with me.

Mrs. CARDELL-OLIVER: I am sure the Minister will do his best, but I wish to stress that the nursing of well people is in a different category from the nursing of sick people.

Amendment put and negatived.

Clause put and passed.

Clause 3—Amendment of Section 5:

Mr. NEEDHAM: The latter part of the proposed new Subsection 5 seems ambiguous where it refers to "this" division of the register. What does "this" mean? Does it mean that any general nurse who has passed the prescribed examination may be regis-

tered as an infant health nurse? If it does, the words "infant health nurse" should be repeated. Or does "this" refer to general nursing.

The MINISTER FOR HEALTH: I discussed this matter with the Crown Solicitor. To me the proposed new subsection is plain. A nurse registered in the general division is a medically trained nurse and she cannot be registered in the infant health section unless she undergoes the necessary training and gets a certificate. Some nurses have had general registration for three or four years before taking up infant health training.

Clause put and passed.

Clause 4—agreed to.

Clause 5—New section:

Hon. C. G. LATHAM: The proposed new Subsection 4 seeks to repeal Subsection 3 of Section 284 of the Health Act. It is unwise to amend the Health Act by a provision in this measure. A person who consults the Health Act finds no record of this amendment and is liable to be misled. True, there is a reference in the title to amending the Health Act, but the principle is wrong and I am surprised at the Parliamentary Draftsman including it. The proper course is to bring down an amendment to the Health Act. I think the clause should be ruled out of order.

The Minister for Health: Then nearly every Bill introduced in the last ten years should have been ruled out.

Hon. C. G. LATHAM: A protest was entered on the same score when the farmers' debt adjustment measure was before us, but that is the only instance I can recall. This sort of thing results in increased law costs. I would not be surprised if another place negatived the clause on the ground I have stated. I move an amendment—

That proposed subsection 4 be struck out.

Mr. McDONALD: I support the amendment. The other day I saw something in the Child Welfare Act qualifying a provision in the Adoption of Children Act. I have come across other instances where some of our Acts have contained references to the provisions of other Acts. We should avoid that kind of thing.

The MINISTER FOR HEALTH: I agree to a large extent with much of what has been said on this matter, but this is no new principle.

Hon. W. D. Johnson: It does not make it right. Is this necessary?

The MINISTER FOR HEALTH: I believe it is. It is my intention during the session to bring down an amendment to the Health Act, and to embody this provision in it.

Hon. C. G. Latham: Would it matter if the shilling was not paid? The Health Act says that no fee shall be charged.

The MINISTER FOR HEALTH: The Bill provides for annual registration, and that is one thing I want to ensure.

Hon. C. G. Latham: And you propose to charge 1s. for re-registration.

The MINISTER FOR HEALTH: Yes.

Hon. C. G. Latham: Under the Health Act, re-registration costs nothing.

The MINISTER FOR HEALTH: For midwives only. The Crown Solicitor says there is nothing new about this. If every Bill that was brought down had to be free of any reference to another Act, very few would come down.

Mr. Sampson: It is bad in principle.

The MINISTER FOR HEALTH: The hon. member was twice responsible for carrying on that principle.

Mr. Sampson: It will only create confusion.

The MINISTER FOR HEALTH: There can be no confusion. All this does is to cut out the words "there shall be no re-registration fee."

Mr. Sampson: It should be cut out through the Health Act itself.

The MINISTER FOR HEALTH: This is not anything that really matters.

Hon. C. G. Latham: But it will not appear in the index to our statutes.

The MINISTER FOR HEALTH: It will appear in every reprint. I intend to stick to this.

Hon. W. D. JOHNSON: I do not like this subclause. It savours of slovenly drafting to have one measure amending another. I know this has been the practice in recent years, but of late the drafting of Bills has become less efficient. At one time we were very strict about such things, but short cuts are being followed to-day. For my own part, I would agree to this being passed, so long as it was put right when the Bill amending the Health Act came down.

The Minister for Health: I intend to do that, but I want this in here as well.

Hon. W. D. JOHNSON: On that understanding, I will not have so much objection. Personally I would rather that the words were deleted from the clause, and especially from the Title, if the Minister can possibly do without them. It looks so bad, and is misleading to the public. Lawyers discover these things, but generally after two or three wrong decisions for which clients have to pay. The Minister partly justifies the proceeding because it has been done before and is, in his opinion, "only a small matter." Once it has been done, the precedent is established; and then it is done again and again, with the result that the drafting of Bills becomes slovenly.

Mr. STYANTS: I do not like one Act to be amended by a section in a different Act. The Kalgoorlie Municipal Council were desirous of taking a referendum concerning the installation of a sewerage scheme. They were doubtful whether the referendum had to be taken over the whole of the community, or whether it could be taken merely in the quarter to be served by the scheme. They applied to the Public Works Department in Perth for an opinion on the matter, and even one of our Ministers was misled. The Municipal Corporations Act provided that the referendum must be taken over the whole of the municipality; but the Health Act, in which an amendment of the Municipal Corporations Act had been made, provided that it was necessary merely to take a referendum in the area to be served by the sewerage scheme. The Minister's reply to the Kalgoorlie Municipality was based on the Municipal Corporations Act, without knowledge that an amendment of the Health Act had affected this particular matter. I hope the practice objected to will not be persisted in.

Hon. C. G. LATHAM: All we have to guide us is the short Title of the Bill, "The Nurses Registration Act Amendment Act." It says nothing whatever about the Health Act, though the full Title does. The Minister will not be able to carry out his intention to make the necessary amendment in the Health Act by bringing down a Bill to amend that Act, because the provision will have already been repealed by this measure. It is about time Parliament told the Parliamentary Draftsman what he ought to do. He draws Bills with clauses

covering three or four pages and including a variety of amendments. Such drafting is difficult to follow, though it may be all right for men trained in these matters. In this instance the Parliamentary Draftsman has said, "Instead of introducing two Bills, include everything in one Bill." The matter is rather important from the point of view of the nurses. The proposal now is to charge a fee of 1s. for re-registration. A nurse applies for re-registration without sending in the shilling. She does not become re-registered, but becomes liable to a fine of £1, though I do not suppose the full penalty would be exacted. If a Health Act Amendment Bill is introduced this session and contains nothing conflicting with views held on this side of the Chamber, it will go through. The present Bill will mislead the public. I opposed a similar procedure in connection with another measure. The Parliamentary Draftsman should be informed that Bills must not amend Acts which are foreign to the short Titles.

Amendment put and passed: the clause, as amended, agreed to.

Clause 6—Amendment of Section 11 of principal Act:

Hon. C. G. LATHAM: I move an amendment—

That a new paragraph, to stand as paragraph (c), be inserted as follows:—

"(c) by adding to the section after paragraph (c), relettered as provided for in paragraph (b) hereof, a new paragraph as follows:—

'(d) completes a prescribed course of training and within one month thereafter fails to apply for registration, or, having applied for registration, fails without reasonable cause when called upon by the examiners so to do, to sit for examination as required by Subsection (3) of Section six of this Act.'

Subsection (3) of Section 6 of the Nurses Registration Act, 1922, reads—

All persons completing a prescribed course of training shall apply for registration and sit for examination under the provisions of Subsection (3) of Section 5 of this Act.

No penalty is provided to compel the nurses to apply for registration or sit for examination. It must be remembered that the people contribute towards the cost of the training of nurses, and when the latter complete that training they should register and sit for the qualifying examination. Nurses should do that in their own interests. Girls

may claim to have been trained, but they have neither registered nor passed the qualifying examination. I propose to impose a penalty on them if they do not sit for the examination and secure registration.

The MINISTER FOR HEALTH: I do not propose to make the registration of nurses compulsory.

Hon. C. G. Latham: But it is already compulsory under the Act.

The MINISTER FOR HEALTH: Yet the hon. member said that nurses were not registered! Of course, registration is not compulsory, and I do not propose to make it so. There are reasons why it should not be so.

Hon. C. G. Latham: Tell us what they are and we may agree with you.

The MINISTER FOR HEALTH: One reason is that if we made it compulsory, we would have to define what "nursing" really is. People may require help from time to time, and it may not be necessary for the girl undertaking that work to be a fully qualified nurse.

Hon. C. G. Latham: My amendment will not affect her in the slightest degree.

The MINISTER FOR HEALTH: If registration is made compulsory, the hon. member will soon see that it will.

Hon. C. G. Latham: My amendment applies only to those who have completed their training.

The MINISTER FOR HEALTH: Why compel them to go before a registration board? The girls would have to pass the hospital examination.

Hon. C. G. Latham: No, this will require the girls to pass their examination after they have completed their training.

The MINISTER FOR HEALTH: Unfortunately, at times nurses may pass their first and second-year examinations and then just prior to the examination at the end of the third year they get married. Naturally, they do not go further with their training. I would like them to continue and pass their final examination at the hospital. When girls do pass their final examination, I will not force them to register. Those who intend to continue in the profession will not dream of not registering and securing their registration certificate. I am surprised at the attitude of the Leader of the Opposition. During the last two years in particular we have been criticised by the hon. member, the Press, and others regarding our policy of compulsory unionism.

Hon. C. G. Latham: That is totally different from compulsory registration.

The MINISTER FOR HEALTH: It amounts to the same thing, and I will not force the nurses to be registered.

Hon. C. G. Latham: But that is already provided for.

The MINISTER FOR HEALTH: If it is, why deal with it here again?

Hon. C. G. LATHAM: I thought I made myself perfectly clear when I read Subsection (3) of Section 6 of the Act, which sets out that nurses who have completed the prescribed course of training shall apply for registration and sit for examination. There is no "may" about it; the Act says they "shall" register. What is the use of the Minister talking about not compelling nurses to register? Clause 5 of the Bill proposes that every registered nurse "shall" apply in a prescribed manner for re-registration, and failure to do so for two consecutive years will result in her name being erased from the register. The Bill provides for compulsory re-registration.

The Minister for Health: It does not. It is compulsory only if she wishes to be re-registered.

Hon. C. G. LATHAM: Under the Bill the Minister seeks to compel her to apply for re-registration.

The Minister for Health: No, I do not.

Hon. C. G. LATHAM: I have already pointed out that as the people contribute towards the cost of the training the nurses receive, those nurses should be required to sit for an examination and secure registration when they have completed the course. If they are registered, we will know how many registered nurses we have in the State. A little while ago we endeavoured to extend the period of training to counter the oversupply of nurses. When I was Minister for Health, the representatives of the nurses asked me to afford them some relief because so many were out of employment. Now there is a shortage and we are bringing in girls from the Eastern States who possess nothing like the qualifications of our locally-trained young women. My proposal will not affect the partially-trained girls. I do not desire to prevent people from securing the services of nurses. I am anxious that the girl in this State who trains for a position should have a chance to obtain the employment that is offering. The

Minister may not want this but the nurses do.

Hon. A. H. PANTON: Looking over the proposed amendment I think the cart has been put before the horse. The Leader of the Opposition apparently does not understand the routine of nursing. A nurse may not be registered until she passes the A.T.N.A. examination. The Perth Hospital is the principal training school in Western Australia. The girls start as trainees and spend three years in training. They have to sit for a hospital examination each year. At the completion of the third year of training they have to submit to an A.T.N.A. examination. There are two of these examinations held each year. If a nurse finishes her training in May, she has to wait until August for the next A.T.N.A. examination. She could not possibly apply for registration within a month as required by the amendment because she has not passed the A.T.N.A. examination and is not entitled to be registered until she does. If this amendment is to be carried, it must read the other way about. She must first complete her examination and then apply for registration. Only to-day the matron of the Perth Hospital recommended that three nurses who had completed their three years' training should be retained at the hospital pending the A.T.N.A. examination in two months' time. A number of girls from the country are being trained in the hospital and when they have two months to wait for an examination they prefer to remain at the hospital rather than go back to Wiluna or wherever they might live and then return for the examination later. Consequently, we allow them to continue at the hospital, although the prescribed term is only three years. In the event of their passing the examination there are several courses which they adopt. A particularly good nurse may be retained at the hospital as a staff nurse; or a girl may decide to take up a maternity and infant welfare course. Some decide to start private hospitals. Unfortunately, in other cases, some of them get married. The fact that a girl passes the hospital tests is not sufficient. If she has not an A.T.N.A. certificate her hospital experience will not count in other parts of Australia. The Leader of the Opposition said that the country contributes a certain amount to the training of these girls. The country contributes nothing.

The Minister for Health: But the girls contribute a good deal themselves.

Hon. A. H. PANTON: The girls begin training at 21 years of age. They work for 10s. a week for 12 months and then 18s. a week and receive no more than 24s. or 26s. afterwards. There is not much in the way of a contribution from the country in those circumstances. These girls do three years of slavery in order to become trained nurses, doing arduous work for long hours, and for a very small remuneration. I consider that the nurses are conferring a benefit on the country to go to the hospital for three years' hard training in order to qualify. The amendment is useless as it stands because these girls after doing the prescribed three years in a training school must pass the A.T.N.A. examination before they are entitled to registration.

Hon. C. G. LATHAM: I am glad to have an opportunity of disagreeing with the Speaker. The only chance I have of doing so is when he speaks from the floor of the House. If I have put the cart before the horse in my amendment, the cart is before the horse in the Act itself. The Act states—

All persons completing a prescribed course of training shall apply for registration and sit for examination under the provisions of Subsection (3) of Section 5 of this Act.

I drafted my amendment to conform to the wording of the Act itself and so avoid conflict. Of course it is right as it stands. These girls apply for registration and they are told that they must first have the qualifications, so they then sit for examination. As to the contribution of the country to their training, I say that we do contribute. I do not want to make slaves of these girls any more than does the Speaker. The State contributes freely to the education of these girls and they have to pass a very high educational standard before they can become nurses. I have seen some of their examination papers and those papers would puzzle many of the members of this Committee. The qualifications of these nurses are high. The only time I had to employ one, it cost me a guinea a day besides her board. I did not object because she earned the money. Some of the nurses have a period at the University and that is free. The standard of education is fairly high and the country contributes to that education.

Hon. A. H. PANTON: Notwithstanding anything the Act may contain, I have been for 15 years a member of the Perth Hospital Board, and tonight I have correctly de-

scribed the routine followed by these nurses. As to the wonderful education the country is supposed to supply to these girls, the education test for a girl about to become a nurse is the seventh class standard. It has been said that it ought to be the junior standard. But that is obtained at 15 or 16 years of age, whereas nurses cannot start their training until they are 21 years old. Moreover, the junior certificate does not necessitate a course in English.

Hon. C. G. Latham: I will submit some of the examination papers to you.

Hon. A. H. PANTON: I know exactly the papers that are set by the matron when she examines the girls for their educational test. I hope the amendment will not be agreed to, because it will only complicate matters.

Mrs. CARDELL-OLIVER: I think both the member for Leederville and the Leader of the Opposition are right as to what is in the Act, but since some girls complete their course before they can be examined, it would be rather difficult if it were laid down that they had to be examined within one month after completing their course.

The Minister for Health: It means two examinations a year.

Mrs. CARDELL-OLIVER: I have discovered that there are 2,300 girls registered, and 800 re-registered. Over 500 of them are doubly-qualified, and approximately 200 are trebly qualified. I think the Leader of the Opposition is on right lines, but I should like to see something inserted about those girls who wish to continue their profession.

Amendment put and negatived.

Clause put and passed.

Clause 7—New section:

Mr. RAPHAEL: I move an amendment—

That after "person," in line 1 of proposed new Section 11A, "as a hospital nurse or attendant" be inserted.

The Minister's desire is that none but qualified nurses shall wear that cap. But there is another side to it, namely that there are girls acting as nurses in dental parlours. Some of them have been on that duty for many years, and are always addressed as nurses.

Hon. P. Collier: Which should not be done.

Mr. RAPHAEL: And there are also attendants in doctors' consulting rooms. The Minister, on the second reading, told the

House that this cap was registered throughout the States of the Commonwealth.

The Minister for Health: I said nothing of the sort.

Mr. RAPHAEL: Yes, you rammed it down my throat that they were registered in South Australia. However, we have a number of South Australian nurses in this State, and I have a statutory declaration from some of them that not the cap, but only the A.T.N.A. badge on the cap, is registered. Also I have a letter from a doctor in South Australia to exactly the same effect. By my amendment I think that not only the objective of the Minister, but that of the nurses also will be realised. The Minister desires to protect the nurses within the precincts of a hospital. In some institutions the girl is arrayed as a nurse and addressed as "Nurse" from the day she enters the place. I realise that the registered nurses are seeking protection, but as other women have been acting the part for the last 15 or 20 years they also are entitled to some protection.

Progress reported.

House adjourned at 11.2 p.m.

Legislative Council.

Tuesday, 12th October, 1937.

	PAGE
Auditor General's Report	1120
Question: Denmark-Nornalup Railway, as to Pemberton extension	1120
Bills: State Transport Co-ordination Act Amendment (No. 2), 1R.	1120
Fair Rents, 2R., defeated	1129
Municipal Corporations Act, Amendment (No. 2) 1R.	1144
Legal Practitioners Act Amendment, 2R.	1144
Mining Act Amendment (No. 2), 2R.	1146
Fremantle Municipal Tramways and Electric Lighting Act Amendment, 2R.	1154

The PRESIDENT took the Chair at 4.30 p.m., and read prayers.

AUDITOR GENERAL'S REPORT.

The PRESIDENT: I desire to report that I have received a copy of the Auditor General's report for the financial year ended

the 30th June, 1937, and will lay it on the Table of the House.

QUESTION—DENMARK-NORNALUP RAILWAY.

As to Pemberton Extension.

Hon. H. V. PIESSE asked the Chief Secretary: 1, By whom was the money provided for the construction of the Denmark-Nornalup railway? 2, Was it provided on any special conditions? 3, Was one of the conditions that the line be extended to Pemberton? 4, What was the loss for last financial year on the Denmark-Nornalup railway? 5, Would it be possible for the State Transport Board or the Treasury to subsidise this route as necessary transport service?

The CHIEF SECRETARY replied: 1, Under agreement by the Imperial, Commonwealth, and State Governments. 2, Yes. Interest at the rate of 1 per cent. the first five years, 1½ per cent. the second five years, and at full rates after ten years. 3, No. 4, £7,945. 5, This matter is now under consideration.

BILL—STATE TRANSPORT CO-ORDINATION ACT AMENDMENT (No. 2).

Introduced by Hon. A. Thomson and read a first time.

BILL—FAIR RENTS.

Second Reading—Defeated.

Debate resumed from the 5th October.

HON. E. M. HEENAN (North-East) [4.36]: The Bill is almost identical with a measure that was before the House last year. I spoke in favour of that measure and I intend to support the second reading of this Bill. I see nothing wrong in legislation that has for its purpose the control of rents. During the course of the debate some members have expressed sentiments to indicate that there was something immoral in legislation of this kind. With that point of view I entirely disagree. The Minister, in moving the second reading, stated that similar legislation already existed in certain Australian States, in New Zealand, in England, in the Irish Free State and in South Africa. I venture to submit that in not one of those places could as strong a case be made out for legis-