Legislative Council

Wednesday, 30 October 1985

THE PRESIDENT (Hon. Clive Griffiths) took the Chair at 2.30 p.m., and read prayers.

BILLS (8): ASSENT

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

1. Commercial Tenancy (Retail Shops) Agreements Amendment Bill (No. 2).
2. Occupiers' Liability Bill.
3. Acts Amendment and Repeal (Transport Co-ordination) Bill.
4. Liquor Licensing (Moratorium) Amendment Bill.
5. Local Government Grants Amendment Bill.
6. Acts Amendment and Repeal (Statutory Bodies) Bill.
7. Wildlife Conservation Amendment Bill.
8. Law Society Public Purposes Trust Bill.

PARLIAMENTARY REFORM

Referendum: Petition

The following petition bearing the signatures of eight persons was presented by Hon. Tom Stephens—

To:

The Honourable the President and Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.

We the undersigned request that a referendum be held to allow us to show our support for a parliamentary reform which:

1. will prevent the Legislative Council from blocking supply and thereby forcing only the government in the Legislative Assembly to resign because it cannot pay its employees and ordinary ongoing expenses and;
2. will allow a disagreement between the two Houses of Parliament over any other proposed law to be resolved, as it can be in the Commonwealth Parliament, by a double dissolution election.

Your Petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

(See paper No. 258.)

ABORIGINAL AFFAIRS: POVERTY IN WESTERN AUSTRALIA

Select Committee: Extension of Time

HON. N. F. MOORE (Lower North) [2.33 p.m.]—by leave: I am directed to report that the Select Committee on Aboriginal Poverty in Western Australia has resolved to seek an extension of time to present its report from 31 October 1985 to Thursday, 28 November 1985.

I move—

That the report do lie upon the Table and be adopted and agreed to.

Question put and passed.

(See paper No. 259.)

ACTS AMENDMENT (AMERICA'S CUP DEFENCE AND SPECIAL EVENTS) BILL

Introduction and First Reading

Bill introduced, on motion by Hon. J. M. Berinson (Attorney General), and read a first time.

CONSTRUCTION INDUSTRY PORTABLE PAID LONG SERVICE LEAVE BILL

Report

Report of Committee adopted.

CRIMINAL LAW AMENDMENT BILL

Second Reading

HON. J. M. BERINSON (North Central Metropolitan—Attorney General) [2.38 p.m.]: I move—

That the Bill be now read a second time.

As my ministerial statement yesterday outlined, the Government is committed to a comprehensive review and update of the Criminal Code.

This Bill deals with three important areas in the administration of the criminal law which have been the subject of review and on which firm legislative proposals have now emerged. Those three areas are assault, powers of arrest, and restitution and compensation. I deal with each in turn.

The code provisions in respect of assault are clearly in need of amendment. In the first place, the present code framework inhibits the effective summary disposition of minor assaults. The Government is of the view that while serious assaults on the person should continue to be dealt with upon indictment, less serious assaults should be able to be dealt with promptly and inexpensively by summary disposition. This enables the offender to be more

quickly brought to punishment and liable to any appropriate order for compensation. This benefits the victim and at the same time eases the burden on the community of unnecessary jury trials for less serious offences.

At present the code makes common assault an indictable offence punishable by two years' imprisonment, or punishable summarily by fine of $100 or imprisonment for six months. If the assault is charged with circumstances of aggravation—namely, that the victim was a female, a male child under the age of 17, or a police officer acting in the execution of his duty—the summary penalty rises to a mere $200 or 12 months' imprisonment.

Assault occasioning bodily harm is punishable upon indictment by a maximum of three years' imprisonment, and summarily by a maximum of six months' imprisonment or a fine of $500.

The code at present also provides a series of more serious assaults, either because they are accompanied with an intent to commit a crime, or to obstruct a police officer or some other public official. In those cases the indictable penalty is three years' imprisonment. There is no capacity for summary disposition.

The Bill proposes to substantially increase penalties for assaults and to provide for the effective summary disposition of appropriate assault cases. Common assault will be required to be dealt with summarily, but will be punishable by imprisonment for 18 months or a fine of $3 000.

It is proposed that assault occasioning bodily harm, if dealt with upon indictment, be subject to a maximum penalty of five years' imprisonment, and a maximum of two years' imprisonment or a fine of $4 000 if the court considers that the case can be adequately dealt with summarily.

Assaults rendered serious because of the accompanying intent, or because the victim is a public officer or a person acting in aid of a public officer, will be punishable both on indictment and summarily in the same way as assaults occasioning bodily harm. As a result the provisions of the code in respect of assault will be simplified and made more effective both in terms of disposition of cases and the penalties available.

Clauses 10 to 13 effect the above changes.

At present the code classifies, by a multitude of different provisions, offences which can be capable of arrest without warrant, and those which are not. There is no coherence nor any discernible reason for the current distinctions.

A police officer wishing to make an arrest in respect of the alleged commission of a particular offence must therefore determine in each case whether and in what circumstances he has a capacity to arrest without warrant. This is clearly unsatisfactory.

It is proposed to adopt clear rules to enable people to know in advance when there is a power of arrest without warrant. Those rules will define the offences with respect to which a power to arrest without warrant may exist and the circumstances in which the power will exist.

It is proposed that offences punishable with imprisonment be subject to arrest without warrant. These will be arrestable offences. That is all a police officer will need to know about the offence in question. That rule is designed to ensure that a person should not be taken into custody with respect to the commission of an offence for which, if found guilty, he would not be liable to imprisonment.

The powers of arrest without warrant which then follow will differ for police officers and ordinary citizens. They are proposed to be as follows—

(1) Any person is to have the power to arrest without warrant a person who on reasonable grounds is suspected to be in the course of committing an arrestable offence.

(2) Where an offence has been committed any person is to have the power to arrest another who has, or is reasonably suspected of having, committed the offence. In this case it is necessary that the offence be actually committed. That is an important safeguard where the person concerned is not actually observed in the course of committing the offence.

(3) A police officer is to have a wider power of arresting a person whom he reasonably suspects of having committed an offence in circumstances where he reasonably believes that such an offence has been committed.

(4) A police officer is to be able to call upon a citizen for assistance in effecting an arrest. There is to be clear provision to enable that citizen to act without fear that he will be

subsequently found to have acted unlawfully. The citizen will never be required to render aid, but will only be prevented from doing so where he knows that the person being arrested has not committed an arrestable offence or that there are no reasonable grounds to suspect that that is the case.

(5) There will be a clear power, at present lacking, for a police officer to enter upon premises to effect an arrest where it would be lawful to make the arrest. This may be described as a statutory recognition of the common law doctrine of "hot pursuit", which will justify such an entry effected to prevent the escape of the offender.

(6) It is not proposed to continue the present power of a police officer in some circumstances to arrest a person who is believed reasonably to be about to commit an offence.

(7) The special powers of arrest which now are provided in relation to persons found committing offences on aircraft are to be continued and made applicable to vessels, particularly vessels on a voyage.

Clauses 6 to 9, and 20 to 24 effect the above changes.

At present the provisions of the code in respect of restitution and compensation are particularly limited. The Bill proposes to improve the restitution and compensation provisions of the code as part of the Government's continuing attention to appropriate assistance to the victims of crime. The present code provision which deals with restitution of property of which the owner has been deprived as the result of the commission of an offence, only applies in those very rare cases where the complaint has actually been made by the owner.

There are other limitations upon this power. In particular, it seems to be available only where the unlawful acquisition of property is an element of an indictable offence. There appears to be no general power to make such orders with respect to property acquired as a result of the commission of a simple offence. That includes the position where the offender is convicted summarily of an indictable offence because that conviction is deemed to be of a simple offence.

It is proposed that a power of restitution of property should exist where a person is found to be guilty of an offence, where, as a result of the commission of the offence, the owner or person in possession of property is deprived of it. The sentencing court will have power to make an order for restitution whenever the court thinks appropriate, whether or not the prosecution, or a person who appears to have an interest in the property, makes an application to the court for the return of the property.

It is necessary that that widened power of restitution be capable of effective enforcement. It is proposed that failure to comply with an order of restitution may result in an application being made to the court by the prosecution, or the person for whose benefit the order is made, for further orders with respect to the property.

Those orders might include that the property be returned, or that compensation be made, with the sanction of imprisonment for failure to comply with an order for the payment of compensation. The enforcement procedures will ensure that the offender be required one way or another to make amends to the victim.

It is also proposed to widen the existing provision of the code which provides some capacity to trace property into the hands of an innocent purchaser.

At present this applies where property has been stolen. The code provides for that purchaser, deprived of the property by court order, to be able to approach the court for an order that the offender make good to him the value of the property he has lost. The provision is limited and applies only where property has been stolen and then resold. It does not apply where it has been acquired by fraudulent means.

It is proposed that this power be available wherever property has been acquired by way of the commission of a criminal offence and where a person has innocently purchased that property or has lent money in good faith upon the security of that property. That individual will be able to approach the court for an order for compensation to him. That order will be enforceable. The present code compensation power is particularly limited. It may be sought only on the application of the person who has suffered the loss made immediately after conviction.

Generally, that person is not available to make such an application at that time and the prosecution is precluded from doing so. The court cannot act of its own motion to make

such an order. It is proposed that the power should be widely available upon application by a person aggrieved, the prosecution, or the court of its own motion, and available to be made at any convenient time and able to be enforced.

Clauses 25 to 29—particularly clause 29—effect the above changes.

Mr President, this legislation is part of the Government's continuing commitment to reform the Criminal Code. It reflects the Government's concern that victims of crime are given appropriate assistance, and that the seriousness with which offences of personal violence are regarded is reflected in available penalties.

I commend the Bill to the House.

Debate adjourned, on motion by Hon. I. G. Medcalf.

AUSTRALIA ACTS (REQUEST) BILL

Second Reading

Debate resumed from 15 October.

HON. I. G. MEDCALF (Metropolitan) [2.48 p.m.]: The House has before it today a monumental piece of legislation which is the culmination of many years of arduous endeavour on the part of a great number of people. I suppose it is only fitting that I should recount briefly some of the history of the negotiations which preceded the introduction of this legislation within the time that I was connected with it.

My first contact with this particular project, which is now called the residual links exercise but which previously was known as the State Statute of Westminster, occurred in 1975-76 after I became Attorney General. I was rather astounded when I first perused the file to discover that it went back to the 1960s and indeed that the names of a number of my predecessors in office appeared on the file.

There had been some problems in 1972 when, as a result of the coming to power of the Whitlam Government, Senator Murphy who was then the Commonwealth Attorney General virtually suspended the operation of the Conference of Attorneys General. During that period there was very little progress, if any and, in fact, I would say no progress was made in relation to this particular exercise.

It had been suggested in the 1960s that it was time that the States had complete sovereignty conferred on them. That sovereignty was denied to them on the passing of the Statute of Westminster. It was denied at their own request. Although the Commonwealth obtained complete independence on the passing of the Statute of Westminster, in 1931 the States of Australia were excluded from that constitutional independence. For some years there had been agitation that this should be rectified.

Although I said that this project started in the 1960s, progress was suspended between 1972 and 1975. No progress whatever was made because Senator Murphy, the Commonwealth Attorney General, held the theory that he could arrange things by means best known to himself and whatever had to take place would take place as a result of action by the Commonwealth Government.

Despite the fact that Mr Whitlam had many differences with Senator Murphy he must have shared his view because he made a foray to London in 1973 and interviewed members of the British Government of the day—a Labour Government—presumably assuming that because they were of Labour persuasion they would accede to his wishes. He endeavoured to persuade them that the Queen's powers should be conferred on the Governor General of Australia and that the right to appeal to the Privy Council which was enjoyed by the citizens of the States should be abolished.

He was disappointed. He found that his colleagues in the United Kingdom Government were far more wedded to the rule of law and to the observance of conventions than was he. It was pointed out to Mr Whitlam by the British Government that no such actions could take place without the united agreement of all State Parliaments and the Commonwealth Parliament of Australia. That was the convention that was already well understood. This was pointed out to Mr Whitlam and he had to reluctantly withdraw. In the course of this exercise it became necessary for several State Premiers to visit London and impress upon the British Government the interests of their own States. One of those Premiers was the Labor Premier of Western Australia, Hon. John Tonkin and he was accompanied—if not accompanied, followed very closely—by his Attorney General, Hon. Tom Evans. They took the very proper view that this was a matter for determination by the State of Western Australia and not by the Commonwealth of Australia. That view was upheld by the British Government in indicating to Mr Whitlam that the convention must operate.

The reaction of the United Kingdom Labour Government was very proper. It resisted Mr Whitlam's importuning and the convention that all States and the Commonwealth must agree was observed.

The matter of the States' Statute of Westminster was revived in 1976 following the demise of the Whitlam Government. As I have mentioned it was known as the residual links exercise. Perhaps, as a result of the hangovers from the Whitlam years when it was reintroduced, political leanings were very marked and it was obvious that people took a stance in relation to this legislation according to whether they were members of the Labor, Liberal, or National Party. This, of course, was very unfortunate for the cause of federalism and for the cause of the States in obtaining complete sovereignty. However, that was the position.

So far as the New South Wales and South Australian Governments were concerned it was quite obvious that they were not at all keen to embark on this exercise and, indeed, they indicated at first that they were not interested.

The Victorian, New South Wales and Tasmanian Governments, during the period following 1976, requested the Commonwealth to legislate to abolish appeals to the Privy Council and to overcome problems created by the Colonial Laws Validity Act of 1865 which still imposed certain fetters on State Legislatures.

However, although the Commonwealth from time to time was tempted to do something about this, it never quite reached the barrier. There appeared to be little concern among some of the States with all the other residual aspects which still required attention.

So far as this State was concerned it took the view that the only way to resolve this issue was by legislation of the United Kingdom Parliament. This State received some support in that, but on the other hand there was a fair degree of opposition, particularly from the New South Wales and South Australian Governments which would not accept the prospect of United Kingdom legislation. The Commonwealth Government also was not very keen on having any United Kingdom legislation. I suppose that is an understatement—indeed, it was at first rather hostile to the prospect. It was proposed by some that this exercise should be effected by making use of section 51 (xxxviii) of the Constitution which provides that the Commonwealth can legislate in relation to matters which were within the competence of the United Kingdom Parliament at Federation but for which the States could not legislate.

Although section 51 (xxxviii) has been in the Constitution ever since it came into existence it had never been used. However, it was rediscovered in the Constitution, I believe, by Sir Maurice Byers, the Commonwealth Solicitor General, or by Mr Robert Ellicott who was a former Commonwealth Solicitor General, later the Attorney General. One of them certainly rediscovered it and put it forward as a cure-all, or means of resolving many of the constitutional conflicts between the Commonwealth and the States.

However, there were, and probably still are, quite serious defects in this section of the Constitution. One of the defects is that in a matter of general concern to all States, such as this, all States must agree. The Commonwealth was inclined to the view that only those States which specifically requested a particular exercise of power need agree. A complete stalemate developed in relation to progress over the residual links exercise, because of the different points of view and different philosophical attitudes. As I have mentioned before philosophy and law are very close when it comes to constitutional questions. Because of these different views that there must be UK legislation or that the exercise could be effected by the Commonwealth under its own constitutional powers no progress whatever was made.

However, it was agreed that section 51 (xxxviii) could be used for the purposes of the offshore settlement which was a different problem altogether. It was agreed because of the unanimity of the States and the Commonwealth over the terms of the offshore settlements as finally negotiated, that that section of the Constitution could be used and it was used. So far, it has not been challenged. I sincerely hope that it will not be challenged. However, I would not like to say that that might not occur at some future date.

This stalemate continued into 1979. I remember very well one day that year when the Attorneys General had been conferring and we were having an informal meeting in one of the rooms in Parliament House, Adelaide. Mr Frank Walker, the Attorney General of New South Wales, suggested that we should give this matter away because we would never reach agreement on it. He said he did not see how any of us could reconcile our views. He was probably talking about the difficulty of

reconciling his views with mine. I suggested that there were ways in which this could be resolved and if we approachd it on the basis that there was something in it for everyone we might get somewhere. That argument appealed sufficiently to those at the meeting to authorise me to arrange for a paper to be prepared for the next meeting setting out a compromise proposal which might offer each of the various parties something and, therefore, have some hope of ultimate success. I knew very well that certain parties very badly wanted certain things and other parties wanted other things and if there could be a trade-off the matter might be successfully resolved.

I volunteered to prepare the paper and asked the Solicitor General to set to work, which he did. Mr Kevin Parker, with the assistance of one or two extremely capable officers, including Mary-Anne Yeats in the Crown Law Department, did a great deal of valuable work. Papers were produced, discussions were held, and with help from various other quarters eventually we reached some kind of general agreement among the Attorneys General.

The 1979 Premiers' Conference had given us some authority; that conference actually requested that the whole question of residual links should be reopened with the idea of cleaning up all outstanding matters between the UK and the States and indeed some outstanding matters in relation to the Commonwealth. These were to include the Letters Patent to the Governor and his instructions and a number of associated matters. The idea was for an approach to be made to the United Kingdom Government on a once and for all basis. The UK Government would legislate once and for all and for the last time and set matters right as far as the States were concerned. A brief reference was made to this on the agenda of the 1980 Premiers' Conference and an interim report was received from the Conference of Attorneys General. A report was made at the 1981 Premiers' Conference but it was not dealt with because other matters were considered more important and the usual squabbles arose over various aspects of the revenue. That was the inevitable fate of anything that did not deal with financial matters at the Premiers' Conference; they were left to the end and were not dealt with because people were hurrying away to catch planes.

It was suggested that a special conference be held in February 1982 and this took place. The original idea was to discuss the residual links exercise but by the time the conference was held far more pressing financial problems had arisen and, although the matter was listed, the other items took up the time and residual links were not discussed.

Perhaps with guilty consciences the Premiers approached the June 1982 Premiers' Conference knowing that they had neglected to discuss this matter which had been on the agenda for some time. During the last three or four weeks before that conference, due to very successful negotiations largely on the part of our Western Australian professional officers, a general agreement was reached with the other States. However, an extraordinary situation occurred at the June 1982 Premiers' Conference. All State Premiers were present and they had reached agreement in relation to a package to be placed before the United Kingdom Government and the Commonwealth Government for identical legislation by each of the Parliaments of the United Kingdom and Australia.

Although agreement had been reached between all State Premiers and it had been assumed that the Commonwealth had also been in substantial agreement, it was discovered at the conference that Mr Fraser was not in agreement with one item in the package. The item to which he was not prepared to accede was that the State Premiers should have direct access to the Queen without going through either the UK Government or the Commonwealth Government. He had suggested previously that the States could be permitted to go through the Commonwealth and put their requests to the Queen through the Commonwealth Government or the Governor General. The Prime Minister said that it was immaterial to him which method was used and that he would pass the requests on. Quite naturally, the State Premiers unanimously rejected this suggestion because a Commonwealth officer at a previous meeting had let the cat out of the bag. One or two Premiers may have been prepared to allow the Commonwealth to act as a letterbox to the monarch but at a meeting held prior to the Premiers' Conference, a Commonwealth officer had said, "Well, of course we would want the right to know who you were going to appoint as your next Governor." When he was queried on this he said that the States might appoint someone considered unsuitable by the Prime Minister.

That was sufficient to galvanise the States into unanimity and those who had previously thought that it might not be a bad thing to let the Commonwealth act as a letterbox, realised the significance of what might happen when

they made their recommendations to be passed on to the Queen. Mr Fraser maintained his stand at the Premiers' Conference in June 1982. The position then was that this conference established that there was significant agreement between all present except on this one issue on which the Prime Minister stood alone. The Prime Minister admitted under cross-examination by various parties present—he was forced to answer many questions—that the States were arguing with him and not with one another.

Traditionally the Commonwealth's policy had been to divide and conquer; to have the States at one another's throats so that the Commonwealth could intervene and get its will. On this occasion it was made transparently clear that they were not arguing with one another but with the Prime Minister alone. Mr Fraser had suggested either that the Commonwealth Government should act as a letterbox or that the States should leave the position as it was and continue to have access to the Queen through the UK Government. Of course, this meant that the Queen would take advice on State requests from her United Kingdom Ministers. That was the real significance of the matter; it was not the fact of any direct form of contact with the Queen in any physical or practical sense but the ability of a State Premier to have his recommendations and advice accepted by the Queen as the Constitutional monarch. That is what Mr Fraser rejected. He had a chance to go down in history as the Prime Minister who presided over an historic decision which had the effect of achieving after 50 years a Statute of Westminster for the Australian States.

The agreement which had been reached was based on a constitutional compromise of having United Kingdom legislation and Australian legislation in identical terms. Agreement has been reached on all the other matters.

In this connection I would like to refer to a letter from the Commonwealth Attorney General at the time (Senator Durack) in which is set out the terms of agreement which were then reached. The terms generally were: That the sovereignty of the United Kingdom Parliament over Australian matters—Commonwealth and State—had now been settled and the remaining constitutional links would be severed; that the necessary measures would be taken to ensure that the subordination of State Parliaments to United Kingdom legislation would no longer apply; that the Crown would no longer have the right to disallow Commonwealth or State legislation; that appeals to the Privy Council from the State Supreme Courts on State matters would be abolished; and that the marks of colonial status remaining in the instructions to the Governor-General and to State Governors would be removed.

Senator Durack said in his final paragraph—

> No decision was made to change the present position in relation to the appointment of State Governors and the award of State honours. For the time being the present system under which State recommendations on these matters go to the Crown through British Ministers will remain.

I also indicate that I would like to have incorporated in *Hansard* a report which appeared in *The National Times* of 15 to 21 August 1982, which purports to be a leaked transcript of the discussion which took place at the Premiers' Conference. These discussions are confidential and the transcript is marked on every page "in confidence". It would not be appropriate for me to incorporate in *Hansard* the actual discussions that took place at the Premiers' Conference, because they were confidential, but *The National Times* carried a report of a leaked transcript. In view of the fact that it has been made public, I see no reason that this material should not be incorporated because it does in fact disclose an abbreviated summary of what purports to be the discussion at the Premiers' Conference. I do not propose to read it out but, in the interests of the record, I feel it should be incorporated into *Hansard*. I therefore seek leave to incorporate in *Hansard* the transcript from *The National Times* to which I have referred and the letter from Senator Durack dated 19 July 1982.

The PRESIDENT: I remind honourable members again, out of sheer persistence on my part and for no other reason, that I have always considered that the incorporation of material in *Hansard* which has not been the result of the spoken word is unsatisfactory; that is, as far as I am personally concerned. However, the House has given leave in the past. I just want to keep saying this every time in case members start to think I have forgotten about it. I make the point that I believe *Hansard* should record only the spoken word.

By leave of the House, the following material was incorporated—

Leaked transcript shows bizarre fight by Premiers over links with UK

By Geoff Kitney

The National Times has now learnt the full story of what went on behind the closed doors of the Premiers' Conference on June 24 and 25.

What is revealed in the confidential transcript of proceedings is an extraordinary all-in, two-day verbal brawl which at times appears to have come close to physical conflict.

The June meeting marked a new low in Commonwealth-State relations. Its outcome raised serious questions about the future of such meetings as an effective forum for resolving some of the most important issues confronting the nation.

It prompted a former adviser to the Fraser Government on taxation matters, Professor Russell Mathews, to pronounce co-operative federalism a dead letter and to warn that the States were becoming little more than Federal Government Departments.

The transcript shows how the tenuous threads of goodwill and co-operation that are essential for the effective functioning of a federal system were strained to breaking point.

And it reveals that the stresses were not only caused by the debate on the Grants Commission report on which the Federal Government took a stand and refused to budge.

There was also a raging row over proposals to abolish residual constitutional links with Britain, in particular the present requirement that the British Government must approve State Government nominations for the appointment of State governors and for the granting of imperial honours by the States.

This row occupied a major part of the first day of the conference and was only resolved after it was agreed that, for the time being, the present system would continue, which leaves a rather extraordinary anomaly in the plan to cut residual links.

Most striking of all is the total dominance of the Premiers' Conference forum by Prime Minister Malcolm Fraser.

When the Prime Minister makes up his mind, it takes much more than six shrilly shrieking premiers to change it for him. The Fraser stubbornness emerged very early in the meeting, on the unlikely issue of residual constitutional links.

Fraser indicated at the outset that he was opposed to a proposal put unanimously by the States that the appointment of governors and the awarding of imperial honours was a matter for the States on their direct advice to the Queen.

Fraser: "In relation to the appointment of State governors at the moment that goes from the State to the Palace and the Palace gets the advice of the British Government. If I was in State Government I would find that repugnant. I imagine the States do.

"The Palace would take the view that it cannot be advised on these matters by seven governments from one country. Therefore if we did not want the request of State governors to be subject to a recommendation by the British Prime Minister there would have to be an accompanying recommendation from the Commonwealth.

"I really do not believe that the Prime Minister of the day would do anything about it unless he had knowledge that the bloke recommended had a criminal record or something, in which case he would presumably speak to the Premier about it and the Premier presumably would not want to go ahead with that."

(Fraser makes similar comments about imperial honours, but concedes there could be a problem here.)

Fraser: "The Labor Party has a view of not promoting or pursuing imperial honours. Other people have a different view. There might be a concern that a Labor Federal Government would say to a Liberal-National Party State Government 'well, since it is our policy not to have honours we will not pass on your list'. That would cut it off.

"Clearly if I were not in my present position and Neville Wran were sitting here as Prime Minister and was faced with having to pass on Joh's (Bjelke-Petersen) imperial honours he would immediately be placed in a difficult philosophical position, I should think."

Neville Wran: "I would resolve it."

Fraser: "Yes, but it might be done in a way which Joh would not like. I am trying to avoid that circumstance or dilemma because I think it could be a real one."

(Although Fraser had conceded that the States might be unhappy about needing Federal Government approval for governors and imperial honours he says he cannot agree to any proposal that would involve the States dealing directly with the Palace. He suggests that it might be best for past practices to continue on these issues.)

Bjelke-Petersen interjects: "Mr Prime Minister, is the devil you know not better than the devil you do not know? We never seem to have any trouble with the one over there (Britain)."

Victorian Premier John Cain adds: "I think there is some magic in that situation because of the objectivity that exists. There is no axe to grind whatsoever over there. May I just ask why the Commonwealth would wish to have any involvement in a substantive way in the appointment of a State Governor?"

Fraser: "It is not involvement in a substantive way. I am making the point that I do not think we can have seven governments in Australia giving direct advice to the Queen. There is one Commonwealth. That also happens to be the view that the Palace takes and it will not alter its view."

Ian Medcalf, WA Attorney General: "You are suggesting, Prime Minister, that the Commonwealth Government should give the advice to the Queen instead of the British Government."

Fraser: "No, I am not. I am suggesting that it be left as it is."

Medcalf: "The States take the view that these are matters for the States and not for the Commonwealth."

Fraser: "What you are really saying is that they are matters for the British Government."

Medcalf: "No, we are saying that they are matters on which the States make a decision and send their advice to the Queen."

Fraser: "The Queen then gets advice from the British Government."

Amid growing confusion, Fraser suggests that a resolution proposed by the States saying that these are matters for the States without Commonwealth interference be amended to say that appointments should be made in accordance with past practice.

But Wran moves and Cain seconds the States original resolution. Medcalf says the whole issue should be referred to a committee. But Wran says: "What the States want to make clear is that as far as they are concerned it is their right to make the recommendation and their right in relation to governors and honours and if the United Kingdom Government wishes to intervene it is a matter for the States to take up with the UK."

Fraser: "No, the Queen will not accept advice from seven governments from one country. If you want to check direct with the Palace and check the accuracy of what I am saying . . ."

Medcalf: "She has not had anything in front of her. Nobody has put a resolution in front of her."

Medcalf suggests that if Australia's seven governments agreed on a constitutional rearrangement the Queen would have to take proper advice on it. Fraser responds that this is not an option.

Fraser: "We are not prepared to recommend that the Queen be subject directly to the advice of seven governments."

Then, in an interesting interpretation of the role of the Crown, Fraser says: "If we are not prepared to recommend that, she will not accept it. That also accords with the Palace's view. I am very surprised; I thought that you regarded this as one country. If it is one country you are not sovereign. There is no way the Commonwealth would give advice to the Queen to accept that kind of proposal. We have discussed it many times. We would not do it.

Bjelke-Petersen: "That kills it. But Australia consists of seven parts. She is the Queen of seven parts, not just one."

Fraser: "Not separately."

Bjelke-Petersen: "No, but we are each sovereign states."

Fraser: " 'Sovereign' is one of those beautiful emotive words which in constitutional law are pretty meaningless."

Bjelke-Petersen: "We are all pretty close to the British Government and to Her Majesty the Queen. I do not think that any particular person is close to the Queen. I have been around a long time too, longer than anyone here and have been there many times. But if you were not to support it, it would be futile of us to agree to having direct access."

Fraser says that he believes that the present arrangements of advising the Queen through the British Government could continue without any embarrassment to any of the Australian governments because "the public outside is not aware of it". And that is how the issue is finally resolved—as Fraser originally.

Dear Attorney-General,

I am writing formally to place on record the terms of the resolution agreed to at the Premiers' Conference held in Canberra on 24-25 June last in relation to residual constitutional links with Britain.

The terms of the resolution as reported by me to the Premiers' Conference and as agreed to by the Conference are:

1. That the present constitutional arrangements between the United Kingdom and Australia affecting the Commonwealth and the States should be brought into conformity with the status of Australia as a sovereign and independent nation.
2. That the necessary measures be taken to sever the remaining constitutional links (other than the Crown) in particular, those existing in relation to the following matters:
   (i) The sovereignty, if any, of the United Kingdom Parliament over Australian matters, Commonwealth and State.
   (ii) Subordination of State Parliaments to United Kingdom legislation still apply as part of the law of the States.
   (iii) The power of the Crown to disallow Commonwealth and State legislation.
   (iv) Appeals to the Privy Council from State Supreme courts on State matters.
   (v) The marks of colonial status remaining in the instructions to the Governor-General and to State Governors.
3. That at the same time as the residual links are removed, any limitation on the extra-territorial competence of the States to legislate for their peace, order and good government be removed.
4. That the measures to be taken are to include simultaneous and parallel Commonwealth legislation at the request of the States pursuant to s.51(xxxviii) of the Constitution and United Kingdom legislation at the request of and with the consent of the Commonwealth, that request being made and that consent being given with the concurrence of the States, such legislation to come into effect simultaneously.
5. That the Standing Committee of Attorneys-General be instructed to prepare the necessary draft legislation to implement the above matters.

No decision was made to change the present position in relation to the appointment of State Governors and the award of State honours. For the time being the present system under which State recommendations on these matters go to the Crown through British Ministers will remain.

Yours sincerely,
(PETER DURACK).

The Hon. I. G. Medcalf, Q.C., M.L.C.,
Attorney-General and Minister for Federal Affairs,
Elder House,
111 St. George's Terrace,
PERTH. W.A. 6000.

Hon. I. G. MEDCALF: Mr President, the reason for my seeking leave to incorporate the material must be obvious to you; I did not wish to read out the entire documents. But had I known your strong views, I would most certainly have done so.

The agreement which was reached in 1982 is much the same as the agreement which is now recorded in the legislation before this House, with one special, notable exception for which much credit must go to the present Prime Minister (Mr Hawke). That exception is that the arrangement which Mr Fraser refused to even countenance, whereby State Premiers were to have the right to give direct advice to the Queen, has now been included in the agreement. It was negotiated by the present Commonwealth Government following further consultations with State Premiers in the last three years. The agreement now provides a right of providing direct advice to the Queen without the interposition of the Commonwealth Government, the Governor General, the United Kingdom Government or any British Minister. It is a signal advance and it completes the agreement which was made by all the Premiers in office in 1982, with one or two minor modifications which have crept in along the way, in order to achieve a satisfactory solution.

As I mentioned, I believe that credit must be given where it is due, and credit in this case goes to the present Prime Minister who has leant his weight to achieve this objective, an objective which Mr Fraser said he would not countenance under any circumstances. Unfortunately, Mr Fraser missed his chance; nevertheless, it is very satisfactory that this has now been achieved. It is in much the same form as was agreed to by the Premiers' Conference three years ago. It has been put into a more concrete and more tangible form as a result of a great deal of work by the various officers and Ministers concerned.

Something should be said about the unique position which State Governors occupy in our constitutional set-up in the Commonwealth of Nations. I am referring to their traditional position—arising from our States being formerly linked with the British Empire and then with the British Commonwealth. The position of State Governors is really without precedent anywhere else in the world. No other States or Provinces in Federations in the British Empire or the Commonwealth have a situation whereby State Governors are appointed by the Queen.

In Canada the Lieutenant Governors of the Provinces—Provinces are equivalent to the States—are appointed by Her Majesty's Privy Council in Ottawa; in other words, the Federal Government. There is no direct communication, access or continuing relationship between the Provinces and the Queen, or between Provincial Governments and the Queen.

That situation, of course, is quite different in relation to our Australian States where that continuing relationship exists. While it was terminated in Canada with the passing of the British North America Act of 1867, it was preserved here on Federation and it has continued ever since. That point is important to record because it helps to explain why it was that the States felt it was so important to retain this continuing link between the States and the Crown as a constitutional monarch, and the right of State Governments to give direct advice to the monarch rather than to have it pass through an intermediary.

The position now under this agreement is that the State Governors will take the place of the Queen in relation to all normal matters within the State, such as the duties of approving and assenting to legislation and so on. The monarch's right to disallow State legislation is to go, and the only matters in respect of which the Queen will still have a specific role to perform, as distinct from the State Governors, is in relation to the appointment or dismissal of the Governor—the Premier will have the right of direct advice to the Queen in respect of the appointment or dismissal of the Governor—and in relation to the award of Imperial honours in those States where the system will continue to apply.

This is exactly what Mr Fraser said could never be, but it has come to pass. It is tremendously important that the Commonwealth is not the medium, nor are the UK Ministers the medium. There is no interposition of any of those people between the State Premier and the constitutional monarch.

The State Governor will exercise all the Queen's powers in the State, apart from those I have mentioned. Her Majesty, however, can exercise powers herself when she is in the State, subject to an arrangement with State Premiers that it will be agreed mutually what powers and functions she will actually exercise so as to avoid embarrassment to her in relation to her other duties outside the State.

Complete sovereignty will now be achieved for the State Parliament by virtue of this legislation. There will be no residual colonial hangover. The State Parliament will be able to repeal any UK law which applies here at present, and surprisingly quite a number of UK laws still apply. The Merchant Shipping Act is an outstanding case which you, Mr President, spoke about on a number of occasions when you used to speak frequently in this House. You will be pleased to know that this Bill contains a provision to repeal sections 735 and 736 of the Merchant Shipping Act. It was done that way to save the necessity of all the States having to legislate individually. The Colonial Laws Validity Act of 1865 which provides that no State law can be repugnant to UK legislation is to be repealed, and the States will in addition have their extraterritorial power confirmed; that is, their right to legislate in relation to their citizens who happen to be outside the borders of the State. It was always believed the States had this power, but views have been expressed from time to time and there have been some unsatisfactory results in some decided cases including the case of Robinson *v.* the WA Museum in 1977, when the extraterritorial power was thrown into serious question. The doubts have now been clarified in this legislation and the State is given authority to legislate for the peace, order, and good government of its citizens wherever they may be.

This was taken from precedents in other Federal countries of the Commonwealth, notably Nigeria which has provincial Legislatures. They were given an extraterritorial power in the Nigeria Independence Act of 1960. The same formula was adopted in this legislation.

The power of the UK Parliament to legislate in future for any part of Australia has been expressly terminated. It was once thought that this power could never be terminated—that the original sovereign Legislature, which was the UK Parliament, could pass a law this year granting independence and pass another law next year making some restrictions or changing the situation in some way. There are good precedents for the UK Parliament being able to terminate its power, and here again the Nigeria Independence Act 1960 has been virtually copied in respect of the termination of the UK power henceforth ever to legislate for the State of Western Australia or any other State of the Commonwealth.

Rights of appeal to the Privy Council will be abolished in relation to State matters. There are very few matters in which there still remains a right of appeal. Issues between the Commonwealth and the States cannot be referred to the Privy Council. Any matter involving the State Constitution since the Wilsmore case is no longer able to go to the Privy Council. Virtually only private or civil issues between citizens arising out of State laws may be the subject of the Privy Council appeals. There is a very limited number of them. One curious fact is that New South Wales which has always been the State most strongly in favour of abolition of Privy Council appeals has the greatest number of appeals. There are very few from Western Australia; it is not really an issue here. Those appeals will be abolished in the future. It is not as important an issue today as it was once.

This was the bargaining lever which brought the Commonwealth to the table because it was very keen to have the right of appeal to the Privy Council abolished. That was on a non-party basis. Although it had been part of the Labor Party programme it was also strongly espoused by the former Liberal Government, particularly by such people as Mr Ellicott when he was Commonwealth Attorney General, and also Sir Garfield Barwick who was Attorney General some time before him, and later Chief Justice of the High Court. It has also been espoused in recent years by Sir Harry Gibbs, the present Chief Justice, and I believe this change was inevitable. Those who regret its passing might bear in mind that it has very little practical significance today so far as Western Australia is concerned.

The legislation also makes provision for the future repeal or amendment of the Australia Act. This is necessary because the UK powers will have been terminated. It will not be possible to turn to the UK and say, "There was some error here or something that ought to be tidied up; will you please legislate?" The UK Parliament will not be able to do that any more. Its power will be terminated by this legislation. There is to be provision for changes to be made internally. In the future the legislation can be amended by unanimous agreement of the Commonwealth and all State Parliaments—a very sensible and necessary arrangement.

You, Mr President, commented on clause 14 and your comments if I may say so with great respect were undoubtedly correct. Credit must be given to you and also to the Clerk of the Council (Mr L. B. Marquet), to whom you referred in your comments, for the work which was done in pointing this out to the Parliament.

The Commonwealth Bill relies on section 51 (xxxviii) which states that the Parliament shall have power to make laws for the peace, order and good government of the Commonwealth with respect to—

> The exercise within the Commonwealth, at the request or with the concurrence of the Parliaments of all the States directly concerned, of any power which can at the establishment of this Constitution be exercised only by the Parliament of the United Kingdom or by the Federal Council of Australasia:

Clause 13 of the Bill amends the Queensland Constitution and clause 14 amends the Western Australian Constitution. It has been done in this way because Queensland and Western Australia had Imperial Acts setting up their Constitutions whereas the other States did not. In 1901 the Parliaments of Queensland and Western Australia had full power to amend their Constitutions. Hence, section 51(xxxviii) of the Constitution cannot apply. It is a manifestly invalid exercise of Commonwealth power. The Commonwealth Australia Act will be no precedent for the proposition that the Commonwealth has the power by this means to amend the Western Australian Constitution.

However, the United Kingdom Act applies because the United Kingdom Parliament has power to alter the Western Australian and Queensland Constitutions. Recent precedents of the High Court have clearly upheld this power which would still be there. This is the last time, however, that the United Kingdom Parliament can legislate in relation to the State Constitution. Nevertheless, the power, when exercised by the United Kingdom Parliament in the United Kingdom Act, is perfectly valid. One might well ask why the Commonwealth Act will include an invalid power. The reason—I believe it to be the reason—is that there had to be identical Acts of the Commonwealth and UK Parliaments by virtue of this compromise constitutional arrangement which was made in order to achieve unanimity between the Commonwealth and the States. This was the constitutional compromise to which I previously referred.

However, in saying that it was a constitutional compromise, I emphasise that this State has not compromised the Western Australian Constitution. It is a window-dressing exercise by the Commonwealth to include the invalid power and it is to satisfy the differing views of the Commonwealth and States in relation to this constitutional issue.

It is proposed that there will be simultaneous proclamation of the Acts. Again, that will ensure that neither the Commonwealth Parliament nor the UK Parliament can steal a march on the other.

I have not dealt with a number of other matters in this legislation because they have been dealt with sufficiently in the second reading speech. I have nevertheless gone into the legislation at much greater length than one would expect when one is supporting a Government Bill. I have done this because I believe it is necessary to emphasise the united view which we take with the Government in this matter and to emphasise that this is a matter which we all consider to be of very great importance to the State. There is no need for me to comment further on the other items which I have not mentioned because they have my concurrence.

The contrasting roles of the three Prime Ministers involved in this project in my time were very noticeable to me. I doubt whether any Prime Ministers were involved previously. Mr Whitlam charged into this matter like a bull at a gate and fell foul of the gatepost and made no progress whatsoever. He attempted to takeover the whole thing by storm and to blow the States out and make use of whatever devices he could in order to achieve his objective for centralising power in the Commonwealth Government. Mr Fraser handled the matter with a cold and premeditated logic which was excellent except that he overlooked the basic facts of the matter. All the logic in the world is useless if one's facts are wrong. Mr Hawke came in at the top of the project when it was completed except for that one essential matter of direct access which would have been a stumbling block for the next decade. I give him full credit for the fact that he realised that if any finality was to be reached he had to make progress in that area. I believe he deserves credit for that. I do not believe in withholding credit where it is due.

In a sense, this State which will have its own Statute of Westminster, will be more completely independent in theory than the Commonwealth because the Commonwealth will be still shackled with its Constitution. Section 59 of the Constitution states that any Commonwealth Act may be disallowed within one year by the Queen even though it has been assented to by the Governor General. The Commonwealth had the opportunity to change that in this legislation. It was one of the matters that was agreed to by the Commonwealth and all of the States at the Premiers' Conference in 1982. The fact that it has been left out of the package does not really matter as far as the States are concerned. It has been left out presumably because the Commonwealth was not prepared to ask the United Kingdom Parliament to legislate. It is a matter that can be dealt with by referendum. It is an anachronism and it could have been taken care of now but for reasons best known to the Commonwealth, it was not included in the package.

The States have achieved sovereign independence as part of the Commonwealth Federation although the States are not independent in the sense that the Commonwealth is. The States, as members of the Federation, have attained as good an independence as they could hope to achieve.

The passage of this legislation by the State Parliament is part of the culmination of 16 years of endeavour with various interruptions. It is now 54 years since the Statute of Westminster was passed in 1931. It granted similar power to the Commonwealth and also granted constitutional independence to Canada, New Zealand, and South Africa. The Australia Act of the United Kingdom will be passed by the United Kingdom Parliament next year following the passage of these request Bills in all States and the Commonwealth. This

Act will take its place in constitutional law alongside and as complementary to the Statute of Westminster which is an historic landmark in the evolution of the Commonwealth of Nations. This Bill is part of another major constitutional landmark—perhaps the most important since the Statute of Westminster—in relation to our Constitution.

I am delighted that the present State Government has played its part in completing the exercise which was so nearly completed by the former Government in 1982. The Opposition has pleasure in supporting the Bill.

HON. J. M. BERINSON (North Central Metropolitan—Attorney General) [3.40 p.m.]: I have previously acknowledged the special role of Hon. Ian Medcalf in the development of the constitutional package which led to this Bill. His close involvement with that process has put him in a privileged position to understand both the detail and the implications of this Bill better than most. More than that, it has put him into the position of providing an historic account of the background which very few other people would be able to do. The honourable member has provided us, as a result, with an interesting and instructive account of earlier developments.

I am not one of those who has a very high regard for the historic value of *Hansard*. In fact, I have even been heard to suggest that we might all be better off if we did not print it; but the speech we have just heard provides a good example of an argument to the contrary because I believe that it will serve as an interesting historical point of reference. I convey my respects to Mr Medcalf for that, as well as for his general role in the development of this programme. I agree with the honourable member that this is a unique piece of legislation and an historic one from the point of view of the State's constitutional development.

It is very fitting that it should have the unqualified support of both sides of the House, which it obviously does have.

For my own part I must say that I also appreciated the courtesy which Mr Medcalf gave to me when he was Attorney General, in providing details of negotiations on a confidential basis as those tortuous negotiations proceeded. To the best of my capacity I have attempted to reciprocate that by making available both to Mr Medcalf and other shadow Ministers of the Opposition the best possible advice from our professional officers. I believe that that process is in keeping with the nature of the legislation, and I join with Mr Medcalf in being happy to be associated with it.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

Third Reading

Bill read a third time, on motion by Hon. J. M. Berinson (Attorney General), and passed.

Sitting suspended from 3.45 to 4.00 p.m.

REGISTRATION OF BIRTHS, DEATHS AND MARRIAGES AMENDMENT BILL

Suspension of Standing Order No. 273

HON. J. M. BERINSON (North Central Metropolitan—Attorney General) [4.02 p.m.]: I move, without notice—

> That contingent upon Order of the Day No. 4 being recommitted, Standing Order No. 273 be suspended so far as to enable me to move an amendment to clause 8 of the Registration of Births, Deaths and Marriages Amendment Bill.

The PRESIDENT: Honourable members will know that Standing Order No. 430 requires that before this recommittal can take place the President must be of the opinion that it is of urgent necessity. That Standing Order also states that the question must be passed by an absolute majority. The Attorney General has convinced me that the matter is of urgent necessity and all that remains is for the House to pass the question with an absolute majority.

Question put.

The PRESIDENT: I have counted the House; and, there being no dissentient voice, I declare the question carried with an absolute majority.

Question thus passed.

Recommittal

Bill recommitted, on motion by Hon. J. M. Berinson (Attorney General), for the further consideration of clauses 4, 5, and 8.

In Committee

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

Clause 4: Section 21A inserted—

Hon. I. G. MEDCALF: Before moving the amendments standing in my name I wish to briefly explain the reason for them.

When we debated this matter the other day we ended up with a situation in which in the case of the children of *de facto* marriages or illegitimate children—whichever one likes to call them—the mother's name would become the surname of the child under all circumstances. That would apply whether or not the father's name was on the birth certificate. No choice would be given to the parents.

I have since had the opportunity of having two lengthy discussions with the Registrar General who is well known to me as a very experienced officer in his field. I had not previously had the opportunity of talking to him. I am fully prepared to accept his advice that in the majority of cases of *de facto* marriages his experience has been that the couple prefer the father's surname to be given to the child. The effect of my previous amendment was to debar that situation. I have no wish to stand in the way of a father's surname being placed on the birth certificate when the couple want that to happen, that being the existing law. It appears that inadvertently, and largely because I adopted a suggestion made by Hon. Tom Stephens to delete clause 21, this present situation has arisen. Had clause 21 not been deleted it would still have operated to the extent to which it operated previously. In other words, the father's surname could have been registered as the child's surname if the father had consented and made a declaration that he was the father of the child. I took the clause out at the suggestion of Hon. Tom Stephens, but I do not exonerate myself.

Hon. J. M. Berinson: But you wish to implicate the member.

Hon. I. G. MEDCALF: I was curious to read the member's comment in the newspaper as to how stupid we had been when the suggestion had been made by the member and I had adopted his stupid suggestion. I am now prepared to eat my words and suggest that we should return to the situation of allowing a choice to be made. The purpose of the proposed subsection is to allow a choice, as originally devised, but my amendment includes some tightening up of the process.

It can be seen that the first parts of my amendment restore the clause to its original form. The third amendment relates to some tightening up of the clause which I said was needed during the course of the debate. There should be some evidentiary requirement to satisfy the Registrar General. I am fortified in this view because the Registrar General lent me the legislation of all other States and I spent the weekend studying the matter carefully. I discovered that in Tasmania they insist upon evidence being produced to the satisfaction of the registrar where a change in name occurs. I have adapted the Tasmanian legislation in relation to evidence which in the opinion of the registrar is sufficient to establish the facts. It is elementary and should be included in the legislation. It will not make any difference in principle but it will tighten it up. I have discussed this with the Registrar General who has no objection to it.

At the end of the amendment where I have inserted that the mother and father may request that the child adopt the surname of the mother or father or the surnames of both, the reference to the surnames of both has been slightly changed.

I believe it does make it better, because I discovered that in at least one of the other jurisdictions—the Australian Capital Territory—the registrar, without any specific authority, has allowed not only the surnames of the parents but individual letters from one surname in combination with letters from the other surname, or a syllable from one surname and a syllable from the other surname. So we would end up with a situation where we could have a completely new name. I can think of many cases of this, and I mentioned when I was talking about this yesterday that Miss Backlock might be married to a Mr Jawache, and the child could be called Backache or Lockjaw.

I know I have given a silly example, but in Tasmania it has been found necessary to prevent the use of blasphemous or obscene names, and it is extraordinary to think that some people might consider a surname to be a joke. It is not a joke to the child. I remember that when Mr Olney was a member in this place he proposed an amendment to the Adoption of Children Act on the basis that the children should have an opportunity to be consulted about their names, because there are occasions when children are lumbered with an unsuitable name by their adopting parents. Indeed, the Adoption of Children Act was amended as a result of Mr Olney's suggestion. It is quite wrong to allow the possibility of children being lumbered with a terrible name. We would want to make sure that if a name is requested for

them by their parents, it is an orthodox name such as the mother's name, or the father's, or a combination of their surnames, and not some fancy name.

The final part of my amendment to clause 4 is that, having put married people on the same basis as *de facto* relationships as a result of these amendments, I believe that all children of a union, whether it be a *de facto* union or a married union, whose names are registered under this Act, should bear the same surname. At the present time the Bill states that all children of a marriage shall bear the same surname. If it is a *de facto* union between the same two people—the same mother and father—those children should have the same names in exactly the same way as children of married parents. The final part of the amendment is simply to substitute the words "the same mother and father" for the words "a marriage".

I want to make it clear that it does not mean that if a woman has children as a result of another *de facto* union, they must have the same surname as children of the first *de facto* union. The children of different unions can have different surnames, but if they are both of one *de facto* union—of the same mother and father—it should be on the same basis as a marriage so far as children's names are concerned.

I move the following amendments—

Page 2, line 8—To delete "subsection (2)" and substitute the following—

subsections (2) and (3) .

Page 2, line 13—To insert after "section 20" the following—

or 21 .

Page 2, line 19—To insert the following—

(2) Where the mother and father of a child produce to the Registrar General such evidence as in his opinion is sufficient to establish that they have different surnames and they so request in the prescribed manner the Registrar General may enter in a register of births as the surname of that child the surname of either the mother or the father or the surnames of both.

Page 3, line 2—To delete the words "a marriage" and substitute the following—

the same mother and father .

Hon. J. M. BERINSON: I support the amendments moved by Mr Medcalf and, indeed, I welcome them. The effect of these amendments is to restore for practical purposes the effect sought to be achieved by the Government's original Bill. I acknowledge that, in the two respects to which Mr Medcalf has referred, his amendments will in fact improve the original draft, and I might say that it had been my intention in any event, on the basis of the earlier debate, to move the fourth of the amendments to clause 4 proposed by Mr Medcalf.

In all, I believe the amendments are highly desirable, and I am happy to support them.

Hon. KAY HALLAHAN: I welcome the agreement that we have achieved with regard to this Bill. It was a matter of very great concern to a large number of people in the community. I really do think that the amendments before the Chamber today will be welcomed and, while some members feel they have not been approached by members of their electorates, maybe it is a matter of some sensitivity. Maybe it is the women who feel most acutely sensitive, and who do not therefore approach their member of Parliament on such an issue. However, all members of Parliament will be given credit for this Bill, and while it is not a major reform it certainly affects a very intimate part of people's lives—their family life and their identity—and I welcome the agreement reached between Hon. Ian Medcalf and the Attorney General in accepting those amendments, which bring the Bill back to the original intent.

Amendments put and passed.

Clause, as further amended, put and passed.

New clause 5—

Hon. I. G. MEDCALF: This is simply a complementary amendment which restores the previous clause. I move—

Page 3, line 26—Insert the following clause to stand as clause 5—

Section 57 amended.

"5. Section 57 of the principal Act is amended by inserting after "the child" where first appearing the following—

", where no request has been made under section 21A(2),".

New clause put and passed.

Clause 8: Third schedule deleted and substituted—

Hon. J. M. BERINSON: I move an amendment—

Page 6, column 3—To insert after item 3 the following item—

"(4) USUAL OCCUPATION".

In the course of earlier debate I argued that it was unnecessary to include on the death certificate a reference to the occupation of the father of the deceased person. That argument was not accepted by the Chamber, and I can only say that whatever reason justifies the inclusion of the father's occupation would similarly justify the inclusion of the occupation of the mother. That is the approach which the Chamber has agreed on in respect of the amendments to the detail of the birth certificate, and it is really doing no more than acting consistently with that earlier decision to endorse the amendment I have moved.

Amendment put and passed.

Clause, as further amended, put and passed.

Bill again reported, with further amendments.

ACTS AMENDMENT (RESOLUTION OF PARLIAMENTARY DISAGREEMENTS) BILL

Second Reading

Debate resumed from 15 October.

HON. G. E. MASTERS (West—Leader of the Opposition) [4.25 p.m.]: As far as I can see from my reading of this Bill, if it is passed it will wipe out the Legislative Council as a House of any consequence at all. It renders the presentation of money Bills from the Legislative Assembly to the Legislative Council a token gesture, and the Legislative Council will have no powers. Indeed, it will have one month's ultimatum. The Bill gives the Government the opportunity to organise an election at any time and to hold the threat of an election, if that is the term to use, as a club over the Legislative Council.

The Bill widens the definition of money Bills; it politicises the position of the President; it proposes joint sittings of the Houses of Parliament at which the Legislative Assembly will always dominate because of its numbers. The Bill does away with fixed terms for Legislative Council members, and I suggest that the title itself deliberately misinforms the public as to the true purpose of the Bill. There is a total bias towards the Legislative Assembly.

Without any shadow of doubt this is another step in the saga of the ALP's attempt to reduce the Legislative Council to nothing more and nothing less than a debating House. It is step one in the national objective of the Australian Labor Party, an objective which the Labor Party in Western Australia desperately tries to push aside; but nevertheless it is there for all to see.

In a debate such as this I always take the opportunity to remind the House and the public of the ALP's national policy as stated at the thirty-fifth national conference in 1982. It is to be found in subsection 26 on page 21 of the policy and states—

> The objective—the reform of State upper Houses, and ultimately their abolition.

Hon. P. H. Wells: They want to get rid of us?

Hon. G. E. MASTERS: That is right.

Hon. J. M. Berinson: Would that require a referendum?

Hon. G. E. MASTERS: I am saying this Bill does all those things I have just described, and the object and policy of the Labor Party is as I stated it.

Hon. J. M. Berinson: It is not. The relevant policy is the policy of the Government.

Hon. G. E. MASTERS: The policy refers to the reform of State upper Houses, and ultimately their abolition. They are the words that are used, and no matter how much the Labor Party tries to push them aside they are there for all to see.

The use of the word "reform" is quite misleading and dishonest. It is as dishonest as this Government's denials that this is its position—the policy which binds it ultimately, not in the short-term perhaps as far as it is concerned, but in the long-term. It is as dishonest as the Bill before the House. The ALP's policy which refers to reform before abolition should be reworded to define the word "reform" which, as far as the Labor Party is concerned, means to get control of the Legislative Council at any cost and abolish it. That is what the ALP means by reform. When it brings in Bill after Bill to reform the Legislative Council it is building towards this House's abolition, and it wants to gain control at any cost.

The word "reform" is a convenient one. It hides the Government's dishonesty, and if members read the Bill they will know what I am talking about. It is quite obvious there is an intention and deceit on the part of the Labor

Party, and it was patently obvious in a Bill recently brought to this House, the Electoral Amendment Bill.

Two years after bringing in measures requiring seven weeks' notice to be given of an election, the Government reduced the period to five weeks. The Bill contained another provision reducing from 14 days to eight days the period in which people can enrol for an election. That is dishonest and deceitful, and there is no reason for those sorts of changes.

Who is kidding whom when this sort of legislation is brought forward? Certainly the public are not fooled, and nor are we. As far as I am concerned it is deceitful for the ALP to talk about the strength and safety of the Legislative Council when it brings in this sort of Bill, but that attitude is more particularly demonstrated by that party's withdrawal from the Standing Committee on Government Agencies.

That was a committee which above all others I have seen in Parliament—and I have not been here as long as you, Mr President—was not political; it had the best possible adviser and unbiased advice, and it never demonstrated a political decision. Sure, there was a division on one matter, but in truth the members who served on the committee did so well and honestly.

The advice they received was of great benefit to this Parliament and particularly to the Legislative Council. That committee lifted the standing of the Legislative Council and did many of the things that I have believed in for many years.

When the Labor Party was in Opposition it spoke about the integrity, honesty, and strength of the Legislative Council. However, this Bill undermines that belief. Week after week and month after month it spoke about the importance of a committee system in the Legislative Council. For its information I was one of the members on our side of the House, when I was Government Whip, who formed a committee and got it under way. That committee sought to establish a committee system in the Legislative Council, not, I suggest, without some criticism from another place or from some leaders at that time. Nevertheless, the committee persisted and when I became a Minister, Hon. John Williams took over the job of chairing that committee.

We on this side of the House have been genuine in seeking to establish a committee system. However, this is now going by the board with the withdrawal of the Labor Party from the Standing Committee on Government Agencies.

The piece of legislation before the House will certainly destroy this House and make it more or less a debating House. Without any shadow of doubt, this Bill is one of a series of Bills introduced over recent years to undermine the Legislative Council. It has been drafted by one of the highly paid advisers—we all know him—who is committed to changing the system so that ultimately the Legislative Council will be destroyed. It has been introduced by a Minister who is totally obsessed with destroying the Legislative Council and all it stands for. I think, with all of the damage he has done to the parliamentary system, that he will cost this Government office. Members of his own party have described him as a bungling idiot.

Hon. Kay Hallahan: That is rubbish.

Hon. G. E. MASTERS: That is absolutely correct. In introducing this Bill into the House, the Attorney General has added another black mark to his name. We know that he has made a few mistakes, but this is another black mark. I feel genuinely sorry for the Minister in this place who has been subjected to all sorts of pressures from people in another place and who has had to handle Bills which he has not wanted to handle and which have caused him embarrassment.

Hon. V. J. Ferry: Political fall guy of the party.

Hon. G. E. MASTERS: Yes, and I feel sorry for him. He does the job and laughs with a great lack of humour when these sorts of issues crop up.

The Bill attempts to reduce the Legislative Council to a debating House. It proposes to have the members of this House dominated utterly by the Legislative Assembly, by its numbers, and by its operation. It seeks to dominate this House through the Executive and the party's political masters at Trades Hall.

If this Bill were passed, the Legislative Council would be of no consequence at all. ALP members in the Legislative Assembly view this House with contempt and treat their own members in this House with a lack of understanding and a lack of respect.

Hon. J. M. Berinson: Are you saying that upper Houses in other States have been reduced to this condition?

Hon. G. E. MASTERS: They are working towards it. If Mr Berinson wants to reply today rather than getting some advice from down the road, I will be interested to hear what he says. I am interpreting the Bill on behalf of my col-

leagues who will all be making contributions. As time goes on I will explain the Bill to Government members and even to Mrs Hallahan, who will be horrified by what I tell her. I am sure she does not understand it.

The Legislative Council is an important part of the parliamentary system of WA.

Hon. Garry Kelly: You have the numbers, that is why.

Hon. G. E. MASTERS: I suggest to the member who just interjected that it is a very important part of the parliamentary system. If he does not feel it is he should say so because the public will be particularly interested in those comments. If he is saying that the Legislative Council is of no consequence I will be very interested to hear him say that and I am sure that the Attorney General will be less than happy with that sort of comment.

Hon. J. M. Berinson: That was not the position of the Royal Commission.

Hon. G. E. MASTERS: I will talk about that. The Council will have no powers if this Bill succeeds. Its members will become expendable, which is all part of the exercise. The Government proposes to take away the Council's responsibilities and powers until it is left as a debating House. Then it will be expendable. It is a simple, straightforward exercise. The Bill attempts to hold the Legislative Council up to ridicule by the public. Once its powers are lost they will never be retrieved. If members have any doubt about what the Government is trying to do, I suggest that they read the second reading speech introducing the Bill in another place, and more particularly that they read the second reading reply of the responsible Minister in another place. If that does not demonstrate a complete contempt and utter disregard for our system, I do not know what does. It should be made compulsory reading.

The Attorney General, in his second reading speech in this House, was a little more temperate. However, he made some extraordinary remarks. I will make reference to some of those remarks because I think he knew exactly what he was saying. The second paragraph of the Minister's speech states—

> Section 46 of our State Constitution which places some restrictions on this House with respect to money Bills, states that the two Houses are otherwise equal in power. . .

He then speaks about something about which I will speak in a moment.

Section 46 of the Constitution Acts Amendment Act makes reference to the Legislative Council having equal power with the Legislative Assembly in respect of all Bills with the exception of some of those set out in section 46, including Bills appropriating moneys or Bills imposing taxes. It states that the Council may not amend Bills imposing taxation and the like, and may not amend Bills increasing charges or burdens on people. It goes on. However, the important words are "equal power to the Legislative Assembly in respect of all Bills", with the exception of those listed in the section.

In listening to the Minister's speech and in reading the Bill, I find the Legislative Council will certainly not have equal power with the Legislative Assembly. The Bill completely destroys that situation. How the Minister could make that sort of statement about the equality of the two Houses, and then introduce this Bill, is beyond belief. This Bill makes the Legislative Council unequal in all respects. I suggest that members look at the long title of the Bill, which is—

> AN ACT to provide for the resolution of disagreements arising between the Legislative Assembly and the Legislative Council in relation to Bills, and for incidental and other matters.

The impression one gains from reading that is that if there is a disagreement between the Legislative Assembly and the Legislative Council, then this Bill seeks to resolve it. However, when we read the Bill we find the situation is quite different. What it says is that where the Legislative Council dares to disagree with the Legislative Assembly, some very serious moves can be made to make sure that the Legislative Council's decision cannot apply.

I submit that 65 per cent of the Bills come from the Legislative Assembly to the Legislative Council. What the Government is saying is that the Legislative Council may not disagree with 65 per cent of the Bills which come through the Parliament. With money Bills certain things will happen, and with other than money Bills certain provisions will apply. Certainly, the Government can use the provisions to beat the Legislative Council over the head. My understanding is that something in the order of 35 per cent of the Bills start in the Legislative Council; and there is no provision whatsoever for those Bills which go to the other place and are subject to any argument or dis-

agreement. If the Legislative Assembly disagrees with the Legislative Council's Bills, that is the end of it.

The title of the Bill is dishonest. It suggests that if there is a disagreement between the Legislative Assembly and the Legislative Council the provision works both ways. However, it does not work both ways.

Several members interjected.

Hon. G. E. MASTERS: I am an Australian and I am proud of it. I am also a great supporter of Her Majesty The Queen. God bless the Queen; I say that all the time.

Several members interjected.

The PRESIDENT: Order!

Hon. G. E. MASTERS: The title of the Bill is misleading and it is intended to be misleading. It is obvious that some Government members have not bothered to read the Bill because they do not understand it. I will take the time to explain why it is an unfair, unreasonable, and unbalanced Bill.

I refer again to disagreements. The Minister, in his second reading speech after his incorrect statement that both Houses would be equal in power, said the following—

> . . . but does not include arrangements to deal with disagreements. It is this fundamental inadequacy that this Bill is designed to make good.

I suggest that that statement is not correct. I also suggest that what the Labor Party and the Government believe is a disagreement is not something which I necessarily support.

To my mind a disagreement is where a Bill comes into this House, or into another place, is supported generally in principle and goes through the second reading stage, but attracts arguments concerning the detail of the Bill in the Committee stage. A disagreement as the Labor Party would describe it is where there is a difference of opinion and the Bill does not go through the second reading stage at all. That is a straightforward disallowance or defeat of a Bill.

Hon. Garry Kelly: It is not a disallowance.

Hon. G. E. MASTERS: If a Bill is opposed in one House or another and it is defeated, that should be the end of it. However, I believe that arguments about the details of the Bill during the Committee stage are a description of a disagreement. I expect members of the Government to disagree with that. We all have a right to disagree; that is what we are talking about. This House has the right to disagree as one of the Houses of the State Parliament, and individual members have the right to disagree.

I assume that what the Government is saying is that where a Bill is totally rejected the Legislative Assembly will prevail regardless.

A Government member: No, it does not.

Hon. G. E. MASTERS: If the member does not know that, heaven help him.

A disagreement occurs when the second reading of the Bill is passed and arguments take place in the Committee stage. That is where the negotiations occur.

This is one of those Bills that could be classed as being set up by the Government to be defeated. It was deliberately contrived by the Minister in another place to be defeated. The Government knows very well that responsible members in the Legislative Council could not support this Bill. I will give reasons for that at a later stage. The Bill has been contrived to be defeated.

Hon. J. M. Berinson: Do you think Professor Edwards was part of the contrivance?

Hon. G. E. MASTERS: I will tell Mr Berinson what I think about Professor Edwards' report when I come to it. What I am saying is that this Bill was deliberately contrived to be defeated so that this Government can say, at the convenient time, that the Legislative Council has frustrated the Government again and has defeated another Bill. It will say that it has defeated between one and four Bills.

Hon. J. M. Berinson: So you have.

Hon. G. E. MASTERS: That is the sort of thing the Labor Party is doing.

Several members interjected.

The PRESIDENT: Order! I have pointed out on a previous occasion to honourable members that the Standing Orders particularly suggest that duets are out of order. I suggest that this afternoon this place has become like a choir and not a duet. I ask honourable members to speak one at a time; and Hon. G. E. Masters currently has that opportunity.

Hon. G. E. MASTERS: A number of Bills have been deliberately introduced into this House for the purpose of being defeated and for the purpose of building up a lost cause. It is similar to what the Government did regarding its tobacco advertising campaign. It spent public money at an enormous rate and the public eventually said, "What is going on? This is ridiculous." The Government has overplayed its

hand. No-one takes any notice of these Bills which come forward. The Press is aware of what it is all about.

Tomorrow, or the next day, one or two more Bills may be defeated and the Government will start referring again to the wicked Legislative Council. When we look at the wicked Legislative Council we are simply reminding the people of this State what this House has done. We remind them of the land rights Bill which the Government is running away from. If it introduces it again it will be defeated again. However, I suggest that it will not be introduced again.

Several members interjected.

Hon. G. E. MASTERS: Government members do not understand our system. I will go through some of the details. First, let us look at the record of the Legislative Council in Western Australia over a number of years. I will go back to 1890, which is well before the time of any member in this place, but it will be of benefit to those people who want to earnestly research this matter and find out the facts.

Since 1890 about 10 000 Bills have passed through this Parliament. From the research I have undertaken—I may have missed one or two in recent years—my understanding is that of those 10 000 Bills, 123 have been referred to a Conference of Managers. Of that number 25 Bills have been dropped. Therefore, 98 of those Bills have been subjected to a Conference of Managers.

Hon. P. H. Wells: How many?

Hon. G. E. MASTERS: Ten thousand—

Hon. P. G. Pendal: Ten thousand!

Hon. G. E. MASTERS: —and 25 of those Bills have been dropped.

Hon. J. M. Berinson: And how many were abandoned?

Hon. G. E. MASTERS: I have already pointed out that a number of Bills have been defeated at the second reading stage. Some of them were deliberately set into motion for the purpose of being defeated. Others, such as the land rights and industrial relations Bills, were defeated by public demand, so resoundingly that no member of the Labor Party would dare to introduce those Bills again.

Hon. S. M. Piantadosi interjected.

Hon. G. E. MASTERS: Under no circumstances should this Bill be supported by any member of the Legislative Council, although we know that every Government member, to a man or a woman, is under starter's orders. I ask members of the Government when in the last three years has this Legislative Council frustrated the Government and prevented it from going about its business?

Hon. J. M. Berinson: On every measure of electoral reform, for a start.

Hon. G. E. MASTERS: Tell us about it.

Hon. J. M. Berinson: Do you regard electoral reform as a joke, Mr Masters?

Hon. G. E. MASTERS: I think I have gone into that matter sufficiently. The Attorney General, in the next few weeks, will introduce one or two more Bills, one of them already on the Notice Paper in another place, that he knows full well will be defeated because it was word for word what was defeated last time. If the Government was genuine, it would not do that. That is a typical example of what the Government is about. The Government will reintroduce a Bill that is word for word that of the defeated Bill for one reason only, to chalk another one up on the board. Mr Berinson and his troops will then parrot, "They are frustrating us; they are doing it again." They know darn well that we will chuck that Bill out. I have no hesitation on that score.

I ask when the Legislative Council has frustrated the Government and prevented it from governing. Rather than frustrate the Government, we have helped it because we have saved it from very nasty and mucky legislation. We have amended Bills to the point where Government members should be grateful; privately they are. I ask an important question: When has this Legislative Council ever said or suggested that it would refuse Supply?

Hon. V. J. Ferry: It has never been known.

Hon. G. E. MASTERS: Yet the Labor Party tactics are difficult.

Hon. J. M. Berinson: So what are you sacrificing if you don't have that power?

Hon. G. E. MASTERS: I am going to talk about it. Certainly I am saying that members of the Labor Party and the Minister are hysterically crying that the Legislative Council might one day—I suggest it might be soon—reject Supply. They know that is not true. They know that that is quite ridiculous.

Hon. Garry Kelly: Get rid of it then; take it away.

Hon. G. E. MASTERS: I ask Hon. Garry Kelly to let me finish, even though it is unlikely that he will be convinced. Thus the Labor Party has employed scare tactics. That is the only

basis on which it has talked about so-called reforms. It has employed scare tactics to suggest that the Legislative Council is preventing the Government from governing. That is not true. It would not happen, and the Government knows that very well.

What we will do is represent the public freely and confidently. We will do all that needs to be done. I suggest that members on the other side of the House look at the way members on this side of the House operate. They are able to make an independent decision, a decision against the party room direction. If members opposite consider that, they will surely recognise that we are able to do our job effectively and efficiently.

On page 2 of the Minister's second reading speech, he makes the rather hysterical statement—

> The record shows that the Legislative Council has found that the idea of an impartial House of Review is almost impossible to separate from party politics . . .

Hon. V. J. Ferry: The Labor Party is saying that?

Hon. G. E. MASTERS: It is unbelievable that the Labor Party would make that statement. Only one person in the Labor Party in my time here has dared to buck the party system, and he did not vote against the Labor Party, he walked out of the House. He was the ex-leader, Hon. Ron Thompson. He walked out of the House and said that he would not support the Bill. He came back a few days later as an independent member. He voted independently on an issue on which every single member on my side of the House had a free vote. However, that poor man lost his position in the Labor Party. There is a Minister in this House with the audacity—

Hon. Fred McKenzie interjected.

Hon. G. E. MASTERS: The Minister had the audacity to say that this House could not be an impartial House of Review. It is absolutely farcical. If the Labor Party were to control this House there would never be any question of impartiality. Labor Party members would be regimented and ordered. Their very existence would depend on their saying "Yes" and "No" at the right time. Not one of them would say anything but, "How high do I jump when you call?" Most Government members are not in the House at the moment. Not one of those I am looking at has dared to cross the floor or even to speak against a party room direction.

Hon. J. M. Berinson: But, Mr Masters, party discipline is an argument in favour of deadlock provisions.

Hon. G. E. MASTERS: I know that Mr Berinson is embarrassed. I suggest that even on page 2 there are three statements that the Minister will rue the day he made because they are not true or, if they are true, they certainly do not apply to the Labor Party.

Hon. J. M. Berinson: But you are missing the point.

Hon. Garry Kelly interjected.

Hon. G. E. MASTERS: If the Labor Party were in control of this House, there would be no question of this House being a House of Review.

I have already said that a number of Bills were defeated or amended when the Liberal Party was in Government. The Labor Party has said that Bills were always amended in its time and have asked why they were not amended when we were in Government. Again, I suggest that the Labor Party does not understand our party's system. It does not understand how we operate.

Hon. Garry Kelly: We know how you operate.

Hon. G. E. MASTERS: We always act strongly in the party room and in our open party meetings. If our members disagree with our colleagues up the other end, that is up to them. We make a decision independently in this House. I know from experience that in our party room when I was a Minister and put forward Bills—

Hon. Tom Stephens interjected.

The PRESIDENT: Order!

Hon. G. E. MASTERS: The member ought to listen to this. It will give him a bit of a kick.

If I introduced to members of the Legislative Council a Bill which they did not like, they would give me warning by saying that if I brought the Bill back a number of them would vote against it. I then did not introduce it. That is why we did not defeat so many Bills. They were defeated by independent members of the Legislative Council on my side of politics.

Hon. S. M. Piantadosi: Oh, rubbish! Even you don't believe that.

Hon. G. E. MASTERS: That is absolutely true. I know that Labor Party members do not understand that, but it is true. Hon. Sam Piantadosi obviously does not believe it, but it is true. My members have always adopted that

policy. I guess it is beyond the Labor Party's understanding, but that is why we do not see so many changes in the Legislative Council when we are in Government.

Hon. Garry Kelly: You are a rubber stamp, that's what you are.

Hon. G. E. MASTERS: It is not because we rubber-stamp at all. If ever there was a party that rubber-stamped, of course, it has to be that of Mr Garry Kelly—the Labor Party.

The Legislative Council has a good record over many years, certainly in the last two or three years. I remind members again of the sorts of Bills we defeated. The land rights Bill was defeated in this House against the wishes of some of the people who traditionally support us. It was certainly defeated against the wishes of the Labor Party which was, and still is, committed to land rights. But we defeated it, and nine out of 10 people in the community supported what we did. Quite frankly, the decision was proved right by Mr Wilson the other day when he said that land rights were unachievable. What would have happened had we let through that sort of Bill?

Every so often we make a decision which saves the Government from a great deal of embarrassment. I have already mentioned the industrial relations Bill which would have handed over the control of the workplace to militant union leaders. The Bill dealing with tobacco advertising is a very good example of the types of Bills that we have amended. If Government members want to make an issue of the Bills that we have amended or defeated, they are welcome to put forward those three Bills as election issues, but I suggest that they will not do so because they know very well that we acted properly and in the public interest.

Hon. Fred McKenzie: I will tell your electorate about the industrial relations Bill.

Hon. G. E. MASTERS: That is terrific. I hope that the member does so.

Several members interjected.

Hon. G. E. MASTERS: I have no worries at all. If the Labor Party wishes to make it an issue at the next election, let it do so.

[Questions taken.]

Hon. G. E. MASTERS: A comment was made by the Attorney General about the Royal Commission and Professor Edwards. This Royal Commission was set up with no recourse to Parliament at all. Professor Edwards was asked to make decisions and recommendations which could and would affect members' positions in Parliament, their terms of office, their powers, and their responsibilities. That is a very wide-ranging authority.

Members of Parliament are elected by the public. The public choose their representatives. They choose whom they will support and they choose a Government which they will support. Absolutely no-one has the authority to interfere with the process of the Parliament. Members are elected by the people to do a job.

Hon. Peter Dowding: They didn't choose you to frustrate the Government.

Hon. G. E. MASTERS: The Minister has just said that the Opposition frustrates the Government. Had he been in the House for any length of time he would have heard me explain that we did not do so.

Hon. Peter Dowding: I heard you, but no-one believes you.

Hon. G. E. MASTERS: If the Minister is saying that the industrial relations Bills which were defeated and amended respectively was a wrong decision for us to make, let him say it publicly at the next election. If he says the land rights Bill was a wrong decision for us to make, let him say so. If he says amendments to the tobacco Bill were wrong, let him say so. I point out to members that the Opposition does not and has not frustrated the Government. We have merely looked at legislation and have amended it where necessary. I again challenge Hon. Garry Kelly to stand up in this House and tell us when we have prevented the Government from governing.

The Bill of Rights says it is a fundamental privilege of the House of Commons and therefore of this House that proceedings in Parliament ought not to be impeached or questioned in any court or place out of Parliament. Surely no member of this House would dispute that statement. The Royal Commission was improperly constituted with no authority from the Parliament. It could interfere with members of Parliament, not only in respect of their work of representing the public in the Parliament, but it could also cost them their jobs. Members were elected to this House for a period, and the fact that that term could be changed by amendments to the Act is unfair.

I repeat that the public make that decision. Even though Professor Edwards is a person of great integrity and is certainly a person for whom I have a great respect, he could not do that job and had no authority to do that job. Parliament itself decided whether that job was done or not.

Chapter XXVI of the Standing Orders of the Legislative Council provides for Conferences of Managers. It is a procedure of the Parliament, so although the Royal Commission talks about disagreements in the Legislative Council, we follow Standing Orders and procedures. I again submit that this Parliament and that this House are under the authority of members and of no-one from outside it. I know that the Minister who appointed this Royal Commission did so against advice from many people, and I know that he understood full well what he was doing. The Minister was not under any circumstances prepared to consult with the Parliament, and with the Legislative Council in particular. I suggest that the Royal Commission report should be ignored and that parties, when the time comes, should make the decision that Professor Edwards has supposedly made.

This Bill is directed towards removing the rights and privileges of the Legislative Council. As I have already said, we on this side consider the title to be misleading because it suggests to the Parliament that disagreements on Bills from either House will be dealt with under this Bill. This is quite wrong and totally biased because this Bill will favour the Legislative Assembly to the point where the Legislative Council could be wiped out as far as genuine operation is concerned.

I cannot say that members on my side of the House can in any way support this Bill—we cannot even support its title.

Clause 2 relates to section 73 of the Constitution Act. The Government proposes to add a paragraph which requires an absolute majority of both Houses sitting together and a referendum before the Legislative Council can exceed three-fifths the size of the Legislative Assembly. Why on earth should this be put in? This will probably never come about in any case, and I consider that the purpose of this addition is to make sure that the Legislative Council under no circumstances can ever reach a position in which it is on equal terms with the Legislative Assembly.

I suggest that writing that provision into the Constitution Act simply entrenches the minority role of the Legislative Council. The Bill raises the whole question of joint sittings. When we talk about joint sittings and the minority role of the Legislative Council, we must consider why on earth we have two Houses of Parliament in the first place. The Legislative Assembly is dominant, and if this provision is instituted and everything is decided at a joint sitting, the role of this House will be diminished.

I do not think that we on this side can possibly tolerate or even contemplate that sort of suggestion. The legislation requires joint sittings for money Bills as well. As far as money Bills are concerned, the Legislative Council is right out in the cold. The Bill proposes that in a double dissolution there would be two elections on the one day for the Legislative Council. That is my understanding of the Bill. Half of the Legislative Council will be elected for three years and the other half for six years. If an election takes place between 31 August and 1 February, the members are elected either for three or six years from the May following 1 February. If we say, following this Bill, that there is an election on 1 February, those members of the Legislative Council elected on that date would commence their terms in May that year.

Hon. Garry Kelly: It preserves the present system.

Hon. G. E. MASTERS: It does not. It is a gross distortion of what is happening. Hon. Garry Kelly cannot have examined this at all because it does not—

Hon. Garry Kelly: It preserves fixed terms.

Hon. G. E. MASTERS: It does not preserve fixed terms of members. If there is an election between 31 January and 1 September in any year, members elected for three and six-year terms in an election held, say, on 1 August will commence their terms in the succeeding May.

Hon. Garry Kelly: So it is within the election time.

Hon. G. E. MASTERS: Hon. Garry Kelly says that it would preserve fixed terms for members. However, fixed terms disappear at the whim of the Government.

I will now turn to the President's role and its importance. The Bill suggests that the President should have a deliberative vote but no casting vote. At present, the President, if he wishes, has a casting vote. I have never seen him use it but there may one day come a time—otherwise why have a casting vote?

Hon. Garry Kelly: That is ludicrous in terms of the numbers in this House.

Hon. G. E. MASTERS: I suggest we look at this proposition because obviously not only can Hon. Garry Kelly not read but he cannot add up either. If one looks at the numbers in this House when there is a vote and the National

Party, for example, decides, for one reason or another, to join with the Labor Party, the Liberal Party would have a majority of one. The reason is that the President is one vote lost to us. In the Committee stage, when we have lost the Chairman of Committees, we have no majority at all. I suggest that that wrecks Hon. Garry Kelly's argument.

However, I return to the role of the President. The proposal that the President of the day should not have a casting vote would simply remove the impartiality of the President altogether. At the moment, the President sits in his Chair and is, we think, impartial—it does not matter from which side the President comes, the impartiality and integrity of that person is respected.

Hon. Garry Kelly: His electors aren't represented.

Hon. G. E. MASTERS: I think that the proposal that the President should have this type of vote simply destroys the impartiality of the President. It prostitutes the position of the President and it damages the status of the President. It was interesting to read the comments of the Minister in another place when he explained why the change was made. He said that instead of only having a casting vote, when the votes are equal the President may have a deliberative vote on all questions. This practice is followed in the Australian Senate. And so it is, but that is misleading because there is a very good reason why there should be a different method in the Senate. I think I should perhaps quote from the document of Quick and Garran, dated 1900, entitled *Commentaries on the Constitution*, page 444, which reads as follows—

> 102. "The President shall . . . be entitled to a Vote."
>
> The object of providing that the President, unlike the Speaker of the House of Representatives, shall be entitled to a vote in all cases, is that the State which he represents may not be deprived of the benefit of the constitutional privilege of equal representation. He is not given a casting vote as well, because that would give his State more than equal representation. Some other provision had, therefore, to be made for the case of an equality of votes; so the Constitution declares that in that event the question shall be resolved in the negative. This is based upon the universally recognized principle that affirmative action, in any legislative body, must be supported by a majority.

Each State is represented in the Senate by an equal number of representatives. That is why the President has a vote in the Senate, but it is different in this House because the President of the day does represent his people. That is the difference and it is quite misleading for the Minister in the other place to put that proposition forward. To make any comparison at all between the Senate and the Legislative Council is incorrect and wrong.

The Bill also makes reference to the ordinary annual services of Government and it cuts out the word "the". I have looked long and hard at this proposition and it seems to me that by deleting just that one word, the definition of "money Bill" is broadened and it even seems to allow the possibility of tacking. When one "tacks" to a Bill, one tacks onto a Bill containing other matters, a provision that raises or spends money. In other words, it is in part a money Bill and in part a Bill dealing with other things. That is quite wrong and improper, and where there is a tacking Bill the President quite rightly makes a ruling, which we all understand, on the position. The Minister in another place talked about tacking Bills as though it was a proper course of action to take. That should never be agreed to.

I refer members to clause 11 which is where we come to the real guts of the Bill. The Legislative Council will be greatly affected by this clause. This clause deals with appropriating revenue or moneys for ordinary annual services of Government. In cases like this where the Legislative Council wishes to reject a Bill, a message would be sent to the Legislative Assembly requesting an amendment. Should the Legislative Assembly disagree with the amendment, the Bill is returned to the Legislative Council, and if it is not returned within on month to the Assembly—in other words, the Government—the Bill may be presented to the Governor for assent.

Hon. Garry Kelly: That is a good idea.

Hon. G. E. MASTERS: Hon. Garry Kelly says it is a good idea!

Therefore, when this House receives a money Bill, it is given one month to consider it and if it does not agree with it, the Bill can be sent to the Governor for assent.

Several members interjected.

Hon. G. E. MASTERS: The House of Lords is not elected.

What is the purpose of submitting a money Bill or a Supply Bill to the Legislative Council when it can have no effect. It simply is given the opportunity to debate such legislation, and it only has one month in which to do that. It removes the right of the Legislative Council to debate as an equal Chamber.

Several members interjected.

Hon. G. E. MASTERS: Has that happened?

Hon. Garry Kelly: It could do.

Hon. G. E. MASTERS: I will refer to that in a moment, but before I do so I will quote something to which Hon. Garry Kelly should pay attention.

Hon. Lyla Elliott: Sir Charles Court wanted it to happen.

Several members interjected.

The PRESIDENT: Order! My patience continues to be tested by members. I do not know whether it is a deliberate ploy to test how far I am prepared to go or whether it is simply the exuberance of members in endeavouring to take two shots at debating the Bill. For whatever reason, it is equally out of order to do it. I suggest to honourable members who are interjecting that if the debate worries them then I will protect them, if I can, when they stand up to make their second reading speeches.

In the meantime all these debates are going on and on and they continue for even longer by virtue of the fact that members keep interjecting. I ask members to stop interjecting.

Hon. G. E. MASTERS: Thank you, Mr President. Before I was interrupted I was saying that there would be no point in submitting money Bills—the Supply Bill and the like—to the Legislative Council. It would remove the existing rights of the Legislative Council to operate as an equal Chamber. It would mean also that the Legislative Council has absolutely no powers at all, even in the most extreme circumstances, over a money Bill. The Legislative Council will be given no more than one month to decide whether it supports a Bill.

Clause 11 of the Bill deals with legislation other than money Bills. It provides that if the Legislative Assembly transmits a Bill to the Legislative Council and there is a disagreement about it, after three months the Legislative Assembly can reintroduce and pass the same Bill, even though it may still not be acceptable to this House. In such circumstances the one-month period during which the Legislative Council can debate the Bill still applies. Parliament may then be dissolved—I emphasise the word "may". If the Parliament is to be dissolved, the dissolution must take place within three months of the disagreement and not within six months of an election.

If, after the dissolution and re-election, the Bill is again passed in the Legislative Assembly and disagreed to by the Legislative Council, we would then have what is called a joint sitting of both Houses of Parliament. In order to pass the Bill under those circumstances, there must be an absolute majority of both Houses of Parliament in a joint sitting. I suggest to members that the Legislative Assembly would dominate the joint sitting because of its numbers.

The terms of this Bill relate to one House, and that is why it is topsy turvy. The Government of the day could introduce a Bill which may be defeated, and it then would have the opportunity to introduce it again and may or may not call an election. That is one hell of a club with which to beat the Legislative Council over the head! The Legislative Assembly could say, "If you do not pass this legislation we will call an election." It could lay down the law. If the political climate suits it the Government could call an election which must be held within three months of the date of dissolution of the Parliament. If the political climate is not right, obviously it would not call an election but would try again another day.

A double dissolution at any time will destroy the fixed terms of members of the Legislative Council. Legislative Council members' terms of office could be terminated. Therefore, they would not have a fixed term and the Government could threaten and blackmail them to the stage where it would well and truly lay down the law. It is a wrong course of action to take. This Legislative Council would be more or less subject to the direction and authority of the Legislative Assembly and, therefore, to the Government of the day.

Hon. Fred McKenzie: That is what is happening now. You are blackmailing the Government.

Hon. G. E. MASTERS: I refer to pages 375 and 376 of J.A. Odgers' *Australian Senate Practice* which reads as follows—

> Hereunder are noteworthy extracts from the Official Record of the Debates of the Australasian Federal Convention, Third Session, Melbourne, 1898:

The statements made in this document well and truly stand up. It continues—

> At page 2029:
>
> > Mr George Reid (New South Wales)—I submit that, if there is one subject on which the House can be safely left to look after its own interests it is as to the assertion of its constitutional rights, especially when they are expressed in the plain words of the Federal Constitution. It transcends belief that any Senate worthy of the name would be a party to the surrender of rights and privileges which are part of the statute law. It is impossible to conceive . . .

Further on it states—

> . . . we do not desire that on such grounds the deliberate intention of the Legislature should be frustated, because the moral sanction for any taxation or appropriation of money is the assent of the two Houses of Parliament. If we could conceive it possible that the House of Representatives would deliberately, on the matter of substance, break the law of the Constitution by bringing in a Bill at variance with its provisions, it is positively incredible that we will ever have a Senate in Australia which would surrender its own rights and privileges and allow such a Bill to pass. The first is incredible, and the second is even more so.

And later on it reads—

> At page 2031:
>
> > Mr Reid again— . . . surely honourable members have not such a craven view of the Senate, which they have taken such pains to create, as to believe that it would allow any substantial outrage of the provisions securing its independence and integrity! The assumption is the most degrading one that has been expressed in regard to the Senate. It will be a poor corrupt inept body if it allows an outrage upon its substantial rights without a word of complaint or notice. If that is the sort of Senate that our friends are looking forward to, it should be wiped out of the Constitution altogether. How can we put rights in the guardianship of a body of that kind if it cannot be trusted to preserve its own rights?

I quote once more from page 376—

> At page 2048:
>
> > Mr Isaac Isaacs (Victoria)—. . . I agree with those who say that the Senate must be regarded as a pitiable thing if it is not strong enough to guard its own rights within its own walls.

That is an example of what the Opposition is talking about; that is what we are discussing in this Bill, nothing more and nothing less. In a few words with the examples I have given, and because of the great fears we have as an Opposition, I have indicated that we consider this Bill to be an insult to the public of Western Australia. The Government no more expects this Bill to be passed than it expects to fly to the moon. To accept the provisions of this Bill would be tantamount to abolishing the Legislative Council or making it nothing more than a debating house.

I say loudly and clearly that the Liberal members of the Legislative Council will continue to fulfil their task, which is to work in the best interests of the public, demanding the independence of which we are very proud, and protecting the integrity of this House and the Parliament of Western Australia.

I oppose the Bill.

HON. GARRY KELLY (South Metropolitan) [5.41 p.m.]: Hon. Gordon Masters has been defending the indefensible. The situation in regard to the Legislative Council in the Parliament of Western Australia is indefensible. The basis of Mr Masters' arguments seems to be the credo, "Damn the arguments, we have the numbers." The views he expressed early in his speech on the way Parliament should work are best described as quaint. Some basic civics would be in order in this debate.

I was taught, and I still subscribe to the view, that the Government is formed in the Legislative Assembly, the lower House; and the Government is supposed to administer and run the State. As long as the Government maintains the confidence of the Assembly it should be able to govern. It should not be in a position of being second-guessed by a Government-in-exile ensconced in the Legislative Council. That is the situation we are in in this Parliament at present. Gratuitous advice comes from Hon. Gordon Masters saying that the Opposition has approved certain Bills and suggested amendments which have improved legislation put forward. If the Legislative Council were constituted as a proper House of Review—as members opposite often like to call this place—I would be prepared to accept the argu-

ment. If the Legislative Council were not in a position to blackmail the Government and suggest amendments to legislation, we could accept the argument. It must be remembered that the Opposition is prepared to use the numbers it has to frustrate the Government on any substantive matter with which it disagrees.

Members opposite often say, and Hon. P. G. Pendal was recently quoted as saying in regard to the Electoral Amendment Bill, that the Bill has 30, 40, or 50 clauses, and the Legislative Council has amended or deleted only four or five and, therefore, everything in the garden is rosy. The important point is that those clauses may have been the guts of the legislation.

Mr Masters refused to address another point when he said that the Bill amounted to the virtual abolition of the Legislative Council; when a disagreement occurs, legislation would go to the Assembly after three months and the Governor could call a double dissolution. The present situation is that if the Legislative Council takes it into its head—as it has on numerous occasions—to either amend or reject legislation, that is the end of the matter. The Legislative Council makes a decision and there is nowhere to turn. I will come to the Conference of Managers later, but apart from that minor vehicle, there is nowhere to turn. Because of the fixed terms in this place, the Legislative Council is not accountable to the electorate for its decisions.

Hon. Gordon Masters said that this place has never rejected supply. I agree that it never has. Hon. Lyla Elliott interjected earlier and said that in 1971 when the Speaker in the Assembly died, the then Leader of the Opposition, Sir Charles Court, was prepared to use the numbers in this place to try to bring down the Government. The only reason it did not happen was that the Governor accepted the advice of the Premier of the day and prorogued Parliament.

At the end of his speech Mr Masters quoted from debates of the Constitutional Conventions of the 1890s concerning the powers and rights of the Senate. The basic construct of this Bill, the deadlock resolving mechanism, is a direct steal from section 57 of the Commonwealth Constitution with the added requirement that the Government of the day cannot stockpile rejected legislation indefinitely; it must be dealt with within three months. Under the present Constitution, if a Government Bill is rejected twice in three months, the Bill can remain as a trigger and sit for two years or more before being utilised at a time when the Government decides the electoral time is opportune.

Mr Masters said that the Bill destroys the fixed terms of the Legislative Council and the Government could call an election when the time is opportune. That is true to a point but there is a three-month time span only in which to take this action—a period which is much shorter than the time allowed under the Commonwealth Constitution.

We should look at the present situation. In his speech Hon. Gordon Masters refused to canvass what would happen if—should the sky fall on this House—the Council agreed to this legislation. It would not then become law. It must be submitted to a referendum and it is planned to hold that referendum in conjunction with the 1986 State election. It is not as though the Government is trying to sneak this, in Mr Masters' words, pseudo abolition Bill onto the people of Western Australia. The people will have a chance to decide by voting in a discreet referendum and by saying "yes" or "no" to this parliamentary reform. If the arguments of the Opposition are true, its members should be prepared to take those arguments to the electorate during the campaign. However, the Opposition is not prepared to do that.

The current situation under the Constitution Acts Amendment Act is that no provision is made for the resolution of deadlocks. We should consider the definitions in this case. Mr Masters' view of what constitutes a disagreement between the two Houses was rather amazing to say the least. The term "deadlock" is used to describe a situation in which two Houses cannot agree. Mr Masters said that when this House refuses to pass the second reading that is not a disagreement, it is an end to the matter.

A disagreement only occurs when a few amendments are involved. I submit that if this House rejects a piece of legislation that is, by any definition of the word, a disagreement. Once this House rejects the Bill, at present there is no way to address that problem, or any arrangement to try and break that disagreement. If it happened to be the Budget or the Supply Bill and this House insisted on rejecting it, then the Assembly would be forced to an election and members of this House would simply sit here. It would not be dissolved at all, and the legislative councillors could watch from the sidelines as the Assembly was forced to an election.

If the Government of the day was returned and the Council still insisted on rejecting, for example, the Budget, the Assembly would go to an election again. The present Constitution—and this is something the Opposition is not prepared to acknowledge—is based on the nineteenth century Westminster system. In the nineteenth century and the years preceding it, the House of Lords was equal in all respects to the House of Commons and could reject legislation in much the same way as this House can. I suppose one could say that the Legislative Council, in this day and age, is a bit of a fossil. Even the venerable House of Lords has long lost that power.

Westminster adopted deadlock resolution mechanisms early in this century, in 1911, and they were varied in 1949. The House of Lords has not got the power to force the House of Commons to repeated elections by blocking Supply. One might say that the House of Lords is not elected and it should not have those powers, and that is true. This place is elected, but it is elected on corrupt and gerrymandered, malapportioned boundaries, so the people who are elected to this House do not have the moral authority to force the Government and the Assembly to repeated elections.

Even if the two Houses were elected democratically in a system where people's votes were of equal value, I contend that it is crazy to build into a parliamentary system a situation of two Houses of exactly equal and comparable powers with no mechanism to resolve disagreements between them. That would build in a potential for chaos and instability in the system. It is good enough for Westminster and all the Australian Parliaments, with the exception of Tasmania, and Western Australia, of course, to have deadlock solving mechanisms. Queensland has the ultimate deadlock solving mechanism in having abolished its Legislative Council in the 1920s. The method proposed in this Bill is not revolutionary, and it would allow this House to function as a proper House of Review.

I think we should look at what alternatives are available. Earlier I mentioned the Conference of Managers, which is the nearest thing to a formal procedure we have, to address the problem of disagreements. However, a Conference of Managers is optional. Each House "may" appoint members to the conference and those members "may" agree to a solution, and each House "may" adopt the solution that the conference agrees on. There is one flaw in this proposal, and that is that the Conference of Managers deals only with amendments. If the Legislative Council rejects a Bill at the second reading stage, the Conference of Managers does not get a chance to adjudicate on that situation. When the ultimate disagreement occurs, there is no provision to allow for the resolution of that disagreement.

This legislation, for the first time, seeks to bring in a deadlock solving procedure which is easily understood, and which will solve the deadlock by referring it back to the people.

Mr Masters said in his speech that the Legislative Council has not frustrateed the Government. He challenged members of the Government to nominate occasions on which the Legislative Council had actually frustrated the Government.

I have here a table which lists the number of Bills rejected by the Legislative Council over a period of five Governments. It ranges from the Hawke Labor Government to the Burke Labor Government. I seek leave of the House to have that incorporated in *Hansard.*

By leave of the House, the following material was incorporated—

NUMBER OF BILLS REJECTED BY THE W.A. LEGISLATIVE COUNCIL.

Government	Party	Term of Office (Years)	Number of Rejected Bills
Hawke	ALP 6	(1953-1959)	20
Brand	LIB 12	(1959-1971)	1
Tonkin	ALP 3	(1971-1974)	21
Court/ O'Connor	LIB	(1974-1983)	NIL
Burke	ALP 2	(1983-)	8

Data compiled June 1985

Hon. GARRY KELLY: During the period of the Hawke Government, from 1953 to 1959, the Legislative Council rejected 20 Bills. During the three-year term of the Tonkin Government, from 1971 to 1974, the Legislative Council got its act together and rejected 21 Bills. The Court-O'Connor Government was in power from 1974 to 1983. In that nine-year period, no Bills were rejected. The Burke Government has been in office since 1983 and eight Bills have been rejected. To say, as Hon. Gordon Masters said, that the Opposition members of the Council reached their collective decisions impartially and only rejected legislation which was unsuitable, and only improved Government legislation by amending it as it sees fit, is fatuous.

Another statistic is of considerable interest when one looks at the way the Opposition's Legislative Council majority works. In 1983 a Bill called the Acts Amendment (Parliament) Bill was defeated. The division on that Bill

resulted in 12 votes for the ayes—representing 44.6 per cent of electors—and 18 votes for the noes—representing 39.1 per cent of electors. In that division only 30 out of the 34 members of the House voted. The 18 members who voted against the legislation, denying it the second reading, represented a considerable minority of the electors. The 12 members voting no represented the majority of the electors. That is the type of distortion which has occurred in this House.

Hon. Gordon Masters in his speech made a mockery of a statement of Hon. Joe Berinson in his second reading speech about its being hard for the Legislative Council, with party politics being what it is, to be impartial. He thought that was a subject of great mirth. I cannot understand that. It is virtually impossible for a House with the power that this House has, and with the numbers the way they fall, to be anything but a political House. The figures I have quoted for rejections—and remember many Bills were amended as well—illustrate that this House is a brick wall for Labor Governments and a rubber stamp for Liberal Governments.

The question that should be addressed is: What is the proper role for an upper House? There is nothing wrong *per se* with having a bicameral Parliament, as long as the second Chamber is not just a mirror image of the first Chamber. What do members want an upper House to do? If it is to be a House of review it should review legislation transmitted from the Assembly.

Sitting suspended from 6.00 to 7.30 p.m.

Hon. GARRY KELLY: Mr President, I hope I am not crushed in an avalanche from the *Hansard* mountain behind me! Before the tea suspension I was talking about the proper role of the Legislative Council and the points which should be taken into account when looking at the role the upper House should play; that is, I was talking about it as a House of Review.

Such an upper House would —

Review legislation brought from the Legislative Assembly.

Initiate Bills dealing with subjects of a non-controversial character.

Reveal to the public areas of dissatisfaction and represent the views of those who will be affected by proposed laws and actions.

Cause a delay in which public opinion has an opportunity to express itself especially where the proposals are seen as hasty, faulty or discriminatory.

Scrutinise, review and criticise public appropriation and expenditure.

Examine and report on the operation of State instrumentalities.

Inquire into and report on the specific problems which arise from time to time.

Maintain the right to gain access and information necessary for the performance of all these functions.

I do not think anyone would argue that the Legislative Council has done any of those things in the time it has been in existence. It has performed solely as a partisan House in that time; it has always had a majority from the conservative side of the fence; and it has always exercised that majority in the preservation and defence of the interests that majority represents. In no way could it be said to be reviewing Government legislation. I have referred earlier to the fact that in times of Labor Governments the Legislative Council becomes active, and when there is a Liberal Government one would hardly know the place existed.

The Bill we have before us is largely based on the recommendations of the Royal Commission appointed by the Government in July 1984. Professor Eric Edwards was asked to inquire whether the State should have laws which would resolve deadlocks and disagreements which occured between the Houses and, if the Royal Commission found that that was indeed the case, what those laws should be. The recommendations made by Professor Edwards were in two parts—there was an interjection earlier saying it was a charade and a farce. I would say that that would be a more apt description of this House and this Parliament.

Hon. G. E. Masters: Who said that?

Hon. GARRY KELLY: The interjector said the Royal Commission was a charade and a farce. I would say that that would be a more apt description of this House.

The recommendations of Professor Edwards were split into two parts. In relation to money Bills, the Royal Commissioner took the situation which applies in New South Wales, where the Legislative Council has a one-month suspensory vote. If there were any glaring inconsistencies within the appropriation Bill, that would allow time for those difficulties to be ironed out; but if the Council insisted on

pressing ahead with the objections, the Bill would be presented to the Governor for his signature. That is sensible; it prevents institutionalised chaos and a situation where this House could refuse, as it has now, the Supply or a Budget Bill.

Hon. D. J. Wordsworth: You could not describe it as a farce.

Hon. GARRY KELLY: The potential is there. The Opposition would want to say this place has never prevented Supply or a Budget, but that is because of the prevailing political climate. If it was proven to be in the Opposition's interests, I do not think it would have any hesitation in using the power that is there.

As to other Bills, Professor Edwards said—

> Deadlocks arising over all Bills other than those dealing with ordinary annual services should be resolved by a method based on the double dissolution and joint sitting mechanism of the Australian Constitution except that only three months should be permitted between the emergence of a deadlock and the calling of the resultant election. (See page 7 explanation.)

I mentioned earlier that under the Federal Constitution, once a Bill has been rejected twice in the three-month period, that Bill can be stockpiled and pulled out by the Prime Minister of the day at any time and used to trigger a double dissolution. Professor Edwards recommended against that, and his recommendation prevents the Government of the day abusing the provision for a double dissolution by stockpiling Bills—it only has a three month period.

I submit that the recommendations of Professor Edwards are hardly radical or revolutionary. As they exist in the Senate now, they do not prevent the Senate from exercising its powers in the way alluded to by Mr Masters. If the Legislative Council had the deadlock-solving mechanism, it would be able to do everything it can do now, except force the Legislative Assembly to an election, or to exist as a Government in exile.

Mr Masters made a lot about the fact that one provision calls for a nexus of sorts between the numbers of the members of the Assembly and the Council, saying the Assembly would always have the numbers in excess of the Council and would therefore be able to defeat the Council whenever a combined sitting was held. If we lived in a vacuum and the Houses were separate political animals, that might be true, if they were competing with each other. But we have a party political system, and by way of interjection tonight I asked Mr Masters whether he recognised that political parties existed. After the double dissolution, and depending on the outcome of the election, there might or might not be a majority—

Hon. G. E. Masters: Hang on! For a start, when a Bill is introduced the Government of the day decides whether or not there will be an election.

Hon. GARRY KELLY: Of course it does.

Hon. G. E. Masters: Is that good?

Hon. GARRY KELLY: What Mr Masters said was that the Assembly would always override the Council, and the decision would be a foregone conclusion because of the relative numbers of the two Houses. But that is not necessarily the case. It depends on the majority of the Government in the Assembly and the majority in this House.

Hon. G. E. Masters interjected.

The DEPUTY PRESIDENT (Hon. P. H. Lockyer): Order! Order! The honourable Leader of the Opposition will come to order.

Hon. GARRY KELLY: As I was saying before that disorderly interjection, Mr Masters' argument has no substance whatsoever.

As I said at the outset, the Bill, if it passes this Parliament, will not become law until the people have decided it will at a referendum. If the Opposition feels that the Bill has the support of the wider community, it should test that support. However, it is not prepared to do that.

Mr Masters made great play about the fact that the Bill is a *de facto* abolition of the Legislative Council. The policy of the ALP is not to abolish the Legislative Council. That policy was removed from our platform many years ago. However, amendments to the Constitution Acts Amendment Act introduced by the Court Government ensured that any legislation of this kind must go to a referendum and be agreed to by the people of Western Australia. We cannot sneak up and abolish the Legislative Council overnight. For that reason, I cannot see why the Opposition can call this Bill a *de facto* abolition of the Legislative Council. In fact, the opposite is the case.

The Opposition said that the Government introduced the Bill knowing that it would be defeated so that it could stack the Bill up with the other Bills already rejected by the Opposition. The Government is serious about parliamentary and electoral reform. It has tried that

reform on many occasions and on each occasion it has been dashed on the rock of intransigence by the Opposition.

Mr Masters said the Government is hypocritical. I say it is the Opposition which is hypocritical. Despite all of the Opposition's pleas to the contrary, it is endeavouring to hold on to its position of power and is not prepared to relinquish one bit of that power. It has the numbers and it is prepared to protect its interests even if those numbers were arrived at in a crooked and corrupt way. We would not quarrel with the Opposition if those numbers were arrived at in a fair and democratic way. We all know, however, that the electoral system of this State is based on corrupt laws.

I maintain it is hypocritical to have a Parliament elected on crooked and corrupt boundaries. Because of that this House has always been controlled by the same side of politics and that party will not consider any meaningful step towards democratic reform.

As I have said, the proposals introduced in this legislation are not radical or revolutionary. They are fairly moderate and are consistent with the practice in most Parliaments in the Commonwealth. They also reflect the system that applies at Westminster upon which this Parliament was modelled.

Because this House has always been controlled by one side of politics as a result of the crooked boundaries, it is now a toy Parliament. It does not deserve the respect of the Western Australian people. Until this House accepts that there is a definite need for electoral reform, it will always be tainted and Parliament as a whole will not have the respect that it deserves.

I do not think I am making a rash prediction by saying that, when one considers the remarks of the Leader of the Opposition, this Bill will meet the same fate as the other reform Bills that have been introduced into this House. However, eventually, because I am young enough, I will see members on the opposite side of the House vote for a piece of legislation which will drag this place into the twentieth century and make the Legislative Council accountable to the electorate for its actions. I do not wish to wait for five years, two years, or even one year for that to happen. I want the Opposition to surprise me and vote for this legislation. If the vote is not taken tonight but is taken tomorrow, then I implore the Opposition to consider this matter overnight and to make a decision for democracy and for the greater good of the Western Australian people.

I support the Bill.

HON. V. J. FERRY (South-West) [7.46 p.m.]: Dealing with this type of legislation is almost like the promotion of a return bout, to use a boxing phrase. Parliamentary and electoral reform has been debated in this House fairly frequently in recent years. I find it amusing that members of the Labor Party who are caucused refer to this House as a party House and not a House of Review.

Hon. Mark Nevill: This is hypocritical.

Hon. V. J. FERRY: It is hypocritical for members of the Labor Party to refer to this House as not being capable of reviewing legislation. We have had ample examples in recent years of this House playing the role it has been set up to play.

A couple of weeks ago we saw the spectacle of Labor Party members resigning from a Standing Committee of this House. I do not hold them personally responsible because their party denied them the opportunity of playing a role on that committee. The party directed them to resign. That is a classic example of members of the Labor Party not being capable, through their party, of playing a role in this House of Review. In pointing their fingers at other members in this place, they are being completely dishonest. I do not personally hold it against those members who were obliged to resign. I feel strongly for them because I believe they would have liked to play a part in the work of this Parliament and particularly in the work of this House. In their own hearts they believe in the system. However, their party does not allow them to play that part and that is sad.

Now we hear the Labor Party sounding off like broken records about the Opposition parties dominating this House and the Government not being allowed to govern because of that domination. That is nonsense. Anyone who has studied the Westminster system knows that the Government can govern. This House does not stop the Government from governing and it never has. It has the power to stop Supply but it has never used that power.

Hon. Garry Kelly: It makes it extremely difficult.

Hon. V. J. FERRY: It does not stop it governing. That has been stated here tonight on more than one occasion. The Government may find its legislative programme difficult to put through this Parliament because it has not been

properly prepared. However, governing is a different proposition from Parliament. It is about time some members understood the difference. They should not be in this House if they do not understand the system. Let us have no more of that silly nonsense.

It is interesting that Labor members have made one or two contributions in this House on Bills dealing with electoral matters. They speak so infrequently on all manner of other business going through the Chamber. We could count on the fingers of one hand the contributions of the total Labor back bench during this session on any number of motions and Bills. They have the right to speak in this place, the same as does any other member, but they choose not to or are told not to. However, they will speak in debates on so-called electoral reform. It is about time the Labor Party did itself a service and did a service to the people of Western Australia by reverting to the previous system with respect to proposed changes to electoral practice; that is, all the parties should come together informally to talk out the problems and decide for the art of the possible, what would be acceptable changes. That has happened and cannot be denied. It happened in 1963 and 1964. Legislation ensued which brought in changes to the Electoral Act. Those changes came into effect for the general election of 20 February 1965.

Hon. J. M. Berinson: You are referring to the basis of the present gerrymander, Mr Ferry.

Hon. N. F. Moore: Which was supported by your party.

Hon. V. J. FERRY: It was supported wholeheartedly by the Labor Party. That is on the record too.

Hon. Lyla Elliott: Not wholeheartedly. It had no alternative.

Hon. V. J. FERRY: Hon. Garry Kelly referred to crooked and corrupt boundaries and said that since its inception the Parliament had crooked and corrupt electoral boundaries. The Labor Party was party to that. The Labor Party and all other parties that have gone through this Parliament have been party to that system. The Labor Party has been in power from time to time and has set electoral boundaries.

Hon. J. M. Berinson: And how often has it had a majority in this House to carry through its electoral measures?

Hon. V. J. FERRY: The Labor Party has been in power and has brought in electoral Bills. It did not suit its purpose to change the boundaries of electoral provinces in the goldfields area prior to 1963-64 because it had a number of seats there in a diminishing population. It hung on to those seats. Of course it did. There was not a peep out of the Labor Party when it had the balance. It is completely hypocritical to talk that sort of nonsense. Labor Party members talk with forked tongues. Their performance does not tally with their rhetoric. Their performance is absolutely absymal.

Hon. Gordon Masters made an excellent contribution tonight. I do not propose to cover the full ground that he so ably covered; but I want to record these remarks because we hear so much nonsense about contributions made in this House and about members playing or not playing their parts in a House of Review. Members opposite know it, but it should go on record that it is not the Opposition which does not contribute, but the Labor Party because of its system. It was said that this is a brick wall House or a rubber stamp. The only members who do any rubber-stamping in this House are the members of the Labor Party who rubber-stamp Caucus decisions time after time. That cannot be denied. Members of the Opposition parties, whoever they are, use their judgment and vote accordingly. That has been put on record over the years and can be easily checked.

Mention has been made of the blocking of Supply. As we all know, Supply has never been blocked in this House. I was a member of this House when there was—

Hon. J. M. Berinson: So what do you want to retain the power to do it for then?

Hon. Garry Kelly interjected.

Hon. V. J. FERRY: Shut up!

I was a member of the House at the time there was great pressure for this House to refuse Supply. Labor members can laugh. They think it is funny. They are not serious about the Bill before the House. They think it is a great giggle, but the point is that I voted for Supply, as did other members of this House, when the Tonkin Government was in power. I think the year was 1972.

Hon. J. M. Berinson: Would you undertake always to do so?

Hon. V. J. FERRY: No.

Hon. J. M. Berinson: That is your answer.

Hon. N. F. Moore: And that is why it needs to stay in there and you know it.

Hon. J. M. Berinson: I appreciate Hon. Vic Ferry's honest answer.

Hon. V. J. FERRY: That power should remain in the House as another plank in the democratic system to protect the interests of people of this State. It has never been used. There was not a good enough reason in the 1970s for me to vote for the stopping of Supply. There was not a good enough reason for any other member in this House to stop Supply.

Hon. Garry Kelly interjected.

Hon. V. J. FERRY: I did not catch that inane interjection.

Hon. Garry Kelly: If Parliament had not been prorogued in 1971, I bet you would have blocked Supply.

The DEPUTY PRESIDENT (Hon. P. H. Lockyer): I advise the honourable member to ignore the interjections.

Hon. V. J. FERRY: I agree, Mr Deputy President, that the interjections are not worth replying to.

I cannot support this legislation, because it tries to achieve the unachievable. It is about time the Labor Party realised certain facts. I feel sorry for Mr Berinson, the Attorney General, who has been saddled with this sort of legislation ever since Arthur Tonkin became Minister for Parliamentary and Electoral Reform. He has bowled up Bill after Bill to the Parliament, in each case knowing that that Bill would not have a snowball's chance in hell of getting through. Nevertheless, he has still saddled this unfortunate Attorney General with the problem of trying to deal with the legislation in this House. It is most unfortunate indeed, and I feel very keenly for Mr Berinson. It is not his fault; he is part of the machine. The main cog is Arthur Tonkin and the Labor organisation.

I cannot support the Bill.

HON. J. M. BROWN (South-East) [7.56 p.m.]: I support the Bill. I do so perhaps for reasons different from those so capably put forward by my colleagues. I pay particular tribute to Hon. Garry Kelly for his research and contribution. I was rather surprised at the contribution made by Hon. Vic Ferry, for whom I have a high regard. He suggested that the feelings held by the Australian Labor Party in this Chamber in regard to the operations of this Chamber are always suspect. It is always very difficult as a member of the Government to want to make a contribution to debates because one feels much more comfortable saying nothing because one knows that no matter what one says it will fall on deaf ears.

On numerous occasions I have suffered the indignity of hearing Opposition members say to Ministers of the Crown that they would be interested to hear what that Minister will say following the second reading debate so that they may decide whether or not to support the Bill. That is really a veiled threat. I believe that section 46 of the Constitution Acts Amendment Act always hangs over the Government. The admission of Hon. Vic Ferry that he would block Supply if he thought it was necessary indicates the reason for my concern about the possibility of such a situation. Therefore, it is only right for any Government, Liberal or Labor, to want to have the opportunity to know that at least the popular House can govern in accordance with the wishes of the people.

We have always considered this Chamber to be equal to the other Chamber. However, if we consider it in depth, we will find that we are more than equal to the other Chamber in so far as we can refuse Supply. That exemplifies the trauma faced by the John Tonkin Labor Government and the previous Hawke Labor Government and the trauma which now faces the present Burke Government.

I honestly believe that members, particularly members of the Liberal Party, are just as concerned as we are about the situation that exists in this Chamber. There may have been some comfort when the National Country Party held the balance of power within the Chamber, when Hon. Les Diver was President because of the support he received from the Labor Party members. The same situation applied to the then Chairman of Committees (Hon. Norman Baxter). This enabled debates to take place which did not have the same ramifications as the debates we now have in this Chamber. That situation has been changed completely and I say to members of both sides of the House that this is not a reflection on the President of this Chamber. I am of the opinion that he does a fair and competent job as the President of the Legislative Council. He is certainly mindful of his responsibility to Ministers of the Crown and the operations of the Government.

If members would care to look at the manner in which I am presenting the situation, I think they would agree sometimes we on both sides of the Chamber have been misdirected in what we should do, perhaps by some of our colleagues. We do not have a firm grip of what this Chamber is all about. I have had the opportunity of working with members of the Liberal Party, and I acknowledge that we have

demonstrated a useful purpose, whether it be on Select Committees, the Standing Committee on Government Agencies, or any other matter that might come before the Chamber. I think we have demonstrated a willingness to tackle problems in the best interests of this House and State.

It gave me no joy to support the resolve within my own party whereby we would not continue to participate in the Standing Committee on Government Agencies; but one can only stand so much for so long. I would ask members opposite to look at the situation as I see it. If there is a dispute, a Conference of Managers can be appointed. I have only ever been involved in one conference which effectively resolved a situation. However, that is not the answer to our problems. The answer is an opportunity for votes of equal value—I do not intend to canvass that area—and for a democratically elected second Chamber.

I thought the Leader of the Opposition was allowed a great deal of licence when he spoke on the committee system. The matter is presently before the Chamber. All I want to add to that debate is that this is the direction that we should be taking in legislative review to bring about an effective Chamber. I cannot ever see us becoming an effective Chamber unless in the first instance, we have electoral reform, and in the second instance the cooperation exists that has been demonstrated can exist. If we were truthful with each other we must admit that we all know what is going to happen in the next few months; there will be an election. I think it is up to the members of this Chamber to resolve what we think should be right. Because of the situation that prevails, there are only two alternative systems that can apply; that is, of course, one of solving parliamentary deadlocks in the first instance, and the other alternative is proportional representation.

If we are to stand up and be counted, members in this Chamber from all political parties will accept that proposition and be much happier with their responsibility of working within the Parliament. The denigration accorded to this Chamber will not be a comfort to members. I know the calibre of people within this House and I am confident we will resolve the situation long before the time limit proposed by Hon. Garry Kelly.

I was on the committee to organise the celebration of 150 years of operation of the Legislative Council since its inception on 7 February 1832. I had a certain amount of trauma as a member of that committee, but I was there because I felt that if we did not make a contribution and apply ourselves we would probably be ostracised and excluded from knowing the true basis of what Parliament is about. It was a responsibility for me to be on that committee which Hon. G. C. MacKinnon so successfully chaired; and his experience and knowledge at least brought the records up to date in Western Australia and gave us an insight into what the business of Parliament is all about and how it started. That was one of the traumas I faced as a member of the ALP and I have had a few more since then.

It gives me no joy to make what I believe is a worthwhile contribution and then to be ridiculed within the political arena for taking steps towards a complete change to the Legislative Council. With that change will come tremendous benefit. I urge members to look at section 46 of the Constitution. If we want this State to progress, I do not think any Government of any persuasion should have the threat of the rejection of Supply hanging over its head.

Debate adjourned, on motion by Hon. Margaret McAleer.

LOCAL GOVERNMENT AMENDMENT BILL (No. 2)

Second Reading

Debate resumed from 22 October.

HON. P. H. LOCKYER (Lower North) [8.09 p.m.]: The Opposition welcomes this type of legislation that enhances the status and operation of local government in Western Australia. The Opposition has always recognised that this type of legislation includes many matters that are strongly espoused in the individual councils around the State and, by the three local government associations. This is true of the proposed changes in this Bill and particularly those changes that grant more autonomy to local government.

We in the Liberal Party recognise that a wide range of services are best suited to be provided by local governments. Philosophically and practically we believe that the closer a decision is made to the source, the better it seems to be. This is particularly true with governmental decisions made in a great big State like ours, with so many diverse regions in respect of geography and economic development. One can barely recognise the true extent of the tremendous diversity of this State until perhaps one takes note of the differences in population.

We have 139 local authorities in WA. The largest population is in the City of Stirling, which has 170 000 people, making it one of the most populous in Australia. The smallest happens to be in my own electorate and is the Shire of Sandstone where we find 130 people, and it is the least populous local authority in Australia.

Hon. J. M. Berinson: Is it growing?

Hon. P. H. LOCKYER: I am glad the Attorney is interested. It is growing, although not at the generally recognised rate of population increase in Australia. It is expanding thanks to mining and other activities in the area. As my colleague, Hon. Norman Moore, says, it is a very pleasant place.

The largest local authority in area is the Shire of East Pilbara, which covers nearly 400 000 square kilometres, making it the largest shire in Australia. The smallest in area is the Shire of Peppermint Grove, which covers one square kilometre and is the smallest in Australia.

When we consider revenues, the City of Perth in 1981-82 received a total revenue of $35.1 million. The lowest revenue received was at Wandering which, in 1981-82, received $254 000.

In 1981-82 the highest rate revenue was $16.6 million for the City of Perth. The lowest rate revenue was for a shire in the area represented by Hon. Norman Moore and me, and that was the Shire of Upper Gascoyne where, in 1981-82, the revenue was a mere $13 300. One does not need to be terribly well educated to realise that every dollar spent here, such as moneys coming from the Grants Commission, needs to be passed on to Shires such as the Shire of Upper Gascoyne. It is vital that we provide a mechanism which enables all local authorities—big or small, rich or poor—to function to their maximum.

Members of the Opposition acknowledge the outstanding contribution made individually by local government councillors, bearing in mind that they receive no remuneration for their efforts. In fact, not only do they receive no reward but, indeed, the contrary is the case and they incur expenses. Local government councillors often take on their duties to the detriment of their businesses and their family life; they are hurt both personally and socially. There is nothing more parochial than a small town facing a decision that does not suit everyone. We in the Opposition also commend the work done by local government employees, ranging from executive officers or shire clerks through to all the people such as those who operate the machines working on the roads. They all do a first-class job.

I will go on now to deal with some of the specific items as they are mentioned in the Bill.

The first amendment is found in clause 3, which amends section 41 of the principal Act. The clause will allow councils to use two rolls, a residents roll and an owners and occupiers roll, for the purposes of elections, as provided for in May 1985. In future, if the Minister is satisfied that it is not reasonably practicable for a council to compile a consolidated roll—as is now required for the 1986 election, as a result of recent amendments made by the Labor Government—he may allow the council to use the old roll. We are very interested to learn what factors will satisfy the Minister and how generous he will be when he comes to make a decision. Will he grant approval on consideration that the council will consolidate its roll in the future, or will he grant it more often? A lot of councils have already indicated that the requirements of the May 1985 Bill were too difficult to comply with in trying to produce a consolidated roll.

A further amendment is in clause 5 and its intention is to repeal section 66 of the principal Act. It relates to councillors who have not paid their rates and provides that they will no longer be disqualified from sitting as councillors. It is now possible for people who are not ratepayers to vote at local government elections and also to stand for council. It is ridiculous that a sitting councillor should be disqualified for non-payment of rates when non-ratepayers may be elected to council. We agree with the amendment. We cannot have two classes of councillors where one is disqualified for not paying his rates and another is not disqualified although he is not a ratepayer.

Clause 6 amends section 100 of the principal Act by bringing forward the present 8.00 p.m. closing time for local government elections to 6.00 p.m. This will greatly increase the possibility of election results being declared on election night, something which is desirable. Apparently, in some country areas very few electors turn up after 6.00 p.m., so this is a reasonable amendment. Even though our party queried this change it was persuaded by the vast majority of councils throughout the State to agree to it. Notwithstanding that recently, on another Bill, we rejected a similar closing time change for State Government elections, we are

satisfied that there is a vast difference between local government and State Government elections. We support the amendment.

Clause 11 inserts new sections 157A and 157B into the principal Act. This amendment relates to the delegation of a wide range of functions to council officers, and this will allow for faster administrative practices, which we support. Community complaints are widespread concerning delays in local government administration when many councils meet just once a month. This amendment will allow councils to delegate certain duties to council staff so that many delays will be avoided. Many matters are specifically excluded from delegation, and councils can determine other matters which they might be prepared to delegate. As the Opposition agrees with the Government that time is money, and that this amendment will remove frustrations and delays in council administration, we will support this amendment.

Clause 12 amends section 160 of the principal Act, and will allow for the appointment by a council of an unqualified officer temporarily, for less than three months, as a clerk, treasurer, engineer, town planner, or building surveyor. For example, if a shire clerk is to be absent for a short time and the deputy shire clerk is unqualified, ministerial approval will not be required for the council to appoint him to act temporarily as shire clerk.

This quite rightly should be the province of the council. This clause tidies up the situation, and we support it.

Clause 13 will allow the annual electors' meeting to be held without the auditor's report on the annual financial statement. A number of councils seek ministerial approval each year to hold their annual electors' meetings without an auditor's report. In order that the meetings are not held too distant from the end of the year, it is proposed that a meeting shall be held within 60 days of the receipt of the auditor's report. We go along with that. In the Bill introduced in another place, the time period was 30 days, and I am pleased the Government has accepted an Opposition amendment in that House to extend the period to 60 days.

Clause 16 covers an area which has been dealt with in this House before and which caused some spirited debate. I have no doubt that at least one of my colleagues will have something to say. It is a new clause giving councils the power to impound goods under strict conditions when street by-laws have not been met. As most members will be aware, this power has been sought by the City of Perth, and I have no doubt that in future the City of Fremantle, if it has not already done so, will be keen to bring pressure on the Government and the Minister to have that council obtain this power. The present confiscation power under section 244(2) of the Act requires a council meeting to act on each case. It does not specify how it should be done and such action could work against the traders when the goods are held under circumstances which are not defined or are disposed of in an unspecified manner. This new proposal clarifies the position of both the council and the street trader. It will be fairer to both sides if the Act is precise and clear. It is an area we have studied closely. The power is only to remove and impound the goods; only a court can confiscate them.

Clause 17 provides councils with the power to approve eating facilities in streets and other public places. This is a new proposal. We understand Fremantle allows this at the moment, and now the City of Perth has a keen interest in the matter. Many restauranteurs have brought to our attention the fact that they have proposed that councils should have this right, but councils cannot give approval because they do not have any power to do so. The Bill makes clear that the locations will be on footpaths, verges, and public places. We believe this is eminently suitable for Perth and other parts of Western Australia because of our great weather, and certainly with the coming America's Cup and the increasing tourist trade it is something we should support.

Clause 18 substitutes, in section 266 and other sections, the words "ministerial approval" for the present terminology of "Governor directs". We believe this will make for speedier decisions, but the basic decision will still be made by the same person because Executive Council papers are based on the Minister's decision. This obviates the necessity for the Department of Local Government to prepare the Executive Council material and, following approval, material for the *Government Gazette*. It is really a streamlining of the Act to overcome time-wasting procedures for the Department of Local Government, and it should free up those areas so the time can be better spent.

Clause 25 gives the Opposition some concern. We would need some careful explanation here to prevent our looking at amending this clause by taking out some part of it. The clause gives a council power to establish, operate, and

manage theatres and buildings for the provision of community welfare services. The part relating to the provision of community welfare services concerns us. We support the proposal in regard to theatres because such a facility already exists in areas such as Geraldton. That was apparently approved under section 529 of the present Act.

We are not prepared to agree to the provision of buildings for community welfare services, nor do we believe local government should have the unrestricted power to provide community welfare services without there being a definition of what those services are. We believe local government should have a minimal involvement in welfare areas. Welfare is strictly a department by itself to be administered by the present State and Federal departments responsible for it. We are opposed to any triplication in areas such as this. It opens the door for empire building to go on in some local government areas, notwithstanding that councils would probably do a good job.

Hon. Garry Kelly: They are closest to the people.

Hon. P. H. LOCKYER: If the State and Federal Governments said they would hand over welfare services to local government we would perhaps give this proposal a better hearing. I am inclined to agree with Mr Kelly that local government is closest to the people and maybe welfare services should be in its hands. That is not the case at present, and it concerns us that part of this clause will enable local governments to provide community welfare services.

We would be very keen to hear from the Minister how many councils have approached the Government or the Department of Local Government seeking the right to provide these services. We would be interested to hear which are the councils and keen to find out how and under what conditions the services would be funded by councils, whether in whole or in part. The Minister should prove the case of the need for councils to provide these services because in many areas, certainly in the north of this State, community welfare services are a separate department administered by the State and Federal Governments.

Hon. J. M. Berinson: Do you see any objection to their having a discretion to make up their own minds?

Hon. P. H. LOCKYER: I will be interested to hear the Minister's argument. It seems a strange clause to us; it is strange that local governments should want to get involved. I will be interested to hear the Minister's comments on that point.

Clause 26 caused us a small amount of amusement. It amends section 480 of the principal Act to give landowners the right to kill goats, pigs, birds, and poultry trespassing on land after they have given proper notice to the animal owners. The exception is that the Governor cannot exclude certain kinds of goats. The Minister might like to explain to us why the Government has had this power in the past and particularly if it was ever used.

Clause 29 seeks to amend section 513. Up until now the Minister's approval was needed to authorise the payment of expenses relating to a councillor travelling interstate or outside Australia, or for a partner's expense. Up until now my party sought to continue to include these restrictions on those specified circumstances concerning councillors' travelling expenses. However, it is our desire to support maximum autonomy for council decision making. In this case we will support the councils being given the power to make up their own minds what travel expenses are justifiable and appropriate. In my early days as a councillor of the Shire of Port Hedland, the council, at short notice, sent a councillor to Singapore because of a very important conference concerning gas coming ashore in Western Australia. The council had to go through quite a lengthy rigmarole in order to gain ministerial approval. It was a degrading experience. I might say that at that time the Liberal Party was in Government. Notwithstanding that, it has always been my view that councils have the right to make their own decisions on how money should be expended. After all, they have ultimately to face their electors and ratepayers. If they spend money wrongly they will be judged accordingly.

Clause 30 amends section 513A. It gives councils the power to organise and conduct celebrations whether they be of local, State, or national significance. Councils have been doing this since their beginnings. The Australian bicentennial celebrations are imminent. This is an area which should be the prerogative of individual councils. For that reason we support the clause.

Clause 31 amends section 514A. This section relates to the power of councils to acquire land for resale. It changes it so that ministerial approval is substituted for Governor's approval, otherwise the existing criteria for controls

stillremain intact. The process is streamlined and speeded up, and for that reason we support the clause.

Clause 32 amends section 514B. This clause causes the Opposition concern. This is a new power which provides that a council may construct, on land acquired by it for the purpose, shops, offices, showrooms, warehouses, factories, or similar commercial premises for the purpose of letting on lease. There are some qualifications about which the Minister is no doubt aware. The first qualification is that the premises be for local benefit, with no reasonable prospect of the demand being met otherwise. There is no restraint of ministerial approval as in the previous clause 31 dealing with a council acquiring land for sale. Under section 278, a council, without ministerial approval, may acquire land for a municipal purpose, then erect a building as above and then lease. I would be keen to hear how many councillors have applied for power to do either of these things. This is our view of "State" trading and we are concerned. These buildings should be developed by free enterprise. There may be special reasons, though, that the Government proposes to extend this ability to local government.

Clause 34 seeks to amend section 528. The clause gives councils the power to appropriate 10 per cent—compared with five per cent previously—from its ordinary revenue for a reserve fund. For the council to exceed five per cent at present needs special authorisation at an electors' meeting. In this day and age 10 per cent seems reasonable. For that reason the Opposition supports the clause.

Clause 35 seeks to amend section 530. This clause empowers councils to expend funds to establish, maintain, and subsidise, without ministerial approval, doctors' surgeries and buildings and equipment for the provision of emergency services. Under section 530 of the Local Government Act, councils can establish and maintain a long list of functions, but they cannot build a doctor's surgery, although they can subsidise a doctor's salary. This clause seeks general power for each local authority. It is quite important in some areas. For instance, in the early days in towns like Port Hedland, if local councils had not provided doctors' surgeries it would have been up to the local mining company. The question could then be asked whether that surgery was for use only by company people or whether it was for use by all and sundry. A number of councils have applied to the Minister through section 529E to gain approval.

The Opposition generally supports the Bill and will certainly be supporting the motion for the second reading. It will have more to say in the Committee stage. I will be particularly interested to hear the comments of the Minister on the matters that I have raised. His comments will be taken into account.

We support the Bill.

HON. G. C. MacKINNON (South-West) [8.38 p.m.]: In the main I am prepared to go along with what Mr Lockyer said. However, there are a couple of matters on which I will not. A minor concern relates to clause 25 which allows for civil welfare work. I remind the House that the first of the poor laws was passed by Queen Elizabeth I. They empowered local communities to look after their own poor. About nine years ago I wrote a paper for the Federal Government suggesting that it should do the same thing again. I believe, with Hon. Garry Kelly, that that would be a good idea.

After the last war, one of the most successful methods of alleviating hardship was that used by the now Department of Veterans Affairs which established small committees in virtually all towns except the very small ones. Certain amounts of money were lent by these committees, with or without interest, to ex-servicemen who ran into difficulties. I believe that a similar sort of operation should apply today with local authorities.

I am a little sorry that one or two people have been moved into the Ministry because the other question I wish to talk about relates to a clause of the Bill to which I take very, very violent exception.

The treatment of hawkers proposed in this Bill is absolutely disgraceful. I suppose that people will say that I am exaggerating, but I am not exaggerating because I lived through the time when the totalitarian Governments of Europe started—by picking out individual groups and hounding them in an absolutely dreadful way. As you, Mr President, would be well aware, I have opposed this attitude towards hawkers over the years, and I have had a few mates. Indeed, when the last matter came up in this House I was able to get the assistance of Hon. Peter Dowding. I am sorry that he is not here, because he would vividly recall what he said about this matter. Hon. Bob Pike was handling the Bill. Anyone wanting to look it up can refer to *Hansard*, volume 2, of 1982.

Hon. Garry Kelly: June Craig introduced it.

Hon. G. C. MacKINNON: I raised the matter in the party room. Mr O'Connor said, "You are the only one against it." I said, "I am not quite as good as he was, but Christ was the only man who believed in christianity when He started." But the end result was that that Bill was withdrawn. People appreciated that it was an unconscionable measure. I am deeply hurt that Mr Lockyer passed the matter off in the way he did by saying that only the court can confiscate the goods. Where does the honourable member live? One has only to put one's foot on a bit of silver jewellery and it is confiscated far more effectively than any court will ever confiscate it.

I hope that some members saw the heading in the 23 October edition of *The West Australian*: "Arrest likened to a nazi operation". It is all very well to smile or laugh or giggle and say, "Here goes MacKinnon again." I have lived through those times and I have lived to see the day when kids ask, "What is Belsen and what is Auschwitz?" Never in my wildest imagining did I dream that would happen. According to the article referred to, about 15 people were there to confiscate the goods from Mr Heslington. The second time they had to take him because all the goods he had on sale were on his person. Like a dirty postcard seller he had them taped inside his coat. They had to arrest him; and the Government goes along with that.

Hon. Philip Lockyer said that Fremantle would have to do the same thing with hawkers. I have a cutting which sets out what Fremantle will do. It is headed, "Better deal for Freo traders" and it states—

> Street traders will get a better deal in Fremantle under a proposed new by-law.

Members can read the article for themselves. I am very pleased with it. When June Craig introduced the legislation to which I refer—as you, Mr President, will remember, as will Mr Pendal and Mr Wells—a group of people thoroughly agreed with me when I suggested that two problems were associated with street traders. It must be borne in mind that I have lived in the country all my life. I have seen the days when my mother could not get a decent length of material unless the hawker came past the door bringing it. He used to show her some samples and she would get a good length of material. I know how valuable hawkers, or street traders, have been to the whole fabric of life in Western Australia.

There are two problems. First, there is the health problem. A street trader selling fish or something like that has to comply with certain regulations. The second problem is the one that the shopkeepers talk about: paying rates and taxes. I suggested that the licensing of hawkers should be taken away from local government. It is absurd that it is left with local government because a hawker who wants to move around the suburbs or the country has to get perhaps 10 or 20 licences. Thus, hawkers ought to be licensed by an authority. At the time of the earlier legislation, I suggested the Health Department. We could not persuade Hon. June Craig about that. Perhaps there is a lesson in that; I do not know.

I suggested that rules ought to be laid down, that sites ought to be positioned properly so they they could be properly controlled, and that fees commensurate with water rates and other rates paid ought to be charged. For an area of, for example, two square metres the fee might have been $12 000. People are prepared to pay $25 000 in the middle of the Mall in Perth. I think $12 000 would be outrageously high. Let us make it a figure that the smaller shop pays, probably $8 000 or $9 000. I know the figure is not that high because I happen to own a shop and know what it pays. The street traders are prepared to pay reasonable rates. Here we are, a party purporting to be considerate of the underdog and thoughtful of the poor, bringing in unconscionable legislation.

Hon. Fred McKenzie: But has that proposition been put to the Perth City Council?

Hon. G. C. MacKINNON: Of course it has. I will read what Fremantle is doing so that the honourable member can see why I am quite proud of the proposition. The article headed, "Better deal for Freo traders", states—

> Fremantle City Council administrator, Phil Robb, said the new by-law encouraged street trading rather than restricting it.
>
> "Most other municipalities follow the City of Perth's street trading regulations but they are too narrow and restrictive."

So I am not the only one who thinks that. I am sure that secretly Mr Berinson would thoroughly agree with me. It continues—

> "We have a completely different attitude" said Mr Robb.
>
> "We want to have street stalls, so this new by-law will lay down new licence charges for different parts of the city, rather than banning traders from certain areas," he said.

> Stallholders on the foreshore or in the central business area of the port will be asked to pay $2 000 a year for their stall—

That is a pretty solid rate, so the shopkeepers cannot object that they are not paying a reasonable amount. To continue—

> —or part thereof for the number of days they require.

Many of these fellows tell me that they could do with one square metre. They would like two square metres, but could get away with one square metre.

Hon. J. M. Berinson: Have they indicated whether they are going to restrict the number of licences?

Hon. G. C. MacKINNON: I will just see what the article says about that. It continues—

> Stalls in the central city but off the main streets, will cost $1 000 and elsewhere in the municipality the licence will be $500 a year.
>
> "This should quash the arguments against street traders that they do nothing to contribute to the maintenance of the city," said Mr Robb.
>
> He said it would be easier for traders to get licences but the council would also have a greater measure of control.
>
> "At the moment, if people are trading illegally, all we can do is issue a summons and, if we get them to court, they can be fined $100.
>
> "So of course people flout the law.
>
> "There is a trader in the High Street Mall who was issued with a summons every day for about two months, then, just before he was due to go to court, he went back to the Eastern States and somebody else took over his stall, so we have to start all over again," he said.

I know that happens. The article does not say, but I imagine Fremantle City Council would certainly restrict the number.

Let us look at what happens in other parts of the world. A couple of months ago I happened to be walking with Mrs MacKinnon past Radio City in New York. Somebody shouted out, "Oh, there's someone from Australia." They knew that because I had a bag over my shoulder with the flag on it. A young girl jumped off a wall, ran across and flung her arms around Mrs MacKinnon, telling her that she had taught her to dance. She was a Bunbury girl. Naturally enough, it was old home week in the middle of New York. Two of the four young people said they had to go because they had a stall. We walked up with them and they got their barrows. They wheeled the barrows out and we stood around and had a cup of coffee and a bun, or whatever it was.

In New York, that is perfectly legal; it is passed by the health authorities and licensed.

Hon. J. M. Berinson: I think you might be wrong there. I think it is illegal but not enforced.

Hon. G. C. MacKINNON: Whatever it was.

Hon. J. M. Berinson: It is a bit different.

Hon. G. C. MacKINNON: There was no harassment from the authorities. Not a lot of police were around.

A member: Was the street wider than the Mall?

Hon. G. C. MacKINNON: No, many streets in New York are quite narrow. It is a vibrant, exciting place. If one has an opportunity to go there one should. One should not listen to any fairy stories one might hear.

Hon. J. M. Berinson: There is so much crime the police cannot spend time rounding up hawkers.

Hon. G. C. MacKINNON: I did not go down the back alleys.

One can go to Sydney. A special section is set aside for a market, so the street traders can go in there. They do not have to be there day after day. The same thing happens in Melbourne.

Mr Piantadosi and Mr Edwards would recall being there. We want to look at this. These are exciting places with stall holders selling all sorts of stuff. Some things are bargains, some are not. Surely in this day and age we do not want the sort of behaviour referred to in the article.

I remember Mr Ron Thompson sitting here calling the Liberal Party members Nazis or something. Members should read what was said; it is fascinating.

I am suggesting there are other solutions to the problem. If all the solutions have been exhausted, that is fair enough, but Fremantle has a solution. Why not try that one?

Hon. J. M. Berinson: Does it indicate what Fremantle proposes to do with people who do not take out a licence but still engage in the activity?

Hon. G. C. MacKINNON: No. They abide by the law, I guess, whatever that is.

Hon. J. M. Berinson: What is it?

Hon. G. C. MacKINNON: If the law is reasonable, one hopes fewer people will break it. I have spoken to these people. In times gone by I have been from one end of the streets of Perth to the other. I have spoken to all these people. Some street traders have actually bought a right of way and no-one can move them. If the laws are reasonable, people do not want to be harassed, they will abide by them.

These people say that if Perth would only set aside a little area they would be happy with it. I asked some of these fellows what would happen if the area was near the blood bank. They said this was a little out of the way, but if they knew the area was there they could advertise it, dress it up, and they might be able to raise a cover. The markets in Sydney and Melbourne are covered. There could be an organisation like that in Sydney where one must have a number. One's number eventually comes around.

Somebody should get down to tintacks and make some proper rules. Members opposite might say I was a Minister long enough, why did I not do something about it? I was not in that area of operation. It is not for want of trying. They could say the same about the present Minister. Again it would not be for the want of trying. We do not know how hard the Minister has tried over the years to achieve some reasonable solution to that problem.

These people I saw are family men. They are not fly-by-nights. They want to find a way to make a living, and it ought to be possible. There should be some way to mark out an area, say two metres by 10 metres, put someone in charge of it, and anyone who goes there has to pay whatever the fee may be.

Hon. J. M. Berinson: Under that system you would expect registration by numbers, I take it?

Hon. G. C. MacKINNON: Yes. They do it everywhere else. Everywhere else they have registrations. In Sydney one applies and is given a number. One must go along. If one's number does not come up one does not get in. Under the main gate outside Central Park in New York one must apply, supplying two or three character and finance references. Samples of work must also be submitted. Depending on the quality of one's work—they are mostly art and craft stalls—one might be given a week or a month in the year. If one gets a month one is made. It means one's stuff is of absolutely superb quality.

There are restrictions, but nobody dreams of barging in in that locality. I do not know if it is legal, but those are the rules. They have these stalls. They make incredibly good stuff. I have several samples which I bought there so I know what the quality is like. It really is very good stuff.

Sure, there are rules, but it is not left to an individual local authority to make some horrendous rule or to suggest it, and for the Government to come along and have these people objecting and trying to avoid the rules and all sorts of things.

It might be interesting for the Attorney General to check on the possible cost of pending law suits at the present time *vis-a-vis* the Perth City Council and the street stall holders. The Perth City Council will be many thousands of dollars down the drain by the time the exercise is over. It will be sorry it ever started.

I am terribly disappointed that we—I mean members of this House—were not able to persuade Hon. June Craig to take this action when we tried. I am glad we were successful, with the help of the Labor Party, in circumventing Hon. Bob Pike when he tried to bring in the law. Perhaps if members cast their minds back they will remember that.

I had the assistance of Mr Hetherington, Mr Dowding, and the rest of the members, and we stopped it in its tracks. We reported progress, asked leave to sit again and never did.

Hon. Fred McKenzie: This legislation is different, is it not?

Hon. G. C. MacKINNON: Mr McKenzie should know better. Let me read this out. It reads—

> A SENIOR fire-brigade officer contended yesterday that the arrest of street trader Norm Heslington in the Hay Street mall was reminiscent of nazi Germany. Supt Ron Harley said that about 20 policemen and 10 private security guards were involved in the lunchtime arrest.

Does this not make one's blood run cold? It should. To continue—

> Another senior brigade officer and four brigade personnel who were with him were equally shocked by what appeared to be a well planned operation.

This article is by Cyril Ayris in *The West Australian* of 23 October. It continues—

> Heslington was charged with disorderly conduct and will appear in the Perth Magistrate's Court on Friday.

Supt Harley said that tourists and shoppers were shocked at the sight of men in brown shirts arresting one man for street trading.

"I tell you, those security men looked like Hitler's 'brown shirts'," he said.

(The Perth City Council says it was coincidence that inspectors in uniform were involved with the uniformed security guards.)

Supt Harley said: "Those TNT guards seemed to rise out of the ground as soon as the trouble started.

The same article refers to a letter to *The West Australian* by Mr J. Vernau of Carlton Street, Leederville, who said he had witnessed "a most frightening event". He went on to say—

> "While I do not support or even condone the activities of these traders, I was outraged by the use of what is in effect a private para-military organisation for this purpose and I was dismayed to think that I, as a PCC ratepayer, was helping to fund this disgraceful incident," he said.

We all know the Right Honourable Mick Michael, the Lord Mayor of Perth. We know we could not expect to meet a nicer fellow. But I am suggesting that we should be able to find a better solution to this problem of street traders, these people who are not paying any rates and taxes and who are doing the shop owners a lot of damage.

Fremantle has a better solution. The Government ought to be able to find a better solution than the one suggested here in the Bill. If Government members look back in *Hansard* and see their attitude on the occasion I have mentioned, they should agree with me. Purely out of conscience they should be able to find a better solution. Before we proceed to the Committee stage, the Attorney ought to be able to find some way to overcome the more objectionable features of this Bill. We will then all be able to feel a bit cleaner about this measure.

HON. N. F. MOORE (Lower North) [9.02 p.m.]: I will comment on that aspect of the Bill relating to the provision of new powers for local authorities to enable them to become involved in the provision of buildings for community welfare services and to provide such services. I suppose it is understandable, and is caused by the effluxion of time, that this power should be sought to be given to local authorities, because when one looks at Governments, both State and Federal, one finds there is hardly a Government department or agency not involved in welfare. We can consider the Federal Government, where there is the Department of Social Security, the Education Department, the Department of Aboriginal Affairs, and the Department of Housing and Construction. We can find a wide variety of departments and agencies either directly or indirectly involved in the provision of welfare.

The Federal Government makes funds available to the State Government, which also provides welfare services through a variety of its departments and agencies. Initially, at the State level, the Department for Community Services is the most important provider of welfare. When we look at the variety of other Government departments and agencies providing welfare, we must consider among them the MTT, Westrail, and Homeswest. They all provide some sort of welfare service. As I say, it was probably only a matter of time before local authorities were given the power to dispense welfare to their constituents.

My concern is that an enormous amount of duplication already exists in the provision of welfare, and this move will only add to that duplication. I am not being critical in the sense that local government ought not to be given power to be involved in the provision of welfare services. I am of the view that maybe local government ought to be the level at which welfare is dispensed.

I was interested to hear the comments of Hon. Garry Kelly and Hon. Graham MacKinnon, because they said—and I am inclined to agree with them—that local authorities were closest to the people problems and ought to be in a better position to provide meaningful solutions to many of the problems experienced by people in their day-to-day lives.

As the Select Committee inquiring into Aboriginal poverty has been moving around the State, I have been asking local authorities whether they would be interested in looking after the welfare of Aborigines. It has been put to me by a number of people that if this were to happen, Aboriginal people would get a better deal and we might see some value in the welfare dollar being spent on Aborigines. Interestingly, the majority of local councils with whom I have broached the subject have not been inclined to want to accept that responsibility, even though I have suggested that they might be given very large sums of money by the Federal Government to carry out the function. When I am advised that the local

government associations support this Bill and support local government having the power to provide welfare services, it surprises me when I take into account what they have told me about their views on providing Aboriginal welfare.

The PRESIDENT: Order! There is far too much audible conversation, and I ask those members who are indulging in it to stop.

Hon. N. F. MOORE: I hope that local authorities which support the gaining of this power in this Bill are not in support of gaining power to provide services to white people who need welfare but are not interested in providing welfare to Aborigines. The general reaction I got from local authorities was that they did not want to be burdened with the responsibility of providing Aboriginal welfare, so I see a slight contradiction in the views expressed by some local authorities and the views expressed by the associations that represent them when they say that they support this Bill.

I have an open mind on the whole subject, which is one that has been exercising my mind for some time. Having given the matter a great deal of consideration, I am inclined to the view that perhaps the Federal Government ought to make funds available directly to local authorities for the provision of welfare services. From the constitutional point of view, these funds would probably need to come via the State Government. The State would still need to be involved in a coordinating sense and to provide an overview of welfare services. I certainly see no role for the Federal Government or any of its departments or agencies in welfare. The Federal Government ought to extract itself from a whole variety of activities, including education, health, and a number of other areas which are, in a sense, related to welfare services.

I worry about the Bill only from the point of view that it will add to that long list of Government departments and agencies involved in the welfare area. The Bill will expand the welfare base. When we consider the enormous sums of money being spent in Australia by all these agencies in the welfare field I have mentioned, it is quite clear that we are not getting value for our dollar—nowhere near it.

An example put to me is Aboriginal housing which, in many respects, could be argued to be welfare. We have many Government departments and agencies involved, both State and Federal, in the provision of housing for Aborigines. One witness to the Select Committee inquiring into Aboriginal poverty said there were nine agencies involved in this area.

Now we are to have local government added to the list. Perhaps we are getting to the stage where just about every level of government and every department and agency involved in government, will have a welfare component. This all costs money.

There is a real need—not just in Western Australia but in Australia—to rationalise the provision of welfare. I say that because I think the people who really need welfare, the recipients, are not getting as much as they need and yet the taxpayer is paying too much. There is too big a gap between the persons who make the money available and those who actually get it. It is siphoned through the whole bureaucratic maze and eventually a little bit of money drops out of the bottom of the maze for the people who need the money. My real concern, especially in the field of Aboriginal welfare, is that very little money is actually reaching the people in most need. On the other hand, I think Governments are spending enough money—perhaps too much.

This Bill is saying that the next tier of government could also be involved; and, of course, the money must come from somewhere, whether from the council ratepayers, or perhaps they will expect a bigger cut from the Grants Commission—that is yet to be decided, I presume—but they will need some money if they are to become involved in welfare. It means a bigger and bigger take from the taxpayer's pocket.

If Mr Berinson could say to me at the end of the second reading debate that local authorities are getting involved in welfare and there will be a reciprocal cut by the State or Federal Government because local authorities are taking over the role, I would say it is a good piece of legislation; but I fear he will not say that. I fear it will mean that now ratepayers as well as taxpayers will have to start funding duplicated welfare services.

Maybe I am drawing a longbow here, I do not know, but it is the beginning of allowing an enormous level of government—there are 130-odd local authorities in Western Australia—to become involved in a field which has, up to now, been largely the concern of the States and perhaps, to a lesser extent, of the Commonwealth. It really does mean more money will be spent, and more money will have to come from the taxpayers. As well, money will now come

from the ratepayers. I do not think that at the end of the day there will be a significant increase in the benefits derived. Certainly it will not mean we will get better value for our dollar—that will come about only with the rationalised service. Instead of having nine agencies providing houses for Aborigines, when we have one agency providing houses for all people in need we may get some value for our dollar.

The time has come for us to sit down and discuss these areas of concern. I know the former Prime Minister, Mr Malcolm Fraser, to give him his due, set up the Australian Council for Intergovernmental Relations to look at the various levels of government. That review has been going on for some time. But I think it is time we resolved this problem and decided that one level or other of government should be dispensing welfare, and the other should keep out of it. Perhaps local government is the best one to do it—I am not sure, but I think it is. Maybe that is the direction we should take.

I worry about what this Bill does—it adds another level to the areas which spend more and more of the taxpayers' money.

HON. I. G. PRATT (Lower West) [9.14 p.m.]: I restate my position regarding the street traders, and I refer to the points raised by Hon. G. C. MacKinnon. In many ways I could make this speech now and then press the repeat button when we get back to the debate on another Bill before the House.

When my side of politics sat on the other side of this Chamber, I opposed this issue and I still oppose it from this side of the House because I believe it is wrong and that the House should not agree to it.

I am concerned that it is getting awfully hard these days for a person to start in any business—even a person with any basic enterprise. Once it was not difficult for a person with very little financial backing to start farming. However, only today I was talking to a colleague of mine who is entering into a farming arrangement, and when one looks at the amount of money needed to do that, it is absolutely staggering. When my parents first took up their piece of land when they came out from England, they had a horse, a cart, and an axe, and that is about all. One cannot do that these days. A young person trying to get into an established business or property simply cannot do so unless he has access to a lot of money.

A person with some degree of enterprise who wants to get out and do something for himself faces enormous problems. I have a lot of sympathy for the street traders, who do not want to sit back and take the dole. I know some of them are not like that and are quite well established business people, but amongst them are young people trying to get a start and earn a living with very limited resources. Actions such as those being taken by the Perth City Council are denying them that opportunity, and that is why I am so opposed to it.

I was very impressed by Hon. Graham MacKinnon's suggested solutions, and I hope the Attorney General takes him seriously and has a good look at the suggestions he has made. They seem to me to be a way of overcoming this problem.

I do not intend to make a long speech but I do think it is essential to place on record the fact that the opposition I showed towards this measure when it was brought up by my Government is still apparent now that it has been brought up again by the Labor Government. My position remains the same, and it will be the same every time this type of proposition is brought before the House.

It will be a shame if this legislation sneaks through this time. I hope it does not, but my assessment of the numbers in this place is that it might and if it does, it will be a terrible shame. I urge not only the Attorney General to look at the proposals of Mr MacKinnon, but the members of the Government to have a good look at their own position on this matter also. I believe in conscience they should give some support to the street traders, as should people on this side of the House.

When the Bill reaches the Committee stage, I will oppose that proposition.

HON. H. W. GAYFER (Central) [9.17 p.m.]: I agree with Hon. Philip Lockyer that this Bill is mainly a Committee Bill, but there are provisions within the Bill that require a general summary. I come in here after having read the Bill with a philosophical outlook towards it, much the same as Hon. Norman Moore has expressed. In the last few years we have moved from a position of ratepayers being the people elected to spend the money that is being taxed off them in the manner in which they believe it should be spent, as they are the ones who foot the bill. We have moved away from that now, so that members of councils can now be any

electors or any residents in a district, and they are not necessarily responsible for paying the bill for the decisions they make.

It concerns me to see the new measures contained within the Bill. It provides for the provisions of buildings, the provision of community welfare services, and such other services as may be necessary.

If we are not careful, if we had a council that was completely composed of persons other than ratepayers within the community, and they decided they wanted more welfare, more social works, better doctors' surgeries and other things that are now contained in the Bill and made possible by the Bill, they could make a decision to work in that way if they wanted to without any worry as to the cost of the whole business to the ratepayers.

It seems to me that if we are to go to this extent with local government, we are enabling anyone to have a say in the running of that local government. However, only a few people actually pay the piper and it appears to me that possibly we should reconstruct the system under which rates and taxes are brought forward so that it can be based on a *per capita* contribution. If it is on a *per capita* contribution, possibly the method of election that we now have could be more fully justified. Thus I am sympathetic to what Hon. N. F. Moore has said. Although the member has worked specifically with the welfare side of this matter, there are other areas in this Bill to which this could well apply—for example, when we engage in celebratory activities of national, State, or local significance, such as the Australian Bicentennial celebrations and local historical events, or to provide for the maintenance and operation of theatres.

If everyone is paying some of the bill, this is correct. We in this House—and each of us here is an individual part of the taxation system—must pay moneys that go towards the expenses of this place. However, this is not necessarily the case in local goverment because those who pay are not necessarily those who have a say in what goes on. The broadening of powers over expenditure by local government means that the powers are broadened by which councils can collect tax, which the councils are not necessarily supposed to collect. The whole attitude towards local government expenditure is rather frightening. It has not come across yet.

While there is no great movement from the ratepayer councillors to the non-ratepayer councillors, there is a little movement. In time this could reach the stage where we finally must completely alter the Local Government Act to contain all these provisions for welfare, culture, and so on, which the district might not be able to afford. The people who must make the decision to add another increase onto the rates are those who would do so without any regard whatsoever for the ordinary ratepayer and whether he can afford it. The council's aim could be to get the money for welfare services, theatres, doctors' surgeries, and so on.

I am very apprehensive about this matter. I have done my stint in local government, and having done it, I know a little about the trauma of rating and other factors at which one has to look to see whether a district can afford to be rated. If Hon. Norman Moore's area, which has its ups and downs in no uncertain manner, is difficult to manage now, under this legislation it will be a nightmare to manage financially in the future. Local governments in fact leave themselves wide open for people other than ratepayers to take over. I am not necessarily arguing about the advisability of that, but if people other than ratepayers make decisions about expenditure, councils already elected by the people will be at a disadvantage. Ratepayers will have no real knowledge when it comes to finding out where the money has to come from and where it has been going. The concern of country people when they see this legislation being introduced centres around this aspect.

There is no real argument, but there is apprehension by ratepayers who are wondering just where this will end. If we are to follow the system of collecting the rates from that confined area, and only that confined area, and allowing the same to be expended by an enlarged area, electorally it will blow up. The ratepayers will not allow people to stand over them and take responsibility for all that money which has been put into the council's coffers. They are not going to allow people to say, "You don't have a say where your money is being spent; we have got the say." It is not just something which will be impossible to continue in this light.

I believe that while the Local Government Association and the Country Shire Councils Association have agreed with this Bill, they are doing so in this light and they are not looking to the long-term future. That is what I am looking at. One of the most interesting provisions

in the Bill deals with the delegation by a majority of the councillors of certain of their powers to executive officers. In other words, councillors will allow others to speak on their behalf and to act on their behalf. I find that most unusual. It is not going to be opposed by local government but it gives me—"cautious Mick" who says, "What is really behind this?"—some cause for apprehension.

We have had local government in this State since 1873 or 1875 when the first road board Act was introduced. Suddenly these powers are to be given away. I wonder whether we are simply creating and encouraging a bureaucracy within local government, by taking away powers or making it possible to take away the powers of local government and giving them to other people. That worries me a little. I am not saying that the law, as it was, should continue; but I am, I repeat, "apprehensive" of the moves that are generally receiving our support.

If somebody wants to eat in the street, I am not going to stop him, but I consider that with all the flies that are around, particularly in country areas, one had better provide a few cans of Mortein! That is of course provided that people want to eat during the day; after dark it is a bit better, one only has to contend with the moths which are attracted by the light. Whenever city people come to visit me and want to picnic I say to them, "You go down to the creek and have your picnic among the flies and the bull ants; I will stay here in the house."

Hon. G. C. MacKinnon: And the mosquitoes.

Hon. H. W. GAYFER: There is nothing wrong with it, and there are probably some areas near Albany where one could do this sort of thing, except that it is too cold after dark. Perhaps there might be a few more salubrious environs in Hon. Graham MacKinnon's electorate.

The other thing to which I wish to refer is an awkward problem we discovered last year. Some councillors did not have to pay rates, while some ratepayers were not eligible to be on the council because they had not paid their rates. People who did not have to pay rates could not sit on a council, and the Government is proposing to rectify this situation. The reason that provision was included in the Local Government Act for so many years was to make sure that the people who were spending the money were actually contributing to the shire's funds. In order to be eligible to sit around the council table, councillors had to pay rates which were equal to those of other contributors, and only then could they take part in the decision-making role of that council. We have got around this provision very well. When one thinks about it there was no other way to get around it.

This reminds me of the election when Hon. John Tonkin's party was elected to office and he became Premier. One of the problems in my area at that time was the high SEC charges. The people in the country were paying more for electricity than their counterparts in the city. John Tonkin said that if his party were elected to office he would do something about the SEC charges, and they would be the same for everyone. When he was elected the first thing he did was not to decrease the country SEC charges, but to raise the city charges to the same level as that which applied in the country. It was a clever move, and that may have been from where he got his name "Honest John Tonkin". This is a similar situation. In trying to get over the problem the Government is going around it.

I turn now to Hon. Graham MacKinnon's argument about the street vendors. None of us likes to see the poor unfortunates—I do not mean the person who sticks his neck out all the time to make a spectacle of himself. Then Hon. G. C. MacKinnon referred to the inspectors in their brown shirts. I think Hon. Graham MacKinnon referred to them as TNT guards, and because they wore brown shirts they were synonymous with the SS, and in turn they were synonymous with the Nazis. They are not a nice spectacle to see. No member in this House would want to see that sort of thing. We believe that a man who lives in this great Australia should have the opportunity to use his ability to go in whatever direction he chooses. We all want to protect that right.

However, it is wrong when a hawker has the right to go into my local shire area and park his truck outside the shop of the local greengrocer who is having a heck of a lot of trouble making a living. The hawker does not have to pay rail freight and has had the opportunity to go to the market and obtain second-grade products. The local greengrocer has to pay his rates and taxes for the benefit of people who are not ratepayers.

I am not sympathetic towards hawkers who call at farms with various appliances. They do not call at my farm because they think I have a sign stating that hawkers will not be welcome. However, hawkers go onto different farms selling meat, vegetables, and machinery; and by doing so they are competing with the people

who are endeavouring to make a living in the local community. The business people in our towns are important, and I value them as much as I value the farmers on the periphery around the towns.

I think of a shire as a wheel. The hub of the wheel is the town and the remainder of it represents those areas which surround the town. If it is not balanced properly the town will not work in the way it is intended. Therefore, the services which keep the community going will not be able to operate properly. I have seen this happen so often.

Once itinerants are permitted to go into a town and hawk their wares they become a threat to the people who are trying to make a living in that town. I do not care what town it is—it might be Corrigin or any other town in my electorate—because the same thing applies to all towns.

While we all agree that a man should have the right to make a living, I do not believe, and nor do the shire councillors in my electorate believe, that any man or woman has a right to go into a town and stab an established businessman in the back by selling his or her wares.

Hon. G. C. MacKinnon interjected.

Hon. H. W. GAYFER: In Mr MacKinnon's early days one of the things he did was to travel from farm to farm and from town to town selling Singer sewing machines, among other things. I do not begrudge him doing that sort of thing.

Hon. G. C. MacKinnon: I was welcome wherever I went.

Hon. H. W. GAYFER: I can imagine Mr MacKinnon would have been given a cup of tea wherever he went, and instead of visiting eight homes every day he visited four homes only! However, he did it well and he was very courteous and always welcome.

Hon. G. C. MacKinnon: I saw people leaving their towns and travelling to Bunbury to buy their groceries. They wrecked country towns more than hawkers will ever wreck them.

Hon. H. W. GAYFER: Hon. Graham MacKinnon has an entirely different argument from me. Hawkers should not be able to go into country towns and wreck them even further.

I have been travelling backwards and forwards to this place once a week for 23 years, and I have never taken vegetables or anything else home with me. We believe that we should deal in the community in which we live, otherwise we would not have a community. As for those people who travel to the city to buy their goods, that is their business. However, we believe that they are doing wrong and we have sent out circulars to try and encourage the policy of buying products locally. This has nothing to do with the hawker or with this Bill. I am talking about the hawker and the damage he does to people who are residents of and who operate businesses in small country towns.

I intend to support this clause in the Bill and not oppose it like Hon. Graham MacKinnon, Hon. Ian Pratt, and other members who have indicated they will not support it. However, I know that the shire councils in my electorate want this Act tightened up, not for their protection but for the protection of the people in their communities. As a result, the businessmen may get more business and continue to provide a service which the district needs.

There is a lot to this Bill. It has been noted that approximately 25 per cent of the approval powers in the Local Government Act will have been altered during this Government's term in office if these amendments are accepted.

It is quite a creditable performance but nevertheless I am apprehensive about some parts of the Bill. It is giving more and more powers to those who are not contributing financially in any way to their district's welfare to make those who are contributing pay heavily for the privilege of living in the district.

Debate adjourned, on motion by Hon. Fred McKenzie.

ACTS AMENDMENT (POTATO INDUSTRY) BILL

Second Reading

Debate resumed from 22 October.

HON. C. J. BELL (Lower West) [9.41 p.m.]: Before making my comments on this Bill I would like to quote the opening paragraph of the Minister's second reading speech—

> The purpose of these amendments is to provide opportunities to expand the potato industry within the orderly marketing system which was established in this State under the Marketing of Potatoes Act 1946, and to provide consumers with a better choice of varieties and qualities of potatoes.

Those two objectives are worthwhile, but the amendments proposed in this Bill will, in fact, only satisfy one of the objectives. I make that comment after having looked very closely at the provisions of the Bill.

Quite clearly a move is being made, and it is a long overdue move, to allow a much greater opportunity to participate in the industry. That will be done by allowing the accumulation of a licence. It is a worthwhile endeavour.

Before going further I would like to quote some statistics from the report of the committee inquiring into the potato industry in April 1984, which is generally referred to as the McKinney report. It states what has happened under the present restrictive conditions, and members will see what the effects of the present system have been. The Australian average acreage per grower in 1972-73 was 7.5 hectares, and in Western Australia it was 3.9 hectares. I will not go through all the figures, but the latest figure for the Australian average acreage per grower is given as 11.2 hectares for the year 1981-82. The figure in Western Australia for the same year was 4.4 hectares. That quite clearly illustrates that for some reason Western Australian producers have not been able to keep up with the productivity of the industry or that the artificial barriers have been too inflexible to allow efficiencies which could have improved the situation.

Under the proposed amendments to section 19 of the Act, the authority is able to do several things. One amendment allows the transfer of a licence from one producer to another and allows the authority to make a decision to change the licensing structure from an acreage basis to a tonnage basis. Over and above that, provision is made in the Bill to license producers to produce for a processing industry which may be established in Australia, and to allow the licensing of producers to supply overseas markets. These are worthwhile endeavours which will allow those industries to supply a tailor-made product in the right quantities and at the right time to suit those markets.

From the information I have received, it is no use trying to sell Delaware potatoes in Malaysia. They are not interested in that type of potato; they do not want a white potato, they prefer a small, yellow-skinned potato. In Western Australia at present the potatoes exported are those which are surplus to our own requirements, and our requirements are construed to be white-fleshed potatoes. It is self-evident that if an overseas consumer is accustomed to a yellow-fleshed potato he will not be keen to purchase a white-fleshed potato because he will not have been educated in its use and he may find the taste differs from the flavour to which he has become accustomed.

I commend the Government for these changes which will ultimately prove to be of benefit to the industry. There is no doubt that these provisions will allow expansion of the industry in Western Australia. The Bill will allow that expansion to take place although it will not automatically happen. It is up to the industry to seize the opportunity and turn the possibility into reality. That challenge will confront the growers, and I am pleased that they have been given the opportunity to open up this area.

The second objective of the Bill, to provide consumers with a better choice of varieties and qualities of potatoes, is unlikely to occur under the present system. I am not saying that it cannot occur but that it is unlikely. There is no doubt that within the proposal the authority will still be a board and will handle the wholesale potatoes on the basis that it will direct who will plant what, and when, and what they will deliver to the board's store or its nominated packer. Perhaps the system of packers should be considered at a later stage.

From that point, the board will sell the potatoes to a retailer. That is the present structure and no suggestion has been made that it will change. Quite clearly no effective contact takes place between the retailer and the producer. The sole purpose of the board is to provide stability in the industry, and it seems logical to me that, without destroying the structure of the board, provision could be made for a grower to contract to an end retailer through a permit system. That has been permitted under section 25 of the Act since 1974. However, it has never occurred and quite clearly, from the Minister's speech and from the information I have received, it is not intended to happen. The Government should consider that point closely. Unless the consumer has a direct link to the producer, I do not believe it will happen. How can the consumer tell the producer what he wants under the present system in which the board is the bulk purchaser of potatoes and there is no contact with the man who produces the potato?

Hon. Fred McKenzie: Do you think we should have a board?

Hon. C. J. BELL: I have grave reservations about it, but at present I think we should continue to have the board. At some time in the

future we may be able to do without it but that time is not now. However, we can structure the board so that it will more effectively administer the industry.

For example, let us imagine that Hon. Fred McKenzie grows potatoes under licence from the board and a supermarket chain says to him, "We like the potatoes you grow; they suit our purposes and our consumers. We would like to buy your potatoes. We are happy to pay the board's price, but we want your potatoes in particular because we know you will produce the size and the variety we want, and at the time we want." It seems logical that it could be done in that way on a permanent basis, even with a pool system. This has been possible in the dairy industry. The board would say to Mr McKenzie, "You and your retailer can do a deal, but we expect you to return to the pool the normal wholesale price for potatoes which would have been received if we had sold them to the retailer." Mr McKenzie would not be disadvantaged. Obviously he would not sell his potatoes for less than the board price. The retailer would get the potatoes it wanted. It might even say that it would pay Mr McKenzie a better price if Mr McKenzie was able to arrange such a deal. In this situation we would still have a consumer link with the producer but via the retailer. We would not be destroying the statutory marketing concept of a pooling operation. Obviously Mr McKenzie would not sell his potatoes at a price lower than the pool would pay him.

Hon. Fred McKenzie: But the big consumers would get the best potatoes.

Hon. C. J. BELL: Only if they were prepared to pay for them. Mr McKenzie would only sell his potatoes to them if they were prepared to pay the board price or better, otherwise he would sell to the board.

The other side of the coin relates to comments made in another place to the effect that four retailers account for 80 per cent of WA's retail sales of potatoes. If that is so and we have a board price, not many little guys will be left. A lot of the little fellows, however, will be in the fortunate position of being located locally and therefore able to overcome transport costs inherent in the current system. At present we see potatoes from Albany, Manjimup and Busselton transported at substantial cost to central city packing houses, and they are then returned to country regions, again involving freight costs. An obvious saving is to be made here.

Currently, I understand, a "pack-out" system is operating and experiencing problems. Is that an illegal operation under the current Act? Will this Bill retrospectively make that operation legal? I believe that may be so. I understand that the industry supports the introduction of that system, but perhaps we should make sure it is not illegal.

Clause 17 amends section 30 of the principal Act, and this section relates to the potato marketing trust fund. It is intended to change the possible use of trust fund moneys from just providing a market cushioning operation to using it in future for any expenditure incurred by the board, and that could include overhead costs, administrative costs, and transport costs—indeed, any costs incurred through all the stages right through to the delivery of potatoes to the authority. This requires careful consideration.

Last year $800 000 was used in a market support operation. If we change the Act, this amendment could be used to cover up any maladministration. I wonder whether this is a good idea.

Earlier, Mr McKenzie asked whether I thought we should continue with the board, and I indicated that I thought we could. However, early in this Government's life it appointed an inquiry into the potato industry. The McKinney report is available in the Parliamentary Library. However, I believe it is important that some of the report be recorded in *Hansard* because, at some future time, we may wish to look back to ascertain what was included in the report, and *Hansard* is a more likely place for us to search than the shelves of a couple of libraries. I quote from the report as follows—

> 2. Summary of Findings
>
> 2.1 Introduction
>
> The Inquiry Committee looked carefully at the findings of previous potato industry inquiries and studied submissions from many people and organisations associated with the industry. Early in the course of its investigations, the Committee realised that the potato industry in this State is rapidly falling behind that in other States of Australia.
>
> Nearly all of the issues now adversely affecting the industry are related to the structure set up by the Marketing of Potatoes Act. The Act did not anticipate major changes in

technology when it was framed and therefore has not been amenable to progressive amendment as those changes have taken place.

2.2 Findings

Western Australian growers today supply only 71 per cent of Western Australian potato consumption.

Within eight years, Western Australian growers could be supplying only 50 per cent of Western Australian potato consumption, unless a viable processing plant (frozen French fries and by-products) is established.

Retail prices in Western Australia are, on average, 10 per cent higher than in all other non-Board controlled States, although they have been more stable.

The industry is not cost-efficient because of restrictions brought about by licensing, which limits plot size, retains inefficient growers and inhibits mechanisation.

There is no effective market research and promotion to maximise consumer demand.

There is no planned development of markets for the sale of potatoes interstate and overseas.

There is no incentive to develop and produce different varieties to maximise consumer demand.

There is no incentive to produce potatoes of a quality higher than Grade 1.

The present system of pooling grower returns, in accord with the three planting periods, is inequitable to growers.

Black-marketing is taking place due, in part, to the limited opportunities growers have to sell potatoes to the Board that do not meet Grade 1 standard.

Schemes of arrangement for use of licences (dummying) are taking place at an increasing rate.

The potato crisp processing industry is at risk from imports from the Eastern States due to the high cost of potatoes in Western Australia.

There is little opportunity for continuing family involvement in potato growing.

2.3 Summary

A major problem is the declining contribution Western Australian growers are making towards total potato consumption in this State, because of increasing imports of processed potato products. Apart from this, other important problems arise because the production and marketing system developed under the Marketing of Potatoes Act has resulted in a cost-inefficient and declining industry. If the present orderly marketing system is left unaltered, the industry in Western Australia will continue to decline and could ultimately disintegrate. Many of the problems identified are manifestations of an industry structure which is now inappropriate, as it is unable to meet growers', processors' and consumers' requirements.

The Western Australian industry is unique in Australia in that a Board, established under the Marketing of Potatoes Act, controls production, handling and marketing, through to the wholesale level. This orderly marketing system was introduced with the aim of ensuring a regular supply of Western Australian grown potatoes at a stable price to Western Australian consumers, while providing a reasonable return to growers. However, as per capita consumption of fresh potatoes has steadily declined and production per hectare steadily increased, a reduction in area planted has been inevitable.

Consumer requirements have also changed but, as the demand for processed products and different varieties and qualities of fresh potatoes has developed, the orderly marketing system of the Western Australian Potato Marketing Board has not been sufficiently flexible to meet these changes. The result is a declining industry, supplying limited varieties and a minimum quality product at a higher price than in non-Board controlled States.

Some of the objections raised in that report are met by the proposed amendments in this Bill. The changes in relation to licensing will help. When one goes to the southern Riverina dis-

trict of New South Wales one sees on the red sands potato patches of 200 or 300 acres in a straight run with large irrigators travelling over the top and mechanised handling of the whole crop. They can afford to do it because the growers have the acreage.

The licensing system prevented that from happening in Western Australia in the past. I hope if all goes well the transfer of licences into different hands—and I ask the Minister to check that it will be unrestricted—will mean there will be no upper limit on the accumulation of licences and we may well see some of those very large patches of potatoes grown in Western Australia. I believe we will see patches of 100 acres or more grown contiguously. It is clear to me that Rose's property along the coastal sand plain just out of Bunbury, which has a very large area of land, could be growing large crops of potatoes. Under this system he may be able to expand substantially. Those potatoes have a superior quality because they are grown on the sand and not the clay, and they are able to be turned off at a different time of the season from those grown on other soil types. It would seem logical that under this Bill Mr Rose and other growers in the area should accumulate sufficient licences to have the economies of scale we believe are possible in a modern, mechanised industry. That was not possible under the old board.

The other area which I would like the Minister to explain relates to a grower who is granted a permit to grow potatoes for export, perhaps to one of the Middle East States. That is a politically volatile area. We know it will be five or six months before he can deliver the potatoes. He has to get a licence, put the crop in the ground, dig and grade the potatoes, and put them on the boat for export. What happens if there is a major political upheaval in the Middle East and the contracts are not honoured? The new regime may say, "We do not want that consignment." Alternatively, the importer who was supposed to buy them may suddenly be no longer operative. Will the authority be obliged to accept those potatoes, or will it assist the grower to redirect the consignment? That does not appear to be spelled out.

I see that the Government intends to allow appeals under the new Act. Currently the only areas in which appeals are allowed are to be found in section 19A (1) of the Act if a person considers himself aggrieved by a decision made by the board. He can appeal to the Minister by serving on him a statement in writing of the grounds for his appeal. Section 19 (k), (l), and (m) sets out the areas of appeal, but the subsections relate only to the actual licence or the licensing of a producer. There is no ground of appeal relating to other administrative functions of the board. Those three subsections of section 19 relate strictly to the granting of a licence to grow potatoes, the transfer of a licence to another grower or another person, and the conditions upon which a licence may be granted. That is not the only administrative function of the board.

This board tells a producer almost to the day when he must put his potatoes in the ground. It says, "You are growing a May crop, and you will have it sown by the end of that month." It tells him almost to the week when he will deliver the potatoes to the board. The board says to a grower, "You have a crop of potatoes which were planted on such a date; we want them on this particular date." A week prior to the date the grower sprays the crop, the plants die a week later, and then the grower runs a machine through them and delivers the potatoes on the day they are required. It is a very authoritarian operation, and yet there is no provision in the administrative procedures for the grower to appeal. The board can tell the producer which packer he must deliver his crop to.

Last week I was speaking to a producer who had a 24-tonne crop. The board told him he must deliver 12 tonnes to one packer and 12 tonnes to another. The pack-out system is good because there are different grades of potatoes which fetch a variety of prices. This grower was told to deliver to two separate packers. The potatoes were from the same crop and they were loaded willy-nilly on the truck. He took half to one packer and half to the other. The first packer gave him a slip saying that eight tonnes were first grade, four tonnes were second grade, and that 56 kilograms of dirt had been removed from the potatoes in the washing process. The second packer told him he had five tonnes of first grade, 6.5 tonnes of second grade, and 560 kilograms of sand which is deducted from the total tonnage.

Members can see in that situation that a grower will not be really happy. The potatoes were delivered indiscriminately. The same grower used the same machinery to put the crop on the same truck, and some went one way and the rest went another way, but there was that variation. There is a substantial difference in the price received. In that situation there appears to be a need for some appeal mechanism, and yet under this Bill there is no

appeal other than on the grounds of transfer of licence. The amendment passed around by the Government will not alter that situation because it still applies only to that appeal area. I wonder whether in fact the Government ought to look at that aspect to see whether there ought to be some method of appeal for the administrative process taken by the authority.

Quite clearly the situation is that a very strict control and not an appeal situation exists. Of course that will give rise at times to the feeling that the authority contains no avenue of appeal whatsoever for growers. We made the decision and we do not argue about that, but we must consider the net effect of the Bill before us now. I do not wish to suggest that in fact we will put in an appeal provision willy-nilly because I believe that at times it is too easy for a vexatious person to endeavour to frustrate industry by continually appealing on all sorts of pretexts. Under the present legislation, however, it seems to me that we may well be a little too severe.

There appears to be no real opportunity to have any accountability of management because of the appeal situation. One fellow to whom I was speaking recently said to me, "There is some deadhead down there in that lot who is called 'Pothole'." This man was an old chap of 76 and I asked him what he meant by "Pothole", to which he replied, "That fellow is always in the road." That sort of attitude arises when there is an authority against which there is no appeal.

I refer again to accountability of management which is not able to be brought up to scratch by the powers the authority sets out. However, in many cases the authority is not in a position to deal with management effectively and in fact deals with complaints of producers in that situation.

A month ago in the Address-in-Reply debate I made mention of the fact that increasingly, particularly with primary industry Bills where a statutory authority is involved, the Government is endeavouring to remove the producer-majority on boards. On this occasion we have a six-man board; two members of this board will be elected by producers, one person will be nominated by the Minister after consultation with the producer organisations—although he may not necessarily be a producer and may not necessarily have their approval—one member will represent the consumers, and one member is not to be engaged in the commercial production of potatoes. In other words, the producers of this State are at best represented in an unequal way on this board. Of course the person nominated by the Minister would, one would assume, be sympathetic to the Minister's point of view because after all he would rely totally on the Minister's patronage to be appointed to the board in the first place. In that respect I think this Bill is the very least that producers could possibly accept. In fact it may well be that in the future we may need to look at that decision so as to see how the performance of the authority matches up to the expectations of producers and the industry as a whole.

Another question asked by producers is how much the board will require them to pay per tonne. I have been rather slack and have not looked at the report as yet because I have been dealing with the administrative aspects of the Bill. It is not my intention, however, to carry on much further; but I would return to the point that I made earlier with regard to consumers being linked to producers to endeavour to form a contact so as to ensure that a message is passed back as to what consumers feel is the most effective or the best type of produce. Section 25 (1) of the Marketing of Potatoes Act was amended in 1957 to read as follows—

> The Board may grant a permit to any grower authorising him to sell potatoes to a person or persons (not being the Board) subject to such conditions and restrictions as the Board determines.

The board will not be able to be changed dramatically at all. It appears from my reading of this Bill and the speeches made by the Minister in the other place that it is unlikely that there is any intention to use this provision. If it is to be brought to the attention of the authority, some consideration ought to be given to that area, even if it is only on an experimental basis in the first instance. It is quite clear in the new Act that if one is canning, processing, chipping, or exporting potatoes, one may be able to contract with the end users. However, it seems that one would be unable to do this if one is selling potatoes. One would be unable to contract with the growers to get the sort of product that one might specifically want for one's consumers in the supermarkets. That is a worthwhile objective which should be pursued rather than just put in the Act and allowed to wither on the vine.

I will be looking at the Government's amendment and I am sure that the Minister will in fact have a good look at what he has proposed with regard to appeal in this provision. I hope that when this Bill is passed, the new authority

will look at some of the comments that have been made in the House as to the desirability or otherwise of producing the contact between the consumers and the growers that is available in the system and yet is not utilised at this time.

I support the Bill.

HON. V. J. FERRY (South-West) [10.18 p.m.]: The subject of the potato industry always engenders a fair amount of interest among members. I wish to make a number of comments in my contribution. Hon. C. J. Bell, who has just resumed his seat, covered a lot of details, which I do not believe are necessary for me to traverse; but there are a number of features associated with the industry which I believe are quite pertinent.

The potato industry is, and has always been, a socioeconomic industry. Potato growers in the main over a long period of time in Western Australia have been cash-crop growers, chiefly augmenting their income derived from other areas of production. Therefore, potato growing has been of great assistance to any number of families, particularly in the south-west corner of the State, who have been able to have a cash flow when perhaps other avenues of revenue were denied to them for whatever reason, whether it be in the cattle industry, the fruit industry, or whatever.

The industry has played a very important role in the life of many families and communities in the south-west corner. It is still playing a part but times are changing and it is quite pertinent to reflect on the history of the potato industry. I am mindful of that fact because I was Chairman of a Select Committee which I successfully moved for in this House some years ago. That Select Committee completed its work and reported to the House on 2 May 1972. I was assisted in the course of my inquiry by Hon. Des Dans, the present Leader of the House, and Hon. Jack Thomson, one of the then members for South Province.

I remember comments made by people associated with the industry when I moved for that Select Committee. I received some quite uncomplimentary remarks from a number of growers because by that time the role of the Potato Marketing Board was under a great deal of scrutiny and comment in the public arena. A number of growers who were strong supporters of the system felt that I was engineering a move to do away with the Potato Marketing Board by letting the market run free. However, I am quite convinced that as the inquiry progressed those same people came to realise that it was not my intention, and it certainly was not the result. Nevertheless, it was an interesting exercise.

There have been a number of inquiries. I think the first inquiry was through the medium of a Royal Commission chaired by Mr A. G. Smith in 1955. We then had the Select Committee which I chaired in 1972; and that was quickly followed by the report of Lissiman, a private consultant employed by the Government; and more recently we had the report to which Mr Bell referred.

When one looks at the industry, and bearing in mind that I referred to the socioeconomic role it has played, I think it is necessary to recapitulate a little on some of the former potato growing areas of Osborne Park, Spearwood which is still being used by a number of growers, Waroona, Harvey, and Benger where Benger Swamp potatoes were well known. With the collapse of the tobacco industry in the Manjimup area in 1960-61, a number of potato licences were granted to growers to ensure that they would have some income when the tobacco industry went out overnight. That industry in those days was worth something like one million pounds a year to that district. It was a very sad occasion for a number of people and many families were devastated. I do not only mean devastated financially but mentally and in every other way because it was quite a traumatic period. The Government, with the assistance of the board, allowed licences to be granted to growers in that area so they could augment their income and have some cash flow. There have been a number of licences in the northern part of the south-west. I have heard a rumour that Harvey and Benger shrank somewhat for a number of reasons, and the industry tended to move south.

Going back further, I think it should be recorded that during the war it became essential to boost the production of potatoes in Australia generally, and the organisation and administration of the industry was, by virtue of the national security regulations, placed in the hands of the Australian Potato Committee. The committee was appointed by the Commonwealth Government. Production in all States increased very considerably, especially as the Commonwealth Government paid a subsidy on every ton of potatoes. With the need gone in 1946, after World War II, to supply our own and allied services, it was quite obvious that if acreages were to increase any further, huge surpluses of potatoes would be created which

could not be sold locally and for which an adequate interstate or overseas market could not be found.

In 1946, with the approaching expiry of the national security regulations and the consequent dissolution of the Australian Potato Committee, it was recognised in Western Australia that it would be necessary to formulate some scheme whereby acreages could be limited, surpluses adequately dealt with, and a fair price to growers maintained. The latter was especially necessary as the Commonwealth Government subsidy was no longer to be paid.

With those matters in mind, the Western Australian Parliament passed the Marketing of Potatoes Act 1946 which, by proclamation, came into operation on 20 January 1947, and to which several amendments have been made. The Potato Industry Marketing Board was constituted under the Act and commenced to operate on 18 October 1948 on the expiry of the Australian Potato Committee.

That is the foundation for the legislation we are dealing with tonight. It has had a number of physical changes over the years, and certainly the marketing of potatoes has changed and the industry has made some adjustments. Notwithstanding that fact, I do not believe changes have been made rapidly enough. That is evidenced tonight by the introduction of the Bill to this House.

It is interesting to note that the Bill does a number of things which are referred to in the second reading speech. One of the items referred to relates to providing consumers with a better choice of variety and quality of potatoes. I refer to the Select Committee report of 1972 and the recommendation that there should be more varieties of potatoes made available to the public with a price differential to encourage production and help stimulate consumer interest. That recommendation came in 13 years ago.

There is another provision in the Bill that the Minister should appoint a person with specialist commercial marketing skills. In the Select Committee report again there is specific reference to sales promotion and improving and encouraging the market. The Minister says that the existing marketing system has been criticised in that Western Australian consumers have had little choice in the quality or variety of potatoes grown in this State.

Similarly, growers have had no incentive to improve the quality of their potatoes on offer to the public. That is quite true. In that Select Committee report there is also reference to a price differential. That was considered important for a number of reasons, not the least of which would be the encouragement of growers to produce the desirable quality and quantity of the various lines of potatoes. I cannot disagree with the intent of the Bill on these points because they are in line with the Select Committee's findings some 13 years ago.

The Minister also refers to the consumption of processed potatoes in Australia. He mentioned that one-third of the potatoes consumed in this State are in processed form, most of which are imported as frozen chips from the Eastern States. Here again, the Select Committee made special reference in clause 13 of its report under the heading "Growing for processors". It is evident that more grower appreciation may be needed to produce a product to the standards desired by processors. It is also evident that unless growers in this State are able to attain the standards desired by processing firms established in Western Australia, they will be obliged to obtain their requirements from special Eastern States sources. Accordingly, special consideration must be given to encouraging production in areas more suited to meeting this need. Here again it is in line with that report.

The Minister has made reference to the market in South-East Asia and the provision in the Bill for growers to contract with exporters. It is the same old story. The Select Committee dealt with overseas markets and referred to the seed trade—the exporting of potato seed to other countries. It referred to wares. The potatoes we purchase in the shops and supermarkets are called wares. Special mention was made of the need for us to produce the right type of potato to tap into overseas markets, especially the Singapore and South-East Asian markets. Again, the Minister referred to the type of potato that has been supplied by the Netherlands, mainland China, and Taiwan to South-East Asia. That was known 13 years ago when we conducted this inquiry.

The potato industry has been languishing. There are all sorts of reasons for that. Whereas I tend to support this Bill to amend the Act, I feel it is a bit too little too late. The McKinney report commented on the fact that the committee had referred to previous inquiries, and obviously had incorporated some of the ideas

that had come out of previous examinations of the industry. How many more inquiries do we need to have the recommendations put in place? The Government is endeavouring to correct matters by creating an authority, but with the changing complexities of marketing and the changing needs of consumers, I doubt whether that is enough. The time has passed for this industry to continue as a socioeconomic industry.

I have the highest regard for the small producers, particularly in the south-west, but one has to be a realist. Events are overtaking those growers, more's the pity. There is strong competition from Eastern States suppliers who send to this State potato products which we all buy. The pious hope of cracking the South-East Asian market after all these years is still to be realised.

We still have to produce the variety of potato that is acceptable to that market. We tend here to use the cream or white-fleshed potatoes, whereas in South-East Asia the yellow type of potato is preferred. That is what people there are accustomed to. If the customers want that, it is up to us to provide it. With this legislation there is hope that this market can be tapped. But I do not think that these provisions will gear the industry sufficiently to meet those demands. There is an expectation that we will engage in processing potatoes in this State one way or another, be it at Manjimup, Albany, or wherever. We should all shoot for that goal, but the point is that under the marketing system with its straitlaced and severe restraints on growers—Mr Bell has referred to some of those constraints—there is not sufficient freedom in the industry to allow a thoroughly sound commercial operation to be established.

I hope I am proved wrong, but I am mindful of what can be produced in the Eastern States. In fact, New Zealand products come into Australia. That is the sort of competition with which we will be faced. If too many restrictions and too many straitjackets are imposed by this new authority, I cannot for the life of me see any commercial operation being viable. Again, I would be the first to say that I was sorry if I were wrong, but having had something to do with this industry for quite a number of years—long before I was associated with the Select Committee—I am apprehensive in that regard.

It is interesting to note that it is now intended that an amendment to the Bill may be forthcoming during the Committee stage and it may provide for an appeal system. Again, I refer to the Select Committee of 1972. Until the committee, of which I was chairman, came up with the recommendation, no appeal whatsoever was provided for in the Act. In fact, the Select Committee recommended that an appeal be made to a magistrate. That is how strongly the committee then felt regarding appeal provisions.

In 1972 there was a very real feeling amongst the growers in the industry against the issue of licences and the controlling of licences by the board in the manner in which it did. Arising from those feelings and an examination of the industry, the Select Committee recommended that there should be an appeal to a magistrate. That was never acted on by the Government, but a few years ago an appeal provision was inserted whereby there is now the right of appeal to the Minister in respect of the issue and control of licences.

Mr Bell tonight referred to other aspects which should be subject to appeal. There should be a more general provision to cover those other aspects. I concur with that. Time has marched on and there is a need for a wider approach to appeal provisions to cover all sorts of contingencies that arise from time to time within the industry.

I refer now to a comment the Minister made in his speech. He said—

> The Minister will be required to review the operation of the amended Act five years after its commencement and report to the Parliament. This is usually referred to as a "Sunset" clause.

I take issue with the terminology. It is not a sunset clause. It should more correctly be termed a review clause. A sunset clause in parliamentary language means that an Act will terminate at a certain date, unless it is re-enacted by Parliament and the date extended. In my view, the terminology used is incorrect, probably not intentionally, but because of an oversight. I do not disagree with the concept of review; I just take issue with the terminology.

I will take a degree of interest in this Bill during the Committee stage. I hope that the Minister will progress the suggestion of an appeal mechanism to be inserted in the Bill. Again, I make passing reference to the system. It is appropriate that if that be done it is done in this House.

I hate to say it, bearing in mind the attitude to an earlier debate tonight, but this is a House of Review and it would be appropriate for that appeal provision to be inserted in the legis-

lation here. I think members of this House would give very good consideration to that amendment, not just because it is likely to be introduced in this House, but also because it is fully justified and very necessary for the good order and conduct of the industry.

Although I support the Bill, I do not believe that it will be the be-all and end-all of what is required. The industry needs to be freed up still further to allow the commercial ebb and flow of trade to take place so that individual growers can grow to meet a particular market, whether it be in the processing industry within Western Australia, the overseas market in Singapore or South-East Asia, or the seed production for Mauritius or wherever. Free trade is the only way that we can allow that. The marketplace is the bottom line.

I support the Bill.

HON. H. W. GAYFER (Central) [10.40 p.m.]: Hon. Graham MacKinnon implied that a man who is well versed in the wheat industry should not have the temerity to speak on a Bill of this nature.

Hon. Graham MacKinnon: The cobbler should stick to his last.

Hon. H. W. GAYFER: That is right, but I have a reason for speaking, and it is one of principle. I maintain the principle of orderly marketing and the principle of grower control of grower boards. That more or less sums up my displeasure with the Bill.

In his opening remarks, the Minister said the purpose of these amendments was to expand the potato industry with an orderly marketing system. In his second reading speech notes the words are heavily underlined, which means that he was to place emphasis on those words when reading his second reading speech.

That Bill turns the board into an authority. By and large there is no great difference between an authority and a board. In this case it is doing to that board what is happening to all marketing boards for all commodities in Australia. In other words, it is empowering the board to lift its game as an authority to be able to compete in this modern world. This has happened with other boards such as the wheat boards.

This authority hopes that the Bill will allow it to regulate the production of potatoes, to take delivery of potatoes in accordance with the Act, and to encourage and facilitate the negotiation and the performance of contracts between growers and persons engaged in the processing or export of potatoes. It will encourage and promote the use of potatoes. It will foster methods of production and adopt methods of marketing which will enable potatoes grown and potato products produced in this State to compete in price and quality against potatoes from alternative sources of supply. It will promote, encourage, fund, and arrange for the conduct of research into potatoes. It will seek and apply knowledge of new and improved techniques and materials which will assist it to perform its function.

This is the reason why the board is being given the status of an authority, in order to carry out these and other matters contained within the Bill, as has been mentioned by Hon. C. J. Bell and Hon. V. J Ferry. Their research is far deeper than mine because they know the industry.

In endeavouring to change this board into the proposed authority, the Minister proposes to delete one of the necessary coats which is being worn by one of the present members of the board. The board at present is made up of six persons, two of whom are appointed to represent the consumers and who are not engaged in the commercial production of potatoes. One is nominated by the Minister and is a grower. Two are persons who are commercial producers. One is a person nominated by the Minister who is not engaged or financially interested in the business of growing or producing potatoes, or interested in the distribution or sale thereof, and he shall be the chairman of the board.

Those six members constitute the board at the present moment. Three are indeed growers. That, in my opinion, is a very slim grower component of the board, and it is not sufficiently high—let alone talking about reducing it—in the interests of preserving grower control of their commodities in the best interests of orderly marketing.

A fight in the wheat industry has now been resolved. It was getting onto very dangerous ground because, in the setting up of the new Australian Wheat Board, it looked as though there would no longer be a grower majority. That has now been settled and there is a grower majority. However, there was a very strong fight in an endeavour to preserve that majority.

Here the Minister proposes in clause 6, which deals with section 7 of the principal Act, to delete the requirement that the person nominated by the Minister after consultation with the Potato Growers Association executive

be a grower. In other words, it allows him—or he would not ask for it—to nominate somebody who is not a grower. It is as simple as that. If he did not intend to do that, why would he delete it?

So the intention is that the majority of people serving on that board will no longer be growers. As far as my philosophy is concerned, orderly marketing should at all times be controlled by a board or an authority which has a majority of growers serving upon it.

Perhaps members are kidding themselves that, by having people other than growers serving on this authority, they will have a better authority which will be able to serve the purposes that the Bill will provide. But I do not believe that to be the case. Indeed I have not seen this occur in any of the boards connected with the orderly marketing of agricultural produce with which I have been associated. If any of the problems associated with the marketing, distribution, or promotion of potatoes is found by the growers to be wrong—after all the board should be dealing mainly with their wishes—then at least, if there are grower representatives on the board, the growers have some person to approach with their complaints.

Hon. Colin Bell and Hon. Vic Ferry made the point that the authority was set up for both consumer and grower advantage. It is not one or the other, it is both. I admire those sentiments. I am not disputing that the members may be correct, but it does not take away the fact that there should be equal representation or preferably a majority of growers serving on that board. That will not agree with the philosophies of some of my Liberal colleagues, but I will always maintain that a primary producer board must comprise a majority of growers, if not the whole board being comprised of growers. I have not heard of any problem at all in regard to a grower-elected board of this description, provided the board is elected properly. I certainly do not see why the potato industry and the potato growers should suddenly be in a position where there will only be two potato growers and four other persons on the board. That is a situation this amendment will lead to, and when it comes to the point of our considering that amendment in the Committee stage I will oppose it. I will do so by division because it is something that is very dear to my heart and it is something for which I have always spoken in this House. I do not intend to change my tune.

HON. W. N. STRETCH (Lower Central) [10.52 p.m.]: It should be noted that the potato industry is experiencing severe problems, and while it has taken two years to get this Bill before the House, we should still welcome its passage. Generally I support the thrust of the Bill. However, it has several shortcomings.

A few basic facts need to be understood about the industry. Bear in mind that the Potato Marketing Act first came into being in 1946 at a time when, to become a potato grower, one needed two strong horses, a solid head, and a deep draught single furrowed plough. Now it has developed to a stage where one needs a four-wheel drive tractor and, in most cases, very sophisticated planting and harvesting machinery. The actual growing costs approach $1 500 an acre. That requirement varies a little from the easier, flatter country in the coastal plain through to the heavier loamy red soils of Pemberton and Manjimup, and the hill country and some of the river flats in Donnybrook.

Members must recognise the increasing costs in the industry and pay some attention to them. We must realise that it is no longer enough to set oneself up in the industry and then find that a licence can be withdrawn or changed radically in size, and therefore all this expensive machinery becomes redundant.

We are talking in many cases about quite small areas of land, although some areas are of a quite considerable size. The majority of growers work a fairly small patch of land, and they are very heavily capitalised for their production. Therefore any change to the system whereby areas can be adjusted can have pretty far-reaching effects. In the Committee stage we will consider ways of restoring, or at least preserving, the long-term viability of these growers.

The remarks made by Hon. Mick Gayfer concerning the reduction of grower representation on the board are also of great concern. I share his concerns.

The general future of the industry is very closely tied up with the establishment of processing but, like decentralisation, processing does not occur until an industry has established and developed its marketing side; and there can be very real problems in that. It is all very well to say that Western Australia with its small market can start up its own processing plant, but we must recognise that we are playing in a very big arena against Wattie International, Edgell, and possibly McCains, any of which, by

selling their product at rock-bottom prices for from six months to two years, can virtually kill the fledgling Western Australian potato processing industry. Whether our future will be as a joint venture with one of those bigger companies at an operation in Manjimup or Albany is yet to be seen, but we must be careful that we do not go into it and end up with another cannery-type situation which will only engulf taxpayers' funds and fail to capture the market that we expect it to have.

A matter that concerns me most of all, and which has not been touched upon in great detail by previous speakers, is the question of appeal. Members will note that in the original Bill the ultimate control of the industry rests with the Minister. That is absolute and final. After some debate and reports in another place the Minister agreed to put forward some amendments of his own, and it was generally felt that some of those amendments were not really in the best long-term interests of the industry. I understand the Minister's amendments have been circulated to members.

Members will note that the Minister is setting up a totally new appeal panel which will consist of a grower appointed from a list of names provided to the Minister by the Potato Growers Association; a horticulturist, agriculturist, or pastoralist who does not grow potatoes will be the second member; and the third member will be an officer of the Public Service of this State employed by the Department of Agriculture. They will be very fine officers indeed and hopefully would adjudicate fairly upon these matters. However, I and many of the growers whom I have contacted tonight, some of whom had to be pulled out of their beds—and they did not mind a bit because of the importance of the Bill to their livelihood—felt there was no point in setting up such an appeal body for several reasons. Their biggest objection is that the Minister could be somewhat slanted in his appointment of them. I do not query or cavil with that to any great extent because I suggest that is bound to happen whichever party is in Government at the time. Nevertheless, the old Caesar appeals to Caesar question arises when the appeal board is set up by the Minister.

The other objection of course was: Who meets the cost of the ongoing appeal board? All our rural industries are facing the problem of increasing costs, and the last thing the potato growers want with, as I have mentioned, costs for potato growing in some cases approaching $1 500 an acre, is another appeal board which is called together whenever required to sit upon appeals. It probably will not sit often. It may not be very expensive, but I believe that nobody today expects an appeal board to sit free of charge, and therefore there will be a cost. I bear correction, but under this Bill I understand the costs of such an appeal would be carried by all growers.

In other words, it is another impost across the board, and naturally the industry as a whole does not care for it greatly. There are other objections but I think they are probably valid. There are plenty of avenues of appeal open which are commonly used in other pieces of legislation. The one that I favour, and which I have put forward to many growers as an amendment, was that which proposed that a grower who feels slighted by any adjustment of his growing area still has the right of appeal to the Minister. That is stage one. Stage two is that, having been refused his appeal, the grower may appeal to the Minister again; the Minister may call for further information and he can review the whole case for a second time.

Under the Attorney General's previous amendment, I gather that in the case of a breakdown in those negotiations, the matter would then go to his appeal tribunal comprising the three appointed people whom I mentioned before—that is, the representative of the potato growers, the agriculturalist, and a representative from the Department of Agriculture. Under the amendment I will be proposing—and it is a proposal that seems to be favoured more generally in the industry—where the Minister has looked at the case and reviewed it and no agreement can be reached, he can then refer it to the District Court and the court can look at the Minister's judgment and decide whether it should be confirmed, varied, or set aside. The beauty of such an amendment is that it is both simple and cost-efficient for the industry. The appellant in such a case would bear his own costs rather than spreading the whole lot across the industry. Hopefully, if he is sufficiently confident of his case to appeal to the Minister and then carry it on further to the District Court, he will be reasonably confident of success and there is a reasonable chance that the Crown would pick up his costs in the event of a successful appeal.

If, as was put to me by one grower, the grower's acreage has been adjusted to such a degree that effectively the grower is going to be put out of business, the chances are that he will appeal anyway to a District Court and in such

cases he will meet his own costs. That seems to me to be a much fairer way of handling such an appeal rather than spreading the costs across to other growers, 99 per cent of whom we presume are perfectly happy. It seems a more sensible approach in this case. I have discussed this matter with many growers and I have been led to believe that the Minister has discussed it with many growers, but as yet I have not found one grower who has been consulted by the Minister on this matter. I know that many growers are interested in it and I presume that I have simply not crossed paths with one who has been consulted. However, the growers to whom I have spoken represent a wide cross-section of growers and there seems to be quite wide support for this amendment.

I foreshadow that I will move that in the Committee stage. We do not propose it lightly because we realise that the majority of growers want to retain their marketing board. That is their right and, if a group of producers want their own marketing system and they are prepared to support it financially—and I emphasise "financially"—and to review its efficiency every so often in order to determine whether they are getting value for money out of staff and performance, I do not believe that the Government has the right to interfere. In such a matter I agree with Mr Gayfer. Therefore in many respects this Bill brought forward by the Minister meets most of those criteria and I reiterate my general support for it.

However, I emphasise that there are some serious problems ahead for the potato industry. In the long term we are virtually dependent on establishing a processing plant in this State. It is ridiculous that we must import such an enormous percentage—I think something in the order of two-thirds—of our potato products in the form of French fries and so on when we produce such good potatoes now. Unfortunately the best of our produce does not get onto the supermarket shelves. In fact some of the potatoes that do are an absolute disgrace. I was offered two or three in Narrogin to bring up and table in this august place, but I felt that they were so spotty and slushy that I could not do so. Hon. Graham MacKinnon has just provided me with an example of what I have been talking about, and the potatoes he has provided—

Hon. G. C. MacKinnon: Bought in Coles in Perth 10 days ago.

Hon. W. N. STRETCH: —cannot be suitably described. They are not even fit to table. If this is the best that the industry can do, we should all be ashamed. However, we know that this is not the best that can be done.

I have been on harvesters with many of my growers and I have seen potatoes coming out of the ground. They are a perfect product but what happens to them before they get onto the commercial shelves? That is something that should be chased through by a very active and aggressive marketing board. The potatoes given to me by Hon. Graham MacKinnon are an excellent example of poor handling of produce and the situation is obviously very serious.

Many members of this place were on a Select Committee chaired by Hon. Phil Lockyer which looked into the problems of vegetable growers. They travelled around the State and I am sure that many of them would not have been impressed with what they saw. I know that good potatoes are coming forward from growing areas and I know that many bad potatoes are getting onto the shelves of the supermarkets and into the cupboards of the housewives, who are not impressed. Similarly, the growers are not impressed, and this is something that needs to be looked at.

I hope that this new authority will be able to do something to redress this problem in the middle area of the potato industry. There are good potatoes being exported, we understand, at a loss. There are very poor potatoes being sold at reasonably high prices in supermarkets, and one can only wonder why this is happening and whether this is the best than can be done for the industry.

The cost of marketing potatoes through the Potato Marketing Board is around 14 per cent. In deregulated markets for cauliflower which are, I would say, far more perishable than potatoes, the marketing costs are approximately half of that for potatoes—that is, six or seven per cent. Thus, it is not necessarily a question of perishability or distance that is causing the problem with the potato industry. One could rightly say that we handle a far greater tonnage of potatoes than we could of cauliflower. That is palpably demonstrable but there is still obviously a statistical case for cutting costs and improving efficiency so that we could somehow end up with something better than these potatoes given to me by Hon. Graham MacKinnon, which look more like the eyeballs of a Muppet!

I support the Bill, more in hope than in faith at this stage. I am sure that it will not be the last that we hear from the potato industry on this Bill. I urge the House to give very close consideration to accepting our amendment regarding the appeal to the District Court. I do not believe that the Minister's amendment will be in the long-term interest of the potato industry and I think the Bill is so important that it deserves our most serious attention. We hope that a sensible amendment can be put through which will enable a cost-efficient and just system of adjudication on problems faced by the growers to be introduced. With those remarks I support the second reading.

Debate adjourned, on motion by Hon. I. G. Pratt.

ADJOURNMENT OF THE HOUSE

HON. J. M. BERINSON (North Central Metropolitan—Attorney General) [11.10 p.m.]: I move—

That the House do now adjourn.

Minister for Education: Carnarvon Primary School Canteen Opening

HON. P. H. LOCKYER (Lower North) [11.11 p.m.]: I do not want to delay the House, but this is the only opportunity I have to bring a matter to its attention. I believe it is of such urgency that I ask members to bear with me for a short time.

Yesterday afternoon I placed a question on notice directed to the Minister representing the Minister for Education asking why the Minister for Education was unable to go to Carnarvon last Saturday, 26 October, to carry out an undertaking he had given to the Carnarvon Primary School to open a school canteen. Prior to asking the question, I understood that the Minister could not get there on Saturday and, as he told the people in Carnarvon in a message he sent to them, he could not open the canteen—and my colleague, the member for Gascoyne, had to do this on his behalf—because the charter aircraft he had booked to take him to Carnarvon failed to pick him up.

Normally I would not have taken much notice of this, but I found it a little difficult to understand, so yesterday I asked why he could not go, and what the name of the charter company was. Subsequently I found out that the aircraft company concerned was Austair Charter Systems Pty Ltd. The reason this group came to my attention is that the Minister for Education passed on to the people in Carnarvon over a radio broadcast this morning the fact that this charter company—and I point out that he did not name it—failed to pick him up. He said this publicly and I was concerned because I thought it unfair that the company was being slated. I found out which company it was, and rang it.

There are several conflicting stories about this. There were questions asked in the other place tonight, when the Minister claimed that he arranged through his secretary for Austair to pick him up at Perth Airport, and that he was to be met in the terminal at the Avis desk at 7.30 a.m. on Saturday. The Minister claims he went to Perth Airport at 7.30 a.m. and waited until 9.00 a.m., and that no representative of Austair or anybody else was there to meet him. He said he had only one 20c piece in his pocket and he made a call to his secretary who then rang the three numbers that Austair had, but there was no answer from any of them.

I want to read to the House a letter I received this afternoon from Austair, at my request, bearing in mind that I do not know anybody at Austair. I bring this up for mere fairness because the Minister in the other place tonight told the Parliament that he would never use this company again because it was not reliable. He also informed the other place that he had told his Cabinet colleagues not to use it. This was followed by interjections in the other place confirming that other Ministers would not use it, and the company simply has no right of reply.

The letter is addressed to me and reads—

> Dear Sir,
>
> I wish to bring to your attention certain facts concerning an incident alleged to have occurred on Saturday 26th October, 1985 involving the Minister for Education Mr Bob Pearce.
>
> Mr Pearce had booked a charter with our company to go from Perth to Geraldton and Carnarvon and return on Saturday 26th October, 1985.
>
> The charter was to leave from the Perth Terminal at 7.30 am. Mr Pearce was to meet our traffic officer in the gate one lounge at approximately 7.15 am.
>
> Our traffic officer was waiting at the designated area from 7.05 am until 8.30 am. At no time between these hours did he see Mr Pearce. At 8.30 am the traffic officer assumed that the charter had been the subject of a late cancellation and departed from the area.

> On Monday 28th October, 1985 I contacted Mr Pearce's office to ask what had happened and was informed that he had indeed been there from 7.30 am until 8.30 am and they therefore accused us of negligence.
>
> I do not wish to make allegations against a customer however we have one of the highest despatch reliability standards in Perth. This can be corroborated from other Austair customers.

My colleague, Hon. Colin Bell, has said he uses the company and finds it very reliable.

I am still prepared at this stage to give Mr Pearce the benefit of the doubt. However, I would respectfully ask that he carry out some matters. First of all, just to make sure, I checked up on Austair. I, too, hold a pilot's licence, and there are certain procedures—particularly in a controlled air space like Perth—that must be carried out. One is that a pilot must produce a flight plan to the Department of Aviation's flight office prior to travelling anywhere. I checked, and at 6.43 a.m. the Department of Aviation stamped a flight plan for Austair to travel to the designated areas of Geraldton, Carnarvon, Geraldton, and Perth.

I have also ascertained from four reliable sources that the Austair aircraft, with its sign clearly printed on the tail, was at gate No. 1 at Perth Airport.

The Minister for Education claims there was no-one in the terminal to meet him. Austair claims that its pilot was waiting at the aircraft, and that its traffic officer—whose sole job it is to take passengers from the designated area to the aircraft—was in the terminal lounge. He was specifically instructed, as Mr Pearce was regarded as a VIP passenger—quite properly, as a Minister of the Crown. The traffic officer knew who Mr Pearce was, and he has doubly confirmed that he would recognise him. He claims that Mr Pearce did not come into that terminal.

Mr Pearce said in the other place tonight that he was in the terminal. They both agreed on the area—by the Avis desk in the terminal; however, one of them must have been a phantom, because obviously one of them was not there.

There are some areas of grave concern to me. One is that Mr Pearce, being a Minister of the Crown, travels frequently—I would imagine—backwards and forwards between the Eastern States and Perth and within this State. There is at the airport, as some honourable members will know, an area called the Golden Wings Lounge which is available to Ministers of the Crown without their having to be a member of Golden Wings. There were two things that the Minister could have done, and I am absolutely amazed that he did not do them. First of all, there are free telephones in that area and, knowing the Ansett and TAA staff as I know them—and the Minister is not an unknown citizen in this State—if he had asked to use a telephone I am sure it would have been made available to him. Better than that, there is also a PA system which Ansett uses regularly. There were no other aircraft departing that area and both the Minister and the gentleman from Austair say that the terminal was virtually deserted. Here again, they both agree on that point. The Minister could have asked that the Austair people be paged. Ansett would have been absolutely delighted to do that.

Someone is telling fibs—it is either the Austair company or the Minister. I do not want to reflect on whom it may be. However, it can be overcome. There must be someone who can corroborate, firstly, the Minister's presence in that terminal—and I hope that he can find somebody because the Austair people have been corroborated. There is no question in my mind that they were there, and I have doubly checked through separate sources and I am convinced that they were. I have no doubt that if the Minister was taken out there in a ministerial car, it was with a driver. If he was, there is no problem. Something must have happened.

I cannot believe that we have a Minister of the Crown, who had a very important, long-term commitment to Carnarvon, who could not go out and find this aeroplane, which must have stuck out like something in the desert.

What I am concerned about is that tonight, under parliamentary privilege, Austair has been slated. It could well be that it will never be given the opportunity of receiving any more Government business. As far as I am concerned that will be a shame because it will not have the opportunity to defend itself regarding this matter.

I believe that the Minister should, at the first opportunity he has tomorrow, meet with representatives from Austair and the traffic officer from the Perth Airport who was involved. They should retrace their steps and endeavour to settle this matter once and for all.

Perhaps an amazing coincidence occurred. In answer to a question the Minister said that he was at the airport between the hours of 7.30

a.m. and 9.00 a.m. on 26 October. Apparently he advised Austair that he was there from 7.30 a.m. to 8.30 a.m. and, therefore, something happened to half an hour. Austair admitted that after 8.30 a.m. the pilot departed the scene.

As a Minister of the Crown, the Minister owes it not only to Austair, but also to the people of this State, to admit that there was a grey area concerning this matter. I am prepared at this stage to give him the benefit of the doubt. By some strange coincidence there could be a possibility that something happened to cause this incident. However, Austair deserves an apology.

Without using the name "Austair" on the local radio station in Carnarvon the Minister slated it for what had happened. The local people held the charter company responsible for not being at the airport.

It is correct that the Minister for Education was not present at the unveiling of the plaque. The member for Gascoyne stepped in and unveiled the plaque which had the Minister's name on it. I hope that one day that name will be changed.

I want Austair's name cleared because I believe it has been unfairly slated regarding this matter. It is in the Minister's hands to call together the people involved in this incident and to try to sort out the matter. When this occurs, I will be happy to stand in this House and say that the Minister or Austair is in the clear.

HON. J. M. BERINSON (North Central Metropolitan—Attorney General) [11.22 p.m.]: It is a shame that Hon. Phil Lockyer did not provide some earlier notice of his intention to speak in this way and to present the material he has. Had he done that, the opportunity would have been given to Ministers to consult with Mr Pearce to have his response ready.

That would have been a far preferable situation to the one we now have. It is close to midnight and some implied criticisms and allegations have been made without the opportunity for a prompt response.

Of course, the matter having unfortunately been raised in this way, I will ensure that the comments by the member are brought to the Minister's attention.

Question put and passed.

House adjourned at 11.23 p.m.

QUESTIONS ON NOTICE

TRANSPORT: RAILWAYS

Station Master: Leonora

284. Hon. P. H. LOCKYER, to the Minister for Employment and Training representing the Minister for Transport:

(1) Is it a fact that the station master stationed at Leonora is going to be withdrawn?

(2) If so, has the Government or Westrail had discussions with major users of that railway line?

Hon. PETER DOWDING replied:

(1) The Minister is aware that Westrail has informed the member of a proposal to withdraw the station master from Leonora. The proposal also provided for a continuation of railway representation in the area by the appointment of a mobile operations officer.

It was subsequently decided, however, that the existing arrangement would remain for a further 12 months, at which time the situation will be reviewed.

(2) Not applicable.

HEALTH: HOSPITAL

Warren District: Construction

288. Hon. A. A. LEWIS, to the Leader of the House representing the Minister for Health:

Is it the intention of the Government to go beyond the planning stages this financial year with regard to the Warren District Hospital at Manjimup?

Hon. D. K. DANS replied:

It is anticipated planning will be completed before budget estimates are submitted next year; and given Warren District's high priority, that construction will commence in 1986.

TRANSPORT: ROAD

Interstate: Federal Legislation

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

(1) I refer the Minister to the Interstate Road Transport Bill 1985 currently before the Senate and ask whether or not it is necessary for the State Parliament to pass complementary legislation for this Federal Bill to be implemented?

(2) If it is necessary, when is it expected that this legislation will be introduced?

Hon. PETER DOWDING replied:

(1) This Bill, together with the Interstate Road Transport Charge Bill 1985 is designed to be progressively proclaimed in two parts. The first part provides for the registration of, and collection of charges from, vehicles solely engaged in interstate trade, to cover the cost of associated road damage. Vehicles paying State registration fees would be exempt. The fees would be redistributed to the States through a trust fund.

This Federal action is part of a package of measures mutually agreed by Federal, State, and Territory Governments, some of which may require amendments to State legislation or regulations. While these matters are complementary in a policy sense, they are not complementary in a legislative sense.

The second part of the Federal legislative package is intended to be proclaimed later. It provides for the licensing of interstate transport operators. For the intent of this to be effective, corresponding State legislation would be needed. This matter has yet to be fully discussed in a Commonwealth-State forum. The aim is to enable those who operate in a manner which compromises public safety, as determined by the courts, to be disqualified.

(2) Details and timing of possible future State legislation have yet to be determined.

ABORIGINAL AFFAIRS

Organisations: Grants

298. Hon. N. F. MOORE, to the Minister for Employment and Training representing the Minister with special responsibility for Aboriginal Affairs:

I refer the Minister to his answer to question 277 of 24 October 1985 and ask when I can expect to receive the information referred to in part (3) of the answer?

Hon. PETER DOWDING replied:

As per the member's request and as stated in reply to question 277, information outlining levels of grants awarded to Aboriginal organisations and individuals is being prepared and will be forwarded direct to the member at an early date.

ABORIGINAL AFFAIRS

Karalundi Educational Centre: Use

299. Hon. N. F. MOORE, to the Minister for Employment and Training representing the Minister with special responsibility for Aboriginal Affairs:

(1) Will the Minister please advise what Karalundi is being used for currently?

(2) What plans does the Government have for the future of Karalundi?

Hon. PETER DOWDING replied:

(1) I understand that Karalundi was previously a mission but is now run by a church-based committee which plans to establish a school at the site.

(2) The State Government is not involved.

ABORIGINAL AFFAIRS: LAND RIGHTS

Seaman Inquiry: Expenditure Accounts

300. Hon. N. F. MOORE, to the Minister for Employment and Training representing the Minister with special responsibility for Aboriginal Affairs:

I refer the Minister to his answer to my question 277 of 24 October 1985 and ask how he reconciles this answer with his answer to question 955 of Wednesday, 18 June 1984, in which he states: "When all of these submissions have been finalised and expenditures have been checked and audited the information requested will be made available"?

Hon. PETER DOWDING replied:

The Minister is not aware of question 955 of Wednesday, 18 June 1984. However, it is thought reference is made to a question on notice for 18 April 1984.

As advised in response to question 277 of 24 October it is not a normal expectation that the Government of the day should publicise confidential material pertaining to an official inquiry, and the Minister is not of the opinion that there should be any change to this convention.

However the Minister has given an undertaking to write separately to the member as stated in reply to question 298.

TRAFFIC

Cornwall Street, Lathlain: Increased Volume

301. Hon. P. G. PENDAL, to the Minister for Employment and Training representing the Minister for Transport:

(1) Is he aware of resident concern that Cornwall Street, Lathlain, is now coping with substantially increased traffic volumes?

(2) Is this increase at least in part attributable to trucks servicing the casino site?

(3) If so, can he give any assurance that the substantial increase is a temporary problem?

(4) If the increase results from other than casino site traffic, can he say what the other factors are?

Hon. PETER DOWDING replied:

(1) to (4) Traffic data available to the Main Roads Department shows only a slight increase in traffic in Cornwall Street over the last five years. I am not aware of any reason why the increased traffic volumes causing the residents concern should exist other than the current construction activity on Burswood Island; nor does there appear to be any reason why it should persist once construction is complete.

302. *Postponed.*

MINISTER FOR EDUCATION

Carnarvon Primary School: Canteen Opening

303. Hon. P. H. LOCKYER, to the Minister for Employment and Training representing the Minister for Education:

(1) What was the reason for the Minister failing to keep his appointment to open the canteen at the Carnarvon Primary School at Carnarvon on Saturday, 26 October 1985?

(2) What was the name of the aircraft charter company that the Minister had booked to take him and his party to Carnarvon?

Hon. PETER DOWDING replied:

The Minister has supplied the following answer—

(1) Although I was at Perth Airport at 7.30 a.m. for the charter trip to Carnarvon, the charter firm's pilot and aircraft did not appear. The charter firm was not answering at any of its three contact phone numbers. No one at the airport had any knowledge of their whereabouts, and I was not able to arrange an alternative aircraft.

(2) Austair Charter System Pty Ltd.

LAND

Mortgagee Sales: Advertisement

304. Hon. N. F. MOORE, to the Minister for Consumer Affairs:

(1) Is it a requirement, in a mortgagee sale, for the vendor to publicly advertise that the sale is, in fact, a mortgagee sale?

(2) If so, what is the reason for this requirement?

Hon. PETER DOWDING replied:

(1) No.

(2) Not applicable.

QUESTIONS WITHOUT NOTICE

INDUSTRIAL RELATIONS: DISPUTE

Muja Power Station: Resolution

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

Is the Minister aware that approximately six weeks ago a strike at Muja Power Station was imminent? If so, does he know the reason for the dispute and how it was resolved?

Hon. PETER DOWDING replied:

I do not know the dispute to which the member is referring. From time to time industrial matters arise within the SEC which are dealt with within the SEC. Depending on the nature and the extent of the matter, it may or may not be brought to my attention. I have no recollection of the event the member refers to.

WAGES AND SALARIES

Holiday Loading: Increase

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

Would the Minister consider a demand for 22½ per cent levy on holiday pay instead of 17½ per cent unreasonable?

Hon. PETER DOWDING replied:

I would not want to pass comment on a hypothetical question. I do not know the context in which that might arise. In the circumstances, I do not think I can usefully help the member.

INDUSTRIAL RELATIONS: DISPUTE

Muja Power Station: Meeting

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

Would the Minister advise me if he knows that the Premier attended a meeting at Muja while the strike was being discussed and, if he does know, for what purpose?

Hon. PETER DOWDING replied:

If the member wants to know what the Premier was doing, that question should be addressed to the Premier.

MINISTER OF THE CROWN: PREMIER

Popularity: Comment

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

I am amazed that he does not know what is happening in the industrial scene. Would the Minister confirm a report given by a person at the meet-

ing which Mr Burke attended, where Mr Burke made the following statement—

> Look, my popularity rating is down to buggery and the chances—

The PRESIDENT: Order! The member cannot use that language in here.

Hon. G. E. MASTERS: Sorry, Mr President. I was just quoting what the Premier said. I thought if the Premier said it I could.

Hon. Peter Dowding: You are not quoting what he said, you are quoting what you have been told he said.

Several members interjected.

The PRESIDENT: Order! Apart from your not being able to use that language, I am far from convinced that the question is in order anyway, irrespective of the language. If you talk a bit more slowly I will be able to follow you.

INDUSTRIAL RELATIONS: DISPUTE

Muja Power Station: Premier's Offer

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

> Is it correct that at the meeting Mr Burke then offered the workers a $25 per week increase across the board retrospective to June this year?

Hon. PETER DOWDING replied:

> Either the member is a slow learner or he is deliberately doing what I have always accused him of doing, and that is using this House to try to put a wick under an industrial dispute or potential industrial dispute.
>
> I have no knowledge of the matters he is alleging. If he is genuine in his belief—and it is highly likely that he is just peddling rumour, as his party is so willing to do—then he should direct that question to the appropriate Minister.
>
> But let me say that the member's record in trying to stir up industrial ferment is so well entrenched in the minds of people out there that employers have complained to me about it. I understand they have even complained to his leader saying that as long as he is responsible for industrial relations they will not contribute to the part—

The PRESIDENT: Order! Somebody said before, though in slightly different words, that two wrongs do not make a right. The point is that two wrongs do not make a right. Only yesterday I told the Minister, as well as other members, that there are some very strict parameters surrounding the asking of questions and the answering of them. I allowed the Minister to go on because I agree with him that he is not the only one at fault here. The questioner is also breaching the rules.

I am telling you all now that the purpose of question time is to seek information, and in order to seek that information some explanatory comments are permitted. But statements are not permitted. Arguable matters are not permitted in the asking of the question. The same thing applies to the answering of the question. Arguable material is out of order. The Minister has the right to refuse to answer any question he wants to. If he decides to answer it, he cannot enter into arguable matters.

I ask members to use question time properly as our Standing Orders and our parliamentary system have planned it to be used.

INDUSTRIAL RELATIONS: DISPUTE

Muja Power Station: Premier's Offer

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

> It is obvious the Minister is getting a bit upset. Would he consider it reasonable, and is it proper, for the Premier to award a $25 increase?

The PRESIDENT: That question is out of order. It is asking for an opinion. That is not permissible.

INDUSTRIAL RELATIONS: DISPUTE

Muja Power Station: Payment

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

(1) Would the Minister tell this House whether he knew or did not know that a $25 per week payment to workers at Muja was made retrospective to June?

(2) Did he play any part in that decision?

Hon. PETER DOWDING replied:

(1) and (2) The management of industrial relations in the SEC first and foremost rests with the Minister responsible for the State Energy Commission.

Hon. G. E. Masters: Did you know about it?

Hon. PETER DOWDING: I do not, off the top of my head, recall any discussions which were held about that matter.

Hon. G. E. Masters: "Yes" or "No"?

The PRESIDENT: Order!

Hon. PETER DOWDING: The member should relax; he has not done very well to date. He may do better soon. I suggest he direct that question to the Minister responsible for the State Energy Commission.

PRISON

Metropolitan Area: Location

284. Hon. P. H. LOCKYER, to the Minister for Prisons:

(1) Will the Minister state whether a decision has been made on the location of a prison to be built in the metropolitan area, and if so, will he specify the location?

(2) If the decision has not yet been made will the Minister name which locations are being considered for this purpose?

Hon. J. M. BERINSON replied:

(1) No decision has been made.

(2) No, it is not the Government's practice to publicise sites which it may later wish to acquire. So far as I am aware, that is consistent with the practice of previous Governments, and I do not propose to depart from it.

INDUSTRIAL RELATIONS: DISPUTE

International Airport Site: Power Cut

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

Has the Minister been advised or made aware that a Mr Palmer, the Assistant Secretary of the Electrical Trades Union, turned off the power at the Perth International Airport site at 8.00 a.m. on Friday, 25 October and caused that job to close down?

Hon. PETER DOWDING replied:

I have been informed that there has been some industrial disputation on that site and I have heard a number of allegations as to the cause and the results of it. I am not prepared to confirm or deny the facts which the Leader of the Opposition has alleged.

INDUSTRIAL RELATIONS: DISPUTE

International Airport Site: Power Cut

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

If the Minister is not prepared to deny or confirm those facts, could I ask him if a union official such as Mr Wally Palmer has the authority to turn off the power?

The PRESIDENT: Order! The Minister need not say anything because the question is out of order.

ENERGY

Electricity Act: Inspector

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

(1) Is Mr Wally Palmer an inspector under the Electricity Act?

(2) Would he be charged with that authority as a union official?

Hon. PETER DOWDING replied:

(1) and (2) The Minister responsible for the administration of the Electricity Act is the Minister for Minerals and Energy.

ENERGY

Electricity Act: Inspector

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

Will the Minister investigate the complaint I have just made and let me know, give me the information, or report to the House, whichever he prefers?

Hon. PETER DOWDING replied:

Given the Leader of the Opposition's credibility on the issue of industrial relations, I certainly would not be prepared to investigate any piece of tittle tattle that he wants to raise. He knows the processes under which these matters should be pursued and I suggest that he pursue them if he wants to.

ENERGY

Electricty Act: Inspector

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

If the Minister will not take my word for it, would he act on a complaint from an employer group or groups?

Hon. PETER DOWDING replied:

I regularly act on matters raised with me by all manner of people.

Hon. G. E. Masters: Say "Yes" or "No". I will organise it then.

Hon. PETER DOWDING: My policy is that I will continue to be as approachable as the Ministers in my Government have been generally; and that policy has been well received by all members of the community, the business sector, the employers, the unions, and the ordinary public, in marked contrast to Hon. G. E. Masters' regime.

INDUSTRIAL RELATIONS: DISPUTES

International Airport Site: Minister's Visit

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

In view of the huge number of stoppages at the Perth International Airport, has the Minister taken the trouble at any time since he has been a Minister to visit that site and to ascertain what the problems are?

Hon. PETER DOWDING replied:

I have not visited the building site. I do not want anyone to forget that I have repeatedly told the Leader of the Opposition that the Minister for Industrial Relations is not some sort of Clark Kent who whips into phone booths and dons a suit emerging as "Super Minister"—

Hon. G. E. Masters: What about the Argyle dispute?

Hon. PETER DOWDING: The truth is, as the Leader of the Opposition in his reasonable moments would have to concede, that my Government has actually done a tremendous amount to get the building industry successfully back on the road, and that has been recognised by employers and unions. Industrial disputes occur in that industry and some sites have suffered more from industrial disputes than others. But I am certainly not regarding it as my role to put on a pair of wellies and go onto the site and try to resolve those disputes.

Hon. G. E. Masters: It would be lowering your standards, would it?

Hon. PETER DOWDING: The member wants to dismantle the Industrial Relations Commission. That is the proper place for dealing with matters within its jurisdiction. We have set up a building industry dispute stoppage agreement, which in turn is able to deal with disputes that are not able to go to the commission, and that structure is working extremely well.

Hon. G. E. Masters: Would you like me to quote Mr Coleman's statements?