Legislative Council

Thursday, 12 April 1984

The PRESIDENT (Hon. Clive Griffiths) took the Chair at 2.15 p.m., and read prayers.

PUBLIC TRUSTEE AMENDMENT BILL 1984

Third Reading

Bill read a third time, on motion by the Hon. J. M. Berinson (Attorney General), and transmitted to the Assembly.

BILLS OF SALE AMENDMENT BILL 1984

Second reading

HON. J. M. BERINSON (North Central Metropolitan—Attorney General) [2.23 p.m.]: I move—

That the Bill be now read a second time.

Under the agreement for co-operative companies and securities regulation, amendment to the Companies Act of the Commonwealth results in amendment to the Companies (Western Australia) Code.

Recent amendments to the Commonwealth Act places in the Companies Code the regulation of certain Bills of sale in which companies have an interest. As a result, consequential amendment is necessary to the Bills of Sale Act. This Act presently requires the registration of companies' security interests in chattels.

The amendment will ensure uniform treatment of such bills of sale throughout Australia, and will bring Western Australian law into line with the other members of the co-operative scheme.

It is proposed that the legislation have retrospective effect to 1 July 1982, the date of introduction of the Companies (Western Australia) Code.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. I. G. Medcalf (Leader of the Opposition).

ACTS AMENDMENT AND REPEAL (INDUSTRIAL RELATIONS) BILL 1984

Second reading

Debate resumed from 4 April.

HON. G. C. MacKINNON (South-West) [2.24 p.m.]: I suppose nobody is very surprised to see me rising to speak on yet another industrial relations Bill. One seems to do this regularly with every change of Government, with frequent intervals in between. When debating this measure we ought to examine the reasons for that and I shall refer to them later. We ought to discuss that aspect to see whether we can arrive at a course which will obviate these constant amendments to the industrial relations legislation.

It is very difficult to find the time to examine in detail all the ramifications and implications of a piece of industrial relations legislation. Those of us who work in the field know that the industrial life of this nation goes on despite the constant interference of politicians of various categories, and departments and advisers of varying skills. In some ways I thank God for the good sense of those involved in industry, because they manage to continue their activities despite the constant interference with the laws appertaining to their efforts.

It goes without saying that enough time is never given to enable one to examine fully and completely legislation of this nature. I was struck by a reference which was made to this in 1982. In opening the resumed debate, as I am doing now, the Hon. Peter Dowding said, "It really is an appalling situation that this Government chooses to ram through this House a piece of legislation". He was interrupted by the Hon. P. G. Pendal who said, "You have had three weeks". I examined that and found he was wrong, because he had had 26 days. The Hon. Peter Dowding then said, "The Hon. Phillip Pendal has had enough to say and I suggest he belt up for a while". That was when the Hon. Peter Dowding was new and very abrasive.

The Hon. P. G. Pendal said again, "You have had three weeks" and Mr Dowding responded by saying, "At the best of times the Hon. Phillip Pendal is a twerp". I do not know why the Hon. Phillip Pendal did not take a point of order at that stage based on that untruthful comment.

I shall refer to that piece of legislation in a minute, because it has particular bearing on one aspect of this Bill. It might be of interest to the House to go back a little further to a piece of legislation which was introduced into the House by the Hon. Ron Thompson who at that time, was a Minister in the Tonkin Government. Members might recall that you, Sir, had a tussle or two with that member. On other occasions, particularly in respect of town planning matters, you and he used to see eye to eye.

The Hon. Ron Thompson resigned from the Labor Party when the Hon. Grace Vaughan introduced the homosexual Bill which he wanted to oppose. There was some talk of discipline and the Hon. Ron Thompson resigned from the Labor

Party. I mention that so members will understand he was a very honourable fellow.

In 1973 the Hon. Ron Thompson introduced a Bill to end all Bills on industrial arbitration. Mr Dans had a great deal to say on that Bill. He did not have quite as much to say as I did, because, on that occasion, I led the debate for the Opposition. That was the Bill which introduced the concept of "mediators". Perhaps some of the older members here might recall that.

Hon. V. J. Ferry: What has happened to them?

Hon. G. C. MacKINNON: I will come to that in a moment, because it is a very good question. The principle of mediators was to revolutionise the concept of industrial arbitration in this State. A person acceptable to both the employer and employee was to be interposed and after considering all the facts he would arrive at a conclusion satisfactory to both parties.

I was very interested in the point raised by Mr Ferry so I made some inquiries. You, Sir, may be surprised to learn that on only one occasion were mediators used. I should reword that. An endeavour was made to use the principle of mediation because we did not remove that principle from the Act when we became the Government after this Bill became law.

That was in 1977, and an attempt was made to use it in the Hamersley altercation. An effort was made to utilise the mediator principle and finally somebody that both sides would accept was chosen. The mediator agreed to in 1979 was an outspoken failure. The 1973 Bill was really about putting mediation into industrial arbitration legislation and a tremendous amount of argument ensued. Mr Dans was most enthusiastic about the principle on the floor of this House. I hasten to add, in case anyone jumps to the conclusion that Mr Dans is not a very bright and competent man so far as industrial law is concerned, that I have no doubt that in his secret heart, and based on his long years of union service, he knew as well as I did that it was a lot of rubbish. However, he did the job with skill—

Hon. D. K. Dans: You are still as good as ever.

Hon. G. C. MacKINNON: —and argued on the floor of this House for a mediator. One might as well argue for the use of petrol for fire extinguishers—it would be just as successful. One could argue that petrol is a liquid which looks like water, so it should put out a fire. The argument is just about as valid.

Many members are in the habit of commenting that the Labor Party does not get the numbers. In 1973 it could have rolled me, and did in fact roll me in no uncertain fashion. As a matter of fact, the Labor Party had its way with all three divisions on that occasion, and for a very good reason. I refer to *Hansard*, volume 5, page 6049. The Ayes were 11 and the Noes numbered 13, and included Mr Dans, Mr Dellar, Mr Dolan, Mr Hunt and Mr Leeson, who were assisted by Mr Logan, Mr Syd Thompson, Mr Jack Thomson and Mr Norm Baxter; they were convinced by the rhetoric of Mr Ron Thompson who they knew had experience in Fremantle, and their conviction was reinforced by Mr Dans whom they accepted as a union mediator of no little skill.

Hon. D. K. Dans: Flattery will get you anywhere you want to go, Mr MacKinnon. You know that.

Hon. G. C. MacKINNON: It might even get me the Minister's vote.

Hon. D. K. Dans: That would not be hard to get from me; you know that.

Hon. G. C. MacKINNON: On a day of miracles that will be done. They voted consistently with the Labor Party through the whole show and, solemnly and convincingly, they gave the Labor Party the majority to put through that totally useless piece of legislation. I know I dwell on history a little, but I think it is necessary to get these things into the right perspective. That debate in 1973 ran from *Hansard*, volume 4, page 4453, right through to page 6407 of *Hansard*, volume 5. There was a lot of discussion about retrospectivity. It would be interesting to go back over that debate alone, without getting into this one, and to see the problems that were remedied by legislation. Suffice it to say, the industry in this country continued unabated, the divisions for developing industry continued unabated, strikes went on, and so forth. Really, the legislation seemed to make little or no difference.

It is odd that the legislation in 1982 which was so roundly condemned by the Labor Party—members can read *Hansard*, volume 4 of 1982 and see Mr Dowding's very forthright comments with regard to it and in conjunction with that they should read Mr Dans' second reading speech on this occasion in which he says—

> The Government is of the view that industrial law in this State does not provide an adequate framework for the prevention and resolution of industrial conflict.

I point out that there has been a distinct drop in industrial disputation over the last eighteen months. During that period the State has worked under the 1982 amendments.

Hon. D. K. Dans: That is because of my golden touch.

Hon. G. C. MacKINNON: That is because of Mr Dans' golden touch, working under the 1982 legislation.

Hon. D. K. Dans: Not working under it.

Hon. G. C. MacKINNON: Working under or disregarding the 1982 legislation. Either argument supports my contention that these people who make industrial conflict and laws do little towards solving the problems. I do not think Mr Dans said this, and I will give my reasons for saying so in a moment—

> In fact it would be true to say the shortcomings in the present Industrial Arbitration Act are the cause of many industrial disputes rather than the means by which they are resolved.

It might be a jolly good thing that Mr Dans made a few mistakes, otherwise the commission would have been out of work. There was such a reduction. If it is as good as that and if it has reduced the disputation to the extent it is supposed to have done, why muck about with it? We do not know when we are on a good thing, of course. Somebody has done this.

I ask members to cast their minds back to a sentence uttered in this place and, to his eternal shame, he will never live it down. The Minister said—

> Labor does not in any way resile from its fundamental responsibilities to the electorate.

I take it he made that speech so that the ordinary union member or working man could understand what he was talking about. I referred to my dictionary and the word "resile" was not in it.

Hon. D. K. Dans: It is classical English.

Hon. G. C. MacKINNON: I know it is classical English—it was probably invented by Shakespeare, it is so classical. Who in his right mind would use a word like "resile" when he wants it to be understood in the workplace? The main point in the Bill concerns the terrible steps that have been taken with regard to the definition of "worker". Workers will not be able to understand it and the Minister has used words which will not be understood. There is no doubt that Mr Dans is not that heartless, and we know that he would in no way include a word like that and try to speak above the rest of us. One or two of the learned members in this place may have understood the meaning of the word, but I did not. I had to find out the meaning and I found it readily because one or two other members had taken the trouble to look it up. However, I am sure that no member in this place knew what that word meant when the Bill came before this House. It is probably a favourite word of Mr Dans's adviser.

Hon. D. K. Dans: I put that word there before we became the Government.

Hon. G. C. MacKINNON: Oh, cut it out, Mr Dans.

Hon. D. K. Dans: You did not read the green paper. I thought it was a dainty word.

Hon. P. G. Pendal: You have been resiling from it ever since.

Hon. D. K. Dans: You are taking journalistic licence with me, Mr Pendal.

Hon. G. C. MacKINNON: I repeat that in the last 18 months the laws introduced into this place by Mr Masters, the laws put onto the Statute book by Mr Masters and opposed by the ALP so vehemently have, in fact, reduced disputation markedly.

Hon. Garry Kelly: There might be other reasons!

Hon. G. C. MacKINNON: I have already said that the skill of Mr Dans had something to do with it.

Hon. D. K. Dans: There is a terribly good industrial officer working for us now.

Hon. G. C. MacKINNON: If industrial law is a vehicle by which the Minister has to work, then it does its job.

Hon. Garry Kelly: It might have been done in spite of the Act.

Hon. G. C. MacKINNON: In that case, leave it as it is. It is good enough without it and we will not have any upsets.

I bring to the attention of the House another point made by Mr Dans which reads as follows—

> We do not believe that any serious amendments to the State's Industrial Arbitration Act can be properly and responsibly presented as the universal and instant panacea for the industrial relations problem confronting the State.

I am glad he included that in his second reading speech, because it is in direct contrast to what he said in 1973 when he said mediators would be the absolute panacea. I agree with him, but I believe that laws are not particularly a panacea for anything.

Mr President, you will be aware—all your working life you worked in trade activities, as I did most of my life—that industrial laws apply in the workplace. Over the years one would need to have been a constant student to keep up with the changes. One should ask oneself, why? The question demands an answer. I would suggest it

could well be because the institutional vehicles we are using for industrial law—the Conciliation and Arbitration Commission and the court system—do not work in the modern context. In fact, what successive administrations are trying to do is tinker with the "T" model Ford; tinkering with an old, worn-out machine, giving it a better method of propulsion, a better method of stopping, or altering it here and there by changing the headlamps, etc. It is simply not worth it because it is not keeping our system fluid enough to cope with the speed of modern development.

I am quite sure that in this concept the amendment I want to speak about is well illustrated. There are a number of clauses in this Bill which are almost automatic and will not change things one way or another. Whether we have a Teachers' Tribunal or whether we have a separate tribunal for academics only would not matter. At one time, teachers wanted a separate tribunal because they thought they were important enough to warrant it. I do not think they are important enough to warrant it. It is quite incidental, and if they want a separate tribunal let them try it and have one. However, I do not think it matters. There are a number of matters in this legislation which mean the same and they are listed in the second reading speech as follows—

> Specifically, Labor will—
>
> (1) Broaden the definition of "industrial matter" to give jurisdiction with the Arbitration Commission with any matter that gives rise to industrial disputation.

I do not think one can argue with that. It continues—

> (2) Enhance the jurisdiction of the Arbitration Commission to deal with all who stand in an employee relationship with their employer.

I will come back to that because that is nothing more or less than a blatant political stunt to give more power to the unions. It is for no other reason and it is out of step with modern trends and future developments in the way work will be carried out in any country, particularly if this country develops in the way which the Deputy Premier, Mal Bryce, believes it will. It continues—

> (3) Require any party purporting to represent the public interest to first establish before the Commission what that public interest is . . .

I think that is probably fair enough and one would need to argue to ascertain if there is anything objectionable about it. Item (4) reads as follows—

> (4) Ensure that awards and/or agreements cannot be varied or interfered with other than by those party to them.

I do not know whether that item has anything objectionable about it. It seems acceptable to me. It continues—

> (5) Require that unions are free to conduct their affairs as long as they conduct them democratically.

An argument could arise as to how one defines the word "democratically". I have been to a few union meetings where the most democratic voters have been the fellows who held the microphones and who could drown out everybody else. I have also been to a few meetings where there have been two factions—those who are with me on one side and scabs on the other side.

Hon. D. K. Dans: You have the story wrong. All those that are with me are over here and all those against me are over there.

Hon. G. C. MacKINNON: All those with me over here and all the scabs over there—that is the nice democratic system which is used by some members of the union.

If anyone thinks that the BLF and the BWU are run along democratic lines, he should read a few of the Royal Commission reports. Item (6) of the policy reads as follows—

> (6) Guarantee to individuals who believe they are being adversely affected by union rules, the right to seek legal remedy.

I would be surprised if that were exceptional. The next item is a funny one and is as follows—

> (7) Eliminate harsh and unworkable penalties.

I have always found, even when I am fined for speeding—I have a few colleagues in this House who, I gather, carry on in much the same way—that the penalty is harsh and unconscionable. It surprises me. I understand there is a clause in the Bill wherein it is expected that the person who is looking at the situation should talk to the person who has the penalty inflicted against him.

Even if one analyses it properly and if the penalty has been inflicted what, under any circumstances, could be classified as "criminal activity"? Item (9) reads as follows—

> (9) Enable unions who, within the terms of their constitution and rules, have decided to amalgamate.

I may be out of step with a number of people, but I believe in amalgamation. We have far too many

unions and the prospect that the fireman and engine drivers union—

Hon. D. K. Dans: The Federated Engine Drivers and Firemens Union.

Hon. G. C. MacKINNON:—with only a handful of members, can hold up a whole iron ore field is ludicrous.

Hon. S. M. Piantadosi: Why did your Government object to the amalgamation?

Hon. G. C. MacKINNON: We did some silly things. I think the member has been here long enough to know that I speak with a reasonable amount of independence, and I spoke then on my own behalf. Perhaps when the previous Government did that it did so against my wishes. However, I see nothing objectionable in it; Mr Masters and Mr Medcalf might. I see some desirable aspects of it and I see reason for changing the system carefully and slowly.

Years ago in this House I mentioned union activity which took place upon the introduction of a small Ford car, the Capri I think, at Dagenham in England. The company had full order books for that car for the following two years. However, a small cleaners' union with about 160 members called a strike, and as a result no vehicles were manufactured for months, which allowed enough time for competitors to steal the market. It is absurd that small unions can hold up great masses of people. Industrial matters should be confined to industrial laws and the industrial field should be insulated from the intrusion of other legislation which does not have adequate provisions. There is a very succinct farming expression for that which I would like to use but I can not. It is rubbish.

I refer to a case against the commission in New South Wales which was approved under section 88(f). The Minister makes a great fuss about there being no trouble in New South Wales. However, there has been constant litigation and quite a few cases have gone as far as the High Court. One case was brought under the Trade Practices Act. The High Court upset the commission, and it had to retract. Of course, other Acts govern the way some people work, and so they should.

Some of the clauses in this Bill are quite reasonable. However, I refer to one or two which I think are wrong. The extension of the term "employer" is one I regard as unreasonable and improper. I suggest we look at the modern trend of events, the things that forward-thinking people are saying will be the pattern of events in the next decade. We know these things will happen because we see them happening now—job sharing and piecework at home. I know a number of members are keeping reasonably up-to-date and have read Toffler's *The Third Wave* in which he refers to the pro-consumer society. I know some members have read *Future Shock* and will be aware that even now there is a tendency for people to share jobs, to take a certain amount of work home and spread it over a week if they want to, and to make a contract with an employer. These people could be held to be employees if this amendment is passed.

I do not understand the retrospectivity clause, and I ask the Minister to explain whether the retrospectivity applies from the passing of this Bill; that is, does it go back six years from now, or does it become retrospective as the years progress? That would not be a difficult query for a man of his intellectual capacity to grasp.

Hon. D. K. Dans: You should be able to grasp it from the Bill. With your experience as a Minister you would know that it means as the years progress.

Hon. G. C. MacKINNON: I am glad the Minister has made that clear. I have argued with people that my interpretation is correct. I hope the Minister will confirm that it means that if at the end of 1985 someone wanted to take action, he could take it back to 1984 and no further. I have previously found the Minister to be a man of honour and if he says that, I have no hesitation accepting his word. Be that as it may.

I have recently had occasion to assist a young lady who was job sharing. She worked one week on and one week off, more or less in her own time. She took work home and was paid a weekly rate. Sometimes she worked on the weekend and if her partner was absent she carried on for the day. It was a happy arrangement. However, under the new arrangement it would be very difficult to work this system.

Of course, the Government does not care. It has taken a shotgun and put this in the Bill, and I am quite sure it has not really examined the situation. Why? Because with regard to Bills like this I have become cynical. When debating the SGIO Bill within the last six months I accused the Government of introducing that Bill believing—indeed hoping—that the Opposition would knock it back. The Government was not prepared for it to be carried.

Hon. Garry Kelly: You do not really believe that?

Hon. G. C. MacKINNON: Since it happened, I know now that what I said was true; I know absolutely and without contradiction. If anyone could get at the files and look at them, he would find positive proof. One day, one of the young fellows in the Liberal or country parties will get to these

files and I would like him to know that what I have said is true.

Hon. D. K. Dans: They will be old men with grey beards.

Hon. G. C. MacKINNON: There are some members young enough. In 1975 and 1977, I thought we would never see another Labor Government in the history of Australia. I was wrong. People forgot how dreadful the Whitlam Government was. Despite the slaughter of the Labor Party on two occasions in 1975 and 1977, the people forgot and in 1983 re-elected the Labor Party. However, one must be fair and admit it was a totally different party, and the people voted for the new non-Chamberlain Labor Party.

Hon. Garry Kelly: You are going back a long time now.

Hon. G. C. MacKINNON: His influence lasted a while.

Hon. Lyla Elliott: He was a pretty good influence.

Hon. G. C. MacKINNON: He kept the Labor Party out of Government for many years, and, for that we should canonise the man.

I want to talk about this Bill and Government members are stopping me. They know I am close to the bone and they do not want me to carry on.

A Government member: I am waiting for you to say something.

Hon. G. C. MacKINNON: If the member wishes to go back over every speech I have made he would find that line. He should have developed a different tone; it sounds better when he sings it.

Such is the nature of this Bill dealing with definitions of employees that I believe the Labor Government has been approached by unions and asked to try this measure. It agreed to put the measure forward but in the secret little confines of their smoke-filled rooms the Government members turned to each other and said they could rely on the members in the Legislative Council to throw this out. There is no doubt whatsoever that aspects of this legislation are classified in that way.

Hon. J. M. Berinson: Put us to the test, Mr MacKinnon.

Hon. G. C. MacKINNON: There is no way that I would give members opposite that power and authority. It is odd that Mr Berinson should have come in with that crack, because it was he who was left holding the baby with the SGIO Bill. He had to go back and get that office to reorganise all its thinking, and I do not think the Government has got around to completing its case for a change to the SGIO's franchise. He is on the way towards fixing FID. But I really think he should leave the Chamber and listen to the debate on the loudspeakers so as to prevent himself making silly comments like that.

Hon. J. M. Berinson: You may be interested to learn that I am no longer responsible for the SGIO.

Hon. G. C. MacKINNON: Does he not say that with a note of relief in his voice? I certainly do not blame him for that, not one little bit. Ministers in Mr Berinson's position are always extremely grateful that when a Minister is shifted no deduction is made from his salary.

The whole concept of turning everyone who does piecework or any other similar work into a "worker" as defined in the definition and therefore to become subject to the powers of the Industrial Commission is absolutely alien to what this country is looking for in a developing and modern society.

Hon. Garry Kelly interjected.

Hon. G. C. MacKINNON: Members will understand why Mr Kelly was chosen to head the Government's committee inquiring into the circumstances of gifted children. He shows why he cannot have anything to do with that business of cutting out the Trade Practices Act and all those other Acts that might have an effect on the employment of people. So many Government members were previously school teachers, lawyers or union workers; they never actually worked in a business, and this is the trouble with the Labor Party. Today it is an academic party with very few of the old-style Labor people. Fred McKenzie knows what I am talking about. We need only look at him sitting over there to realise how uncomfortable he is as part of this modern, academic Labor Party.

Hon. Garry Kelly: How would a subcontractor get access to the Trade Practices Commission?

Hon. G. C. MacKINNON: Many other Acts are involved and cover the situation. Let us consider a woman who does a bit of sewing.

Hon. Garry Kelly: How much will it cost her?

Hon. G. C. MacKINNON: It will cost her nothing. She could simply ring her union representative, for one. Does Mr Kelly know of one? A woman who does a bit of sewing will be classified as an employee if this Bill is passed. Any woman who does this to earn an extra bit of money, in between changing the baby's nappy, will be classified as a worker. Many of these people have never had a job and do not want a job; they merely want to earn some pin money.

Hon. Lyla Elliott: That is about all they get, too. They really are exploited.

Hon. G. C. MacKINNON: The Hon. Lyla Elliott really is talking about how it was way back. Of course they were exploited.

Hon. Lyla Elliott: They still are.

Hon. G. C. MacKINNON: During the 1914-18 war my mother sewed petticoats with five frills for 1s 6p a garment. Of course she was exploited. But we do not get that exploitation now.

Hon. D. K. Dans: Not much!

Hon. G. C. MacKINNON: We have many Acts to look after these people. If they are not being protected, let the Government amend those Acts that are supposed to provide this protection. Do not let the Government bring in something under the Industrial Arbitration Act. Suddenly most people who work for themselves will find themselves classified as employees. We have seen the barbarous blackmailing procedures of the TWU, where owner-drivers not only had to pay the mortgage on their own trucks and all the licencing fees, but when they went along to get a load they were stood over by the union representative and made to pay union membership before they could get a load. Members opposite know that is true. Suddenly members opposite are all as quiet as mice. They do not want to be seen as a party to that sort of blackmail. Undoubtedly the ALP is aiming at the building industry. I can see Senator Cook's hand behind this. When I was Minister for Works he was behind deputations to my office. I know the way these people think and I know the way the wheels turn, because I have been there and listened to these people.

We want these self-employed people to work on their own; we want them to be subcontractors; we want them to run their own businesses.

Hon. Garry Kelly: There are subcontractors and subcontractors.

Hon. G. C. MacKINNON: There are politicians and politicians—let us make no bones about that.

Hon. P. G. Pendal: Mr Kelly is neither.

Hon. G. C. MacKINNON: The whole idea of this Bill is to get at two or three groups. I do not see how the Government will get at them without getting at the kid who works at the petrol station after school. He will have to be included, will he not? I suppose the kid who sells newspapers will also be included.

Hon. G. E. Masters: Pensioners.

Hon. G. C. MacKINNON: Anyone who does some work. Many people around the State have someone come in to do a bit of work. They will say to someone, "For $10 a week, how about coming in and doing a bit of gardening for perhaps two or three hours?" At the end of 1985 will these people be able to go to the Industrial Commission? Of course, the name will probably have been changed by then; but will such a person be able to go along to the commission and say, "Here is my log of hours worked. I have a contract to work for this fellow"?

Hon. Garry Kelly: Domestic arrangements are excluded.

Hon. G. E. Masters: Not altogether.

Hon. G. C. MacKINNON: The Bill contains all sorts of provisions. I know it has a provision that if a person is not boarding more than five people, he will be exempt. But many people have more or less boarders than that and arrange for someone to come in to do a bit of gardening. My argument still holds up, even though I have not had the time Mr Dowding had on a previous occasion when he grizzled about having only 26 days to study a piece of legislation.

If people like this are being exploited the Government should bring in a Bill to protect those independent workers. These workers should not be lumped together under the Industrial Arbitration Act. The Government should not make these people part of this system, a system which I think needs a lot of change.

Hon. D. K. Dans: I hope you make a submission to the Hancock inquiry.

Hon. G. C. MacKINNON: I have made my submission in *Hansard* over many years. I know Mr Cameron warned the workers not to leave the arbitration system, and he was quite right to say that. Workers have done better with that than with the system of personal negotiation.

Hon. D. K. Dans: I used to do very well under personal negotiation.

Hon. G. C. MacKINNON: The Seamen's Union did, because it was in a distinctly advantageous position.

Hon. D. K. Dans: Our respondents were very happy with us.

Hon. G. C. MacKINNON: Of course they were happy. Mr Dans brings that up every time in the debate. He likes us to remember that he was an influential member of the Seamen's Union. I have already given him credit for that.

The Seamen's Union was in an ideal situation. It involved vessels which cost many millions of dollars in the first place, and the interest rates on those investments were enormous. It cost many thousands of dollars a day to run the vessels, and the owners or the charterers of the vessels would

pay almost anything to keep the screws turning. Mr Dans is well aware of that. He could literally get what he wanted, and he did. If members do not believe that, they should go and have a look at the manning rates on any ship on this coast.

Hon. D. K. Dans: They are low by world standards. Do you want me to undo my shirt and show you all the scars where the BHP industrial officers got in very close with their short, stabbing spears?

Hon. G. C. MacKINNON: When it comes to industrial legislation, we are supposed not to understand it, but we are expected, after a week, to talk about it. Mr Dowding cried all the way to the polling box because he only had 26 days. The Government has given us a week. We gave the Hon. Peter Dowding 26 days, and he spent half of his speech crying about it.

Hon. D. K. Dans: I have given you five-and-a-half months. I also offered you an officer to assist you. You know that.

Hon. G. C. MacKINNON: In justification for the move to bring anyone who tries to do an honest day's work for himself into the net as an employee, Mr Dans quoted the Queensland Act.

Hon. D. K. Dans: Queensland is a socialist State! I should not have quoted that.

Hon. G. C. MacKINNON: I know he should not have quoted it, but he did. The situation is not comparable. The Queensland Act specifies only those cases where the work has been done and the employee has been designated in a particular way, with deliberate and malicious intent to avoid the conditions of the award, and for no other reason.

Hon. D. K. Dans: That's right.

Hon. G. C. MacKINNON: Why did not Mr Dans say that earlier? Why does he mislead us? It belittles his own ability. All sorts of subcontractors and other people read about that provision, and they said, "My God, Queensland has got Joh Bjelke-Petersen, and he looks after his own. Mr Dans tells us this is the same as they have. It can't be too bad". However, it is bad, because it is totally different. Mr Dans had no right to mislead this House or the people of this State.

Hon. D. K. Dans: By gee, wait until I get onto the subject of misleading and straightout lies.

Hon. G. C. MacKINNON: Mr Dans ought to apologise.

Hon. D. K. Dans: But you put it on paper. I will hold you to that, because your name is not on it.

Hon. Fred McKenzie: What are you going to say about New South Wales?

Hon. G. C. MacKINNON: He just said it, and after he said it and got it in *Hansard*, he said it did not apply. What will happen if somebody reads *Hansard* and only reads as far as that statement? He will say "Mr MacKinnon told lies". Then Mr Dans turned around and said "I did not." He is going down in my estimation.

I will now respond to the interjection by Mr McKenzie.

Hon. D. K. Dans interjected.

Hon. G. C. MacKINNON: Can you keep him quiet, Mr Deputy President (Hon. D. J. Wordsworth)?

Hon. D. K. Dans: You are rattled when you have to turn to the Chair for protection. I have never heard you like that, and I have heard you for a number of years.

Hon. G. C. MacKINNON: Mr McKenzie said, "What will you say about New South Wales?" I did not have 26 days to research this, Mr McKenzie; I had only four.

Hon. D. K. Dans: You have had five months.

Hon. G. E. Masters: That Bill was withdrawn.

Hon. Fred McKenzie: It is substantially the same.

Hon. D. K. Dans: You have debated it everywhere around the traps but in Parliament.

Hon. G. E. Masters: Just a week!

Hon. G. C. MacKINNON: My information was that at the last election the Australian Labor Party suddenly realised that many subcontractors and workers had actually been misled to the extent that they had voted Labor; and they realised that last year's Bill would alienate the subcontractors. The Government has withdrawn that Bill, torn it up, and thrown it away. I had doubts about it. I thought Peter Cook's influence was a bit stronger than that. Nevertheless, I am no longer in charge of the field of industrial legislation, so I did not know I would have to speak. I had about four days, in which to prepare myself and the Hon. Peter Dowding had 26 days.

Let me tell Mr McKenzie what my brief but accurate research has disclosed with regard to New South Wales. Mr Dans's classical English speechwriter has told us that the New South Wales situation is the same as we will have over here. My information from research is that section 88(f) of the New South Wales Act has, in the few years it has been in force, made several trips to the High Court.

Hon. D. K. Dans: Nearly 30 years.

Hon. G. C. MacKINNON: All right, 30 years. It has had several trips to the High Court and at

least two trips to the Privy Council. It was taken on once by the Trade Practices Commission, and that was a successful challenge which beat the conciliation commission.

Hon. D. K. Dans: I know exactly how many trips it has had to the court. It has had 700 in 30 years.

Hon. G. C. MacKINNON: It has been a nice goldmine for the industrial lawyers in New South Wales. If that is the sort of additional area of expensive disputation that the ALP wants to bring into Western Australia, it wants its head read.

Mr Dans tried to convince us that this was all right, and he quoted what every ALP member regards as the doyen State of the ALP, New South Wales, and what we are supposed to regard as the darling of the conservatives, Queensland. He said that the provision in each place was the same; but I have proved absolutely conclusively that neither statement is correct. If Mr McKenzie wants further proof he can look up the references which I will give.

I would like the members who represent country electorates to prick their ears up when I talk about the share-farming case. That dealt with the definitions of "worker" and "contract". A couple of High Court cases dealt with the section. The share-farming case appears in 1977, volume 136, *Commonwealth Law Reports*, page 190. The farmers should have a pretty good look at the implications of that case, and the members who represent farming areas—I can see a number of them here—might have a pretty good look at it as well.

Hon. Fred McKenzie: Was the section of the Act held to be void?

Hon. G. C. MacKINNON: No. The farmers were rolled. I refer also to the dairy farming case in 1979, and this appears in the *Australian Independent Commonwealth Reports*, page 58, in Smythe *v* Shipton. I have many other references but, as I keep repeating, I did not have 26 days in which to prepare my speech. As a party, we had seven days; and as a member of the Opposition, I had four or five days.

I was not able to write down all the references. Another one members may look at was when the Trade Practices Commission rolled the arbitration court. In that case, of course, the High Court did not have jurisdiction in the State.

Hon. Fred McKenzie: Because it is Commonwealth law.

Hon. G. C. MacKINNON: Sure. It is Commonwealth law, and that brings forward another point: a case to which Mr Dans referred which concerned social welfare. Of course that only applied where there was no State jurisdiction; it is Commonwealth—

Hon. D. K. Dans: Mr MacKinnon, please, I do not like to see you making a fool of yourself.

Hon. G. C. MacKINNON: I have to report my information—

Hon. D. K. Dans: Well, it is wrong.

Hon. G. C. MacKINNON: —in the debate. This is the result of my hurried and brief research.

Hon. D. K. Dans: What it simply means is where those people make an application to be covered under the Federal agreement, they become parties to that kind of situation.

Hon. G. C. MacKINNON: See how he changes ground. Now they have to switch to a Federal agreement. I am sure he thinks we came down in the last shower.

Hon. D. K. Dans: You said tribunals normally follow the lead of the Federal law.

Hon. G. C. MacKINNON: I think that is the catchcry every time someone is in trouble. It has not happened.

Hon. D. K. Dans: Yet.

Hon. G. C. MacKINNON: I will repeat item 10 again. A Labor Government would confine industrial matters to industrial law and insulate the industrial field from the intrusion of other legislation which does not have industrial purposes, such as the Trade Practices Act and actions for tort. How will we get on with secondary boycotts? Are they allowed to have effect?

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

Hon. G. C. MacKINNON: Will the Minister tell us how they can, because in his second reading speech it is stated that they are not allowed to use their influence, as he explained under item 10.

A number of amendments in this Bill, while being party-political, have little to do with industrial relations. They are things which I think might be of benefit to a dog. One or two things in this legislation would be absolute anathema.

One matter I wish to deal with is the change of definition of an "employee". I am certain that that is in this Bill to placate certain union activities. It is an absolute certainty that it would receive vehement opposition from the Liberal Party as long as the surviving elements in this House have a say in affairs at all.

I know that after this is all over an assessment will be made in the industry and in those discussions the people who know what they are talking about will say "Thank God for that".

There is no doubt in my mind at all that they will sit around and say "We have kept faith with the unions, we have done what Peter wants. We have done what these fellows want. Thank God the Legislative Council saved us". It has happened before.

Hon. Kay Hallahan: When you were in Government, maybe.

Hon. G. C. MacKINNON: It has happened before, once or twice. We have called their bluff, and I am a little surprised they took the risk so soon after the mauling they got on the SGIO legislation.

Hon. D. K. Dans: I understand our popularity is going down, and I need to address that again shortly.

Hon. G. C. MacKINNON: I would think it is. The other day a demonstration was held at the front of Parliament House. Two thousand people were supposed to be present, but I counted 120 people.

Hon. D. K. Dans: You are mentioning something which is in the Bill, and you were convincing me you could not read. Now, you are convincing me you cannot count; 61 people were there.

The PRESIDENT: Order! Everything has been going along nicely. I suggest that the Leader of the House stops carrying on a conversation with the Hon. Graham MacKinnon, and that the Hon. Graham MacKinnon addresses the Chair, then everything will continue nicely.

Hon. G. C. MacKinnon: Thank you, Sir, I am grateful—

Hon. D. K. Dans: I am only trying to assist you.

Hon. G. C. MacKINNON: —because it was becoming very difficult. I tried to count, and I counted over 100 people. I thought the demonstration was a terrible failure.

Hon. D. K. Dans: You were counting the police, too.

Hon. G. C. MacKINNON: That might be the explanation. Maybe I counted the photographers, the policemen and all the supporters of the ALP as well.

I remember when we did amend this Act in 1963 and members of the Trades and Labor Council carried coffins around in Forrest Place and marched to Parliament House. At least about 2 000 people were involved that time. At that time the ALP was in the position which always gives it the greatest degree of theoretical popularity—the ALP was in Opposition and the party believed that that Act would spell the death of arbitration.

Hon. D. K. Dans: Was that 1963?

Hon. G. C. MacKINNON: Yes.

Hon. Garry Kelly: You said that last time.

Hon. G. C. MacKINNON: I know one or two people in the ALP whose ability to pick up things leaves me some room for doubt, so I do not mind repeating these things.

Within six months of that Bill being passed and becoming law, the TLC was calling it a milestone in the development of industrial relations. Members can check the records of the time. I am sure Mr Masters would know from his research that I am right. I do not know whether we would be so successful with any similar deputation.

Anyone here who has worked on a building site—I know one Liberal member who has, Mr Knight—would know how dangerous it is to be opposed to anything on a building site. Often a hammer can fall off a top floor of a building or even from a ladder. Some of the things that have gone on at some building sites really makes one's blood run cold. We have seen some examples with letters sent by union representatives to some builders.

The situation of the subcontractors in this State is made serious by this proposed amendment. I am not certain that they are coming under great pressure, but I do know that some have been feeling the pinch with the downturn in the economy. Nevertheless, the system of subcontractors has led to a very good standard of building.

For the interest of members, I wish to touch on one other matter. Back in 1890-1900, Australia was listed number one in the world for its standard of living. In 1900, we were number three, equal with the Argentine. Does that not boggle the mind? All the mucking about with streamlining of, and changes and "improvements" to the Industrial Arbitration Act have resulted in the situation that we are now sixteenth of 24 leading nations. I ask members to bear in mind that in 1900 we were comparable with the best of all other countries.

Hon. Lyla Elliott: Thanks to Mr Fraser's policy—

Hon. G. C. MacKINNON: Mr Fraser's Government occupied seven years between 1900 and 1984.

Hon. Lyla Elliott: That is when we went down.

Hon. P. G. Pendal: You not only do not know history, you are trying to rewrite the history books.

Hon. Fred McKenzie: We slipped from seventh to sixteenth.

Hon. G. C. MacKINNON: Do not make up the statistics.

Hon. Fred McKenzie: Tell me something different; we went from seventh to sixteenth.

Hon. G. C. MacKINNON: We have gone from third to sixteenth since 1900.

Hon. Fred McKenzie: I am talking about Fraser's seven years.

The PRESIDENT: Order!

Hon. G. C. MacKINNON: There is no way that these revolutionary changes can have anything but a bad effect.

Those who want to work for themselves will continue to do so despite the machinations of the Australian Labor Party, because they will find ways around it. They will find some way to retain their independence.

I suggest that anyone who is wavering in his support for this amendment should get hold of Toffler's book, *The Third Wave*, and some of the speeches made by Mal Bryce and any of the reports on the home-based industry changes.

Hon. D. K. Dans: And buy a copy of Barry Jones' book, *Sleepers Wake*.

Hon. G. C. MacKINNON: I have not read it. I have never been a great enthusiast for Barry Jones. Perhaps if the Leader of the House lends it to me—

Hon. D. K. Dans: I want you to buy one; I am peddling it.

Hon. G. C. MacKINNON: I ask members not to be sidetracked by interjections, but to look at where the world is going and and at employment trends. The time is with us when more home-based work will take place and there will be an increase in home activity. I do not mean a return to peasant home work as exists in some parts of the world where all the pieces of the shoes are delivered in the morning and the family sits around all day and sews, and the completed articles are picked up at night. I believe in genuine home produced articles and a computer terminal in the home.

Government members should read Mr Bryce's speeches and see how far away from the real visionaries in their party is this absolute rubbish of trying to make every genuine hard working individual put on the yoke of conformity and become a worker in a great and glorious socialist dream. It is rather a nightmare.

HON. GARRY KELLY (South Metropolitan) [3.34 p.m.]: Apart from the last flourish of purple prose, the Hon. Graham MacKinnon's speech was at least interesting. Members must admit that the last few sentences were overdone. Mr MacKinnon highlighted the crux of this debate by referring to the expansion of the definition of "employee", as is one of the areas with which he can find no chance of agreeing to the Government's proposals. It was good to hear him speak on a personal basis and say that there are many things in the Bill which are coincidental—perhaps he meant incidental—and which on balance will not make any difference. He could not see a problem with their being in the legislation.

A matter which I do not regard as incidental is the question of union amalgamations. One of the banes of industrial relations in this country is demarcation disputes. It is a problem that is exacerbated by the large number of unions, many of them very small unions. Mr MacKinnon referred to them as "piddling unions" but I will not go into that. The scope for disagreement between the unions leading to serious disputes which can involve strike action is something we are all well aware of. On that issue, Mr MacKinnon said he would favour provisions in the Bill which made union amalgamations easier, and I commend him for that.

That is at variance with the Liberal Party's previous attitude, and Mr MacKinnon made the point that perhaps the Liberal Party was wrong in the past. That is quite an admission coming from a member of the former Government which was not noted for admitting it was wrong and which made some mistakes.

Hon. A. A. Lewis: Not nearly as bad a mistake as your Minister made in misleading the House.

Hon. GARRY KELLY: Mr Lewis is wrong but I will not be sidetracked by his disorderly interjection.

Mr MacKinnon referred to earlier debates recorded in *Hansard* and apologised for dwelling on history. He began by referring to 1973 and the statements made by the Leader of the House in relation to the introduction of mediation into the Industrial Arbitration Act. It may be good to dwell a little on history, but he dwelt on it rather a lot. Mr MacKinnon went back as far as 1900. He referred to the debate in 1982 on Mr Masters' amendments to the Industrial Arbitration Act—that all-night sitting—and the amendments which set up the Industrial Commission in 1963 and went through that story again. I have been here since 1982 and that is the second time I have heard it. People who have been here longer have probably heard it before. Every time a debate takes place on this Act I presume this reference to the 1963 changes to the Arbitration Act is trotted out. To a large extent Mr MacKinnon's speech

dealt with events that happened in the past and changes to industrial law.

We should come back to the present and consider what is before the House.

Hon. G. E. Masters: You tell us what it means.

Hon. GARRY KELLY: We should not forget what has gone before, but we should put it in the background. Mr MacKinnon commented that the mediation proposals written into the Act in 1973 were ineffective and useless, and that the only beneficial changes to the Act had been made by Liberal Governments. He cited the 1963 changes. He said that the downturn in disputation and the general lowering of the temperature in industrial matters in this State since 1982 was due to the amendments put through at the end of 1982.

That is drawing a rather long bow. A variety of reasons exist for the decrease in the level of industrial disputes. I interjected at the time that there were other reasons and the Minister was probably one of them. Since then we have had the advent of a Federal Labor Government and the prices and incomes accord. A number of factors have been introduced into the industrial situation right across the country which would explain the reduction in the level of industrial disputes.

The present Bill draws in large part on a report by the Senior Commissioner of the State Industrial Commission. He is a member of my clan, Senior Commissioner Kelly. That report was written in 1978 or thereabouts. Many recommendations were made to the Court Government which were not taken up. They were largely pigeon-holed by the previous Government. Many of the principles enunciated in the Bill draw on the experience of a senior practitioner in the industrial relations field. He is seen to be an independent observer within the industrial relations community, and is a person who has been on the bench himself. Many of the proposals, in fact most of them, do not necessarily devolve from one particular view of industrial relations.

It should be borne in mind that much of the basis for the Bill is drawn from an independent report. Admittedly, the report is getting rather old now, but the recommendations are as valid today as they were when written. Unfortunately the previous Government did not see fit to act on them.

However, it is time to get away from generalities and to get down to some specifics. Anybody who has been reading the Press in the last few weeks will see that a lot of heat has been generated in the debate on this subject, but very little light. The debate centres around the part of the Bill which Mr MacKinnon highlighted, and that was the expanded definition of "employee", contained in clause 6 of the Bill, as follows—

> "Employee" means—
>
> (a) Any person employed by an employer to do work for hire or reward including an apprentice or industrial trainee;

There are several other definitions of an "employee".

An Opposition member: Read them out.

Hon. GARRY KELLY: I think there is agreement on both sides as to what the definitions provide. The provision which is causing debate is paragraph (d), which reads—

> any person performing work under a contract for services where the performance of that contract involves labour only or substantially labour only;

That is where Mr MacKinnon completely missed the point of the expanded definition. He did not refer to the words in the Bill. Mr MacKinnon referred to such things as home-based industries in the post industrial era. As I understand it, that is where one has a cottage-type industry where the actual production occurs at home. It is not the sort of piece work which is done in the rag trade, for example, where all the people at home are doing is supplying labour and probably electricity and a sewing machine. The post industrial situation referred to by the member would not be covered by that definition because it would not be substantially for labour or for labour only.

Sitting suspended from 3.45 to 4.00 p.m.

Leave to Continue Speech

Hon. GARRY KELLY: I seek leave to continue my remarks at a later stage of the sitting.

Leave granted.

Debate thus adjourned.

QUESTIONS

Questions were taken at this stage.

QUESTIONS

Answers: Statement by President

THE PRESIDENT (Hon. Clive Griffiths): On several occasions I have found it necessary to bring to the attention of honourable members the rules associated with the framing of questions to Ministers in this House, and I have referred to Standing Order No. 154. Because of at least one answer given today I bring to the attention of the Leader of the House and of the Minister con-

cerned that Standing Order No. 155 covers the answering of questions. I will say no more at this time.

ACTS AMENDMENT AND REPEAL (INDUSTRIAL RELATIONS) BILL 1984

Second Reading

Debate resumed from an earlier stage of the sitting.

HON. GARRY KELLY (South Metropolitan) [4.23 p.m.]: Previously we were discussing the definition of "employee" and referring to new section 7 (1) (d). The issue has involved fairly vehement opposition from the building trade, so perhaps it is opportune to look at the building industry, its practices, and the amounts paid to tradesmen, particularly bricklayers, to see what is happening in that industry.

The amount paid for laying 1 000 face bricks in 1982 was between $160 and $170. Some bricklayers were paid as much as $175. Those amounts were paid probably in the depths of the recession or certainly when we were just reaching a bad part of the recession. The price now paid for laying 1 000 face bricks during a relative boom time in the cottage building industry ranges from $140 to $155, with some bricklayers paid as little as $129. In addition to that rate, in 1982 builders were offering bricklayers payment for extras such as arches, door and window frames, and brick piers. Amounts such as $5 to $6 were paid for door and window frames, $8 for arches, and $15 each for brick piers.

At present the builders are quite often paying $160 for laying the bricks but skim the price paid for the extras or, in fact, do not include extras at all. Therefore, the slow work, which includes the piers, frames, and arches, does not gain extra payment. Also included in the arrangement of extra payment for specialty items were so-called feature brick walls. These are common in many kitchens and lounge rooms of homes and they require a higher level of workmanship because, as they are feature walls, they are more often looked at and the bricklaying must be of a higher standard. However, builders are now including those feature walls in the overall price paid per 1 000 bricks and they are paid at the standard rate even though they require more time and effort from the bricklayer.

A further change relates to building techniques which have affected the viability of the subcontractor. I refer to the introduction of fast walls. In the past interior walls were laid with standard bricks and the money a subcontractor derived from the building of the house was derived one-third from face bricks and two-thirds from rough work. The internal fast walls are built with larger bricks which are equivalent to 2 ½ larger than standard bricks. Because they are larger there is a time saving, although some bricklayers say that the setting up and preparation time is the same. The rough work is finished more quickly so the return from the job is reduced. Therefore, the subcontractors are being screwed by the builders in terms of the laying rate per 1 000 and the building techniques being used.

In many contracts, no account is taken of setting up time and the fact that jobs may finish more quickly because of interior fast walls. However, bricklayers are working in more houses and are involved in more travelling and setting up time. The productive time for the bricklayer has been reduced and therefore the return for his labour is reduced.

Many companies quote an all-in price for the whole job—for example $1 200 or $1 800. Quite often the payment is made, at the end of the job, only one payment is made and no breakdown is given of where the money was earned and on what particular task. Therefore, all-in payments disguise the work involved and leave the contractor in the position of not knowing quite where his money is being earned or lost.

I now refer to Mr MacKinnon's remarks about employees being subject to the machinations of the unions and the Industrial Commission. That is a complete misconstruction of the intention of the expanded definition.

The subcontractors do not want an award based on hourly rates. They want access to the commission, so that the commission can set minimum piecework rates. The rates can be set in terms of so much per thousand bricks or so much per metre of other work; it is a minimum rate on a piecework basis.

At present, when the contract is harsh and unconscionable, there is nowhere for the subcontractor to go except for recourse to common law, and that costs money. Mr MacKinnon also mentioned that subcontractors in the contractor-subcontractor relationship could apply to the Trade Practices Commission. There may be other bits of case law and decisions sprinkled throughout the legal literature; but I do not know how in the world a subcontractor could take advantage of it. We may be talking about women doing outwork in the rag trade. I do not know how a migrant woman, who may have very little command of the English language, will be in a position to mount a case in a court if she cannot explain the situation to a lawyer and brief him to take the

case. She may not know the necessary procedures. By putting this in the hands of the commission, it gives people access to a tribunal which has power to set minimum standards.

Let us consider the contract I have here relating to a subcontractor. The word "subcontractor" should be written in inverted commas in this case. This is a pro-forma contract which has not been signed, and it is from a company called Steelhomes. It might be instructive for us to wander through some of the clauses of the contract.

Hon. G. E. Masters: Could I have a copy of that?

Hon. GARRY KELLY: I will table it.

Clause (a) provides—

(a) The Sub-Contractor shall undertake to carry out the following work: Fabrication and/or erection of steel wall, floor and roof framing systems and related duties as required by the Contractor.

Other clauses deal with the hourly rate, which in this case was something like $2.66—a very low rate. One of the juicier clauses is the following—

(f) The Sub-Contractor AGREES to protect and fully indemnify the Contractor against liability and claims arising from the Sub-Contractor's failure to comply with all laws, by-laws and regulations of all Government and semi-government authorities in any manner relating to the work AND IT IS FURTHER AGREED the Sub-Contractor will not assign or sub-let the work or any portion thereof unless with the prior consent of the Contractor, and the Sub-Contractor will employ labour satisfactory to the Contractor and discontinue the employment of any employee unsatisfactory to the Contractor.

Hon. G. E. Masters: That is a sort of quality control.

Hon. GARRY KELLY: As far as it goes, it is probably reasonable. However, it goes further—

(g) The Sub-Contractor shall insure against any legal liability or loss, claim or proceedings whether arising at common law or by virtue of any statute relating to workers' compensation by any person employed by him in or about the execution of his work. The Sub-Contractor shall before proceeding with the work, lodge with the Contractor, evidence that such insurance has been effected and the Sub-Contractor will insure and keep insured himself against loss or injury resulting from sickness, injury or accident arising out of or in any way connected with the performance by the Sub-Contractor of all or any of his obligations pursuant to this agreement on the carrying out of any work thereunder.

Clause (i) provides—

(i) The following services will be provided by the Contractor at a cost to be agreed with the Sub-Contractor:

The first is rental of the factory floor space, and the second is the hire of jigs and welding equipment. Clause (j) is as follows—

(j) The Sub-Contractor shall provide for himself and any employee all safety dress and equipment as shall be reasonably required by the Contractor from time to time and the Sub-Contractor shall instruct all employees that they are responsible to the Contractor's supervisor for safety dress and behaviour and if any employee shall be ordered from the premises the Sub-Contractor shall be responsible to immediately send an acceptable replacement.

We must remember that the subcontractor is leasing the floor space from the contractor. Clause (m) provides—

(m) IT IS HEREBY MUTUALLY AGREED that this contract shall create the relationship of Contractor/Sub-Contractor and shall not create or be deemed to create a partnership or contract of employment between the parties AND IS EXPRESSLY AGREED AND DECLARED by the Sub-Contractor that the remuneration of the Sub-Contractor shall be solely as set out in paragraph (b) hereof and the Sub-Contractor shall have no other entitlements for holidays, long service leave, sick leave, superannuation or any other benefits or remuneration whatsoever.

Clause (o) recognises that disputes may arise, and the dispute settling mechanism is contained in this clause, as follows—

In case of any dispute or difference arising between the Contractor and the Sub-Contractor either during the progress of the work or after the completion of the work then either party shall give to the other notice in writing of such dispute or difference and at the expiration of three days unless otherwise

settled such dispute or difference shall be submitted to arbitration by a qualified accountant nominated by the State President of the Australian Society of Accountants. Any decision mady by such Arbitor shall be final and binding on both the Contractor and the Sub-Contractor. Either party referring a dispute or difference to arbitration shall deposit $200.00 with the Registrar of the Australian Society of Accountants by way of security for costs.

Then there is provision for the signatures of the contractor, the subcontractor, and the subcontractor's parent. The person involved in this contract was a lad of 16 years of age.

Hon. G. E. Masters: Did you say he signed the contract?

Hon. GARRY KELLY: No. His parents refused to allow him to sign it, and I do not wonder. No-one in this House would let a child of his or her own be a party to a contract such as this.

Hon. Tom Knight: It depends on the child.

Hon. GARRY KELLY: Members may let other people's children do it, but not their own.

We are dealing with a 16-year old child—a minor. If a dispute arose, he would have to deposit a $200 bond with an accountant who, presumably, would be arranged as the arbitrator by the employer. The decision of the arbitrator would be binding on both the parties. To say the least, the contract is unequal.

Hon. H. W. Gayfer: Is that a registered and signed document?

Hon. GARRY KELLY: I said it is a pro-forma document supplied to the person involved.

Hon. H. W. Gayfer: It is a standard type of contract?

Hon. GARRY KELLY: Yes. The young person's parents would not enter into the agreement. The last paragraph admits that difficulties can arise and that disputes must be settled.

Hon. G. E. Masters: Did you say the company name was on it?

Hon. GARRY KELLY: Yes. Disputes do arise, and the contract provides for a dispute settling mechanism.

Why would anybody go to an accountant to settle an industrial dispute between an employer and an employee? No-one would say that a contract labourer would be anything other than an employee? No-one would say that a contract labourer would be anything other than an employee, and saying that he is a subcontractor is stretching the meaning of the word "subcontractor". That is the sort of contract which would be disallowed by the Industrial Commission. However, I would rather have an industrial commissioner who has experience in dealing with industrial matters settling a dispute in a matter like this. Why an accountant should be chosen, I just cannot understand.

Hon. G. C. MacKinnon: How many people signed that document?

Hon. GARRY KELLY: I do not know.

Hon. G. C. MacKinnon: Did anybody sign it?

Hon. GARRY KELLY: I assume they did.

Hon. G. C. MacKinnon: You don't know any names?

Hon. GARRY KELLY: The company's name is on the pro-forma and the parents of the person involved would not be a party to that agreement. The proposed expansion of the definition of "employee" is designed to cover that sort of thing. It is designed to cover people who otherwise have no form of redress from harsh, unreasonable contracts. We are seeking to expand the definition of "employee" to include subcontract and contract relationships where the deal is substantially or wholly based on labour. It is necessary to give these people that form of redress. They do not have anywhere else to go.

Mr MacKinnon mentioned women involved in the rag trade doing work at home for pin money. This involves the other workers in the clothing trade. The trend in the industry has been such that fewer employees have been employed directly in factories. A great deal of the work in this industry is done on an outwork basis. The factory purchases the materials, employs a couple of cutters, and delivers to home sewers or the home sewers pick up the material themselves. Many of these home sewers are social security beneficiaries or low income migrants. Both these categories of people are trying to earn extra money. I do not think it is pin money, but rather money that these people need in order to survive. They do not complain about low rates of pay, because if they do the employer or contractor will dob them in to the Social Security Department. As a result, they keep quiet.

Hon. G. C. MacKinnon: Are you suggesting all the people who work in this trade are outside the law?

Hon. GARRY KELLY: No, I am not saying that. Another area in which the provisions of awards are circumvented is where for a nominal charge people are made shareholders of companies. They are not then held to be employees, and they miss out on holiday pay, long

service pay, sick leave, and so on. At one time this occurred in the laundry industry, but the trend faded out because it was difficult—

Several members interjected.

The PRESIDENT: Order!

Hon. GARRY KELLY: —to keep tabs on who was moving in and out of the factories. As a result, that sort of system has faded away.

Several members interjected.

The PRESIDENT: Order! I remind members that, when I call for order, everybody who is out of order must come to order, and that includes both sides of the House.

Hon. GARRY KELLY: This rather cute device of making people shareholders was used to circumvent the operation of the Industrial Arbitration Act, because they were not regarded as "employees" as defined under the Act; they were regarded as partners in the firm on the basis that they had bought $2 shares. What sort of a partner in a firm is that? However, that was sufficient to absolve the employer of his responsibilities under the Act.

In conclusion, I point out the effect of the provision to extend the definition of "employee" will be to provide protection for people who are working under contracts.

Hon. G. E. Masters: You know that is not the object at all.

Hon. GARRY KELLY: Where disputes arise, there will be some means to settle them. That means will be accessible to both parties, I guess, but it will certainly make accessibility to the tribunal much easier for the subcontractor.

Hon. G. E. Masters: You know that is not the purpose.

Hon. GARRY KELLY: At the beginning of my speech—I emphasise it again here—I said that the intent of the amendment was not to provide an award based on hourly rates of pay; it is destined to write in minimum rates on a piecework basis. The money that subcontractors in the building industry—that is where the debate has been centred—

Hon. G. E. Masters: You know it covers everyone in every industry.

Hon. GARRY KELLY:—are earning today is less than that which they earned 10 years ago. In the current climate with a free enterprise building industry, if market forces are working, surely subcontractors and the like should be receiving higher rates today than they did 10 years ago. However, that is not the case. Those workers are being held down to the extent that they receive less return on their wages now than they did previously.

Several members interjected.

Hon. Tom Knight: It is the marketplace in a free enterprise system.

Hon. GARRY KELLY: It is not. The builders set a price, and that is the end of the matter. The commission will have the right to set minimum rates—

Hon. G. E. Masters: Which will become maximums.

Hon. GARRY KELLY: —and guarantee these people an adequate return.

Several members interjected.

Hon. GARRY KELLY: Outrageous claims have been made about increases in cost. I think it was said last week that the cost of an average home would increase by $15 000 as a result of this amendment. If in fact costs rise, they will not increase by that margin. Forty per cent of the cost of a house is in the labour content, therefore, there would have to be a phenomenal increase in the labour content for the cost of an average home to increase by $15 000. Even if this amendment results in the increase in the cost of homes it must be asked: Should these people be made to work for lower rates? I cannot see people in the present boom situation—

Hon. G. E. Masters: In the present boom situation?

Hon. GARRY KELLY: —copping that.

Hon. G. E. Masters: Don't talk absolute rot!

Hon. GARRY KELLY: The home builder is not accepting a lower margin of profit; it is the subcontractors who are bearing the brunt and who have been screwed down.

Hon. Neil Oliver: You are squeezing them.

Hon. GARRY KELLY: In the present situation bricklayers are getting lower rates than they did two years ago. This is something that simply cannot be explained—

Hon. Neil Oliver: Yes, it can be.

Hon. GARRY KELLY: These people need to have access to the Industrial Commission in order that they may obtain redress for their grievances. I do not think the red herrings that have been drawn across the trail of this debate are worth considering. This sort of contract which is being bandied around for 16-year old subcontractors as trainee labourers is just a joke. It is a means of getting around the provisions of the Act to guarantee reasonable conditions at work, and it is designed to exploit people.

The amendment to the Act which seeks to widen the definition of "employee" will give more people a chance to have better working conditions and to obtain a reasonable return for their labour.

I have much pleasure in supporting the Bill.

Debate adjourned to a later stage of the sitting, on motion by the Hon. W. G. Atkinson.

WATER AUTHORITY BILL 1984

Receipt and First Reading

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

Second Reading

HON. D. K. DANS (South Metropolitan—Leader of the House) [4.50 p.m.]: I move—

That the Bill be now read a second time.

It is true, as it is commonly said, that Australia is the driest continent, and Western Australia is the driest one-third of the driest continent.

Western Australia is also hot and its topography is rather flat. As a result, the run-off of our rivers is extremely low.

It is interesting to compare the rainfall and run-off figures from other parts of the world with those from Western Australia. For example, the average rainfall over the whole continent of North America is 660 millimetres, and over the whole of Western Australia it is 310 millimetres. In North America, however, 52 per cent of the rainfall reaches the rivers as run-off. In Western Australia only 5 per cent reaches the rivers. The total flow of the rivers of North America amounts to some 6 900 billion cubic metres. In Western Australia the figure is about 40 billion cubic metres. This is a ratio of over 170 to 1.

As a result, North America supports a much bigger population at a much higher density. North America with a total area of 22 million square kilometres has a population of 380 million people. The area of Western Australia is about 2.5 million square kilometres and the population is 1.3 million. Thus, the North American population is 290 times as great as ours and the population density is 33 times as great.

On the other hand, despite the dryness of the State, the rainfall when it comes may be heavy both in the cyclone-prone north and the temperate south and many rivers and the towns on their banks are subject to flooding. In the past few years we have had floods on such rivers as the Blackwood and the Murray in the south, the Gascoyne at Carnarvon, the Fortescue and the Harding in the Pilbara, and the Fitzroy in the Kimberley.

The fact remains that much of the State is arid and even in the comparatively well-watered southwest the summer is hot and dry.

In the south our rivers are adversely affected by another phenomenon which, though by no means unique to Western Australia, is to be found nowhere else in the world in such a severe form. I refer to dry-land salinity and to the effect that land clearing for agriculture has on the salinity of our southern rivers. Of the largest five of these, three—the Avon/Swan, the Murray and the Blackwood—have become too brackish for domestic or agricultural use; one, the Collie, is severely affected by salinity; and the fifth, the Warren, is being preserved only by drastic curtailment of agricultural expansion.

Within this severe environment Western Australian water law has developed around concepts of strong Crown responsibility for protection and allocation of water resources. The development of those resources for use and their protection and conservation have been dependent upon a sustained high level of technology and management.

Now as we look forward to the growth that these technological achievements have made possible, we recognise how vital our water resources are to the continuing wellbeing of our community, and we perceive also the degree to which our fragile natural environment is dependent upon the careful conservation of these limited resources.

I am convinced that if we are to manage these resources to provide a proper balance between their protection and conservation and their development and use, and if we are to preserve a fair balance between the requirements of the city and the country and between private use, the requirements of commerce, industry and agriculture, and the demands of nature and of recreation, this can best be done if we have a single consolidated water authority which is devoted to the single-minded pursuit of these goals.

The purpose of the Bill is to establish the water authority of Western Australia. The authority is to be established on 1 July 1985 and as initially established will take over the roles and functions of the Metropolitan Water Authority and of those elements of the Public Works Department which are concerned with water supply, irrigation, drainage, and sewerage and with the measurement, conservation, and development of the water resources of this State.

Consideration was given to absorbing into the authority the Bunbury, Busselton and Harvey Water Boards also. However, these bodies are at

present all providing good service to the communities they serve at relatively small cost to the State and it is better that they continue to operate independently. The Act will provide, however, a means by which any of these authorities can be absorbed later if such circumstances change and it appears desirable to take such a step.

In the early stages of its existence the new authority will, subject to the Minister, administer the existing Acts applying to water related activities without extensive amendment to these Acts. The metropolitan Acts will continue to apply in the metropolitan area; and the other Acts, such as the Country Areas Water Supply Act, in the areas in which they now apply.

While amendments to any one of the existing Acts will not be particularly extensive, a considerable number of Acts will need to be amended to a greater or lesser degree. It is proposed to introduce in the spring sitting an acts amendment Bill to provide the necessary amendments before the merger takes effect. Meanwhile legislation now being introduced will enable firm preparations for the merger to take place ahead of the merger date—in particular, the appointment of the board and of senior staff.

Section 11 of the Interpretation Act provides for the exercise of statutory power between the passing and coming into operation of an Act or any provision thereof. By making use of that section it is proposed that as soon as this Bill is passed, the board of the new authority will be established and applications will be called for the various directorships.

The board of the new authority will have a limited role until the authority itself comes into operation. It will, however, have a part to play in the appointment of the directors, in the preparation of the authority's budget for 1985-86 and in other preparatory matters. The board of the existing MWA will, of course, continue to fulfil its duties until that authority is replaced by the new authority.

The directors will also be appointed as soon as possible, and following their appointment the appointment of other officers of the new authority will begin. Almost all officers are expected to come from within the Metropolitan Water Authority or the Public Works Department. Generally, they will be appointed to the new authority on the basis that they will assume their new duties on 1 July 1985, when the authority comes into existence.

By continuing to use the existing Acts with little amendment for an initial period, the ground will be prepared for reaching most of the ultimate objectives of the merger and achieving all those objectives which are essential in the short term. These include—

> The integration of staff; this will reduce duplication in many areas including various areas involved with finance, with administration, with engineering, with surveying etc;
>
> single representation on interdepartmental committees on which both authorities are now represented;
>
> the facilitating of the introduction of common by-laws, where these are appropriate;
>
> the facilitating of the establishment of common policies with respect to subdivision and development of land;
>
> the facilitating of the establishment of consistent, but not necessarily uniform, charging and rating policies applicable throughout the State;
>
> the encouragement of planners to view the various sources of water, surface and underground, of the south-west as one single resource for the use of the community as a whole—not as a number of resources subject to competing claims; and
>
> of most immediate importance, it will provide the opportunity for the newly-established controlling body to determine for itself the final form of the new authority and the sequence of future steps in the merging process.

It is also necessary to remember that on 1 July 1985 the operations of the existing authorities must continue with the minimum of inconvenience to the customers of each of the two authorities.

The approach I have explained above will provide a means whereby the staff of the two authorities can be trained to adapt to the consequences of the merger with the minimum of inconvenience to the public.

The Public Works Department staff is familiar with current practices outside the metropolitan area and with the Acts upon which these practices are based, and the Metropolitan Water Authority is similarly used to practices and the Acts which pertain to the metropolitan area.

To have plunged the newly merged staffs into a situation involving comprehensive new Acts and major changes to practices extending throughout the State would have been to invite chaos. Once the merged staff is operating as a team it will be relatively easy to introduce new practices pro-

gressively and to amend legislation in the light of the circumstances then current.

The staff and employees of the Metropolitan Water Authority and appropriate staff and employees from the Public Works Department will become the staff of the new water authority of Western Australia. Members of the salaried staff of the new authority will be members of the Public Service, as they are in the existing organisations. They will be housed in the Metropolitan Water Centre at Leederville, which is being extended for this purpose.

Total staff numbers will be much the same as at present. It is expected, however, that in the future the need for growth in staff numbers to cope with increasing growth in the State-wide services presently provided will be substantially reduced.

The authority is to—

Guide and manage, in consultation with the Western Australian Water Resources Council, the orderly development of the State's water resources;

integrate activities common to the existing organisations, so as to improve effectiveness and unify policies;

rationalise and standardise criteria and practices and develop common standards;

merge the existing organisations so as to rationalise staffing arrangements, eliminate duplication of effort and facilities, and develop a single, efficient, responsive organisation;

facilitate the gathering of technical expertise in specialised fields and its ready availability to all areas of activity; and

develop an organisation structured along modern management principles, equipped to manage present and future water operations and to plan for future needs.

It is intended that the water authority come into operation on 1 July 1985, at which time the existing Metropolitan Water Authority will cease to exist. The desirability of making a change at the end of a financial year is obvious. Insufficient time was available to complete the necessary planning and preparation before 1 July 1984. Many aspects relating to the merger of the two major water authorities required detailed study and decisions before such a step could be taken. These included—

The form of the controlling body for the merged authority;

the means by which the merged authority is to be financed;

the organisation of the staff of the authority;

rating and charging policies;

industrial matters; and

accommodation.

The staffs of the two merged authorities have been given opportunities for making contributions to these studies. Some 170 meetings with various groups of staff were held by the project group which has been working towards the merging of the authorities.

The Act will provide for a board of management of nine persons, one of whom will be the managing director of the authority, one will be the Chairman of the Western Australian Water Resources Council, one will be an employee of the authority elected by the employees, and the other six will be appointed members.

I should make some comment on the role of the Western Australian Water Resources Council and the reasons the chairman of that council is to be included on the board. The State has two principal responsibilities in regard to water. One of these is the comprehensive management of the State's water resources for all beneficial purposes. The other is that of providing services, operating on commercial lines, to users of water supply, irrigation, drainage, and waste disposal facilities.

These two responsibilities contain an element of potential conflict. The retention of the Water Resources Council will provide a means of resolving this conflict.

The council as it exists has advisory responsibilities only and no executive responsibility, and there is no proposal to change this. Its role is to advise its Minister, and the thrust of its responsibility in this regard is to do with the protection, preservation, and allocation of the State's water resources. Its retention for these purposes will be an effective way of providing the Minister with advice on water resources management which is independent of the commercial interest of the water authority.

It will generally be necessary for the council to meet only every two or three months, unless special matters arise which need its attention. The council at present has 15 members, and it is considered that it should retain a wide representation to enable it to serve as the Minister's watchdog on water resources management.

To strengthen further its watchdog role, it is intended that its chairman be appointed to the board of the authority. He will be a member, but be neither the chairman of the board nor the chief executive of the authority. The reason for this is

that the main purpose of retaining a Water Resources Council is to provide an independent source of advice to the Minister. That independence would be weakened if the chairman of the council were to hold either of the other two positions mentioned.

The Act will also provide for the establishment of regional advisory committees to assist the Minister and the authority in relation to any matters arising with respect to a particular region. The membership of each of these committees will be selected as far as practicable from persons residing in the local community to which the committee relates, or who are representative of local authorities or officers of departments having responsibility for and knowledge of local affairs.

The final part of the Bill deals with financial provisions. The merging of the Metropolitan Water Authority with parts of the Public Works Department will bring together two bodies with quite different financial backgrounds.

The Metropolitan Water Authority is a statutory authority with its own borrowing powers. It is financially self-supporting. From the rates and charges which it levies it provides for the maintenance and operation of all its services and pays all the capital costs associated with its work, including depreciation, interest on moneys borrowed, and the repayment of loans.

The Public Works Department, on the other hand, is a Government Department. The water supply, irrigation and drainage schemes, and most of the sewerage schemes which it operates run at a loss and must be supported from Consolidated Revenue. In addition, the department provides certain services which are for the general benefit of the community at large and which are not revenue producing.

The water authority of Western Australia, like the Metropolitan Water Authority, will be a statutory authority and like that body will have its own borrowing powers. It will not be possible, however, in the foreseeable future for the operations of the various water services serving the country areas to become self-supporting, and so unlike the Metropolitan Water Authority the new authority will require financial support from Consolidated Revenue.

This is mainly in the realm of the provision of country services, where quite obviously, for special localised reasons, the burden of payment for the services can not be wholly borne by the local people.

Despite this the financial form of the new authority will have much in common with that of the existing Metropolitan Water Authority. For this reason the financial provisions in part III of the Bill have drawn extensively on the provisions of the existing Metropolitan Water Authority Act.

Finally, I should like to inform the House that provision is being made elsewhere for the future of those parts of the Public Works Department which are not to be involved in the merger. In particular, the architectural division will form the core of a new department concerned with public buildings, and the harbours and rivers branch of the engineering division will be merged with the Department of Marine and Harbours.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. W. N. Stretch.

SUPREME COURT AMENDMENT BILL 1984

Receipt and first reading

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

Second reading

HON. J. M. BERINSON (North Central Metropolitan—Attorney General) [5.08 p.m.]: I move—

That the Bill be now read a second time.

This is a Bill to increase the number of judges who may sit on the Supreme Court from seven to 10.

The amendment to this Act and the subsequent appointment of an additional Supreme Court judge is part of a Government package to reduce the backlog of civil cases which presently exists in the Supreme Court.

Honourable members will recall that on 22 March I made a Ministerial statement on delays in the Supreme Court and the various measures which are being taken to overcome them.

I commend the Bill the House.

Debate adjourned, on motion by the Hon. Margaret McAleer.

ACTS AMENDMENT AND REPEAL (INDUSTRIAL RELATIONS) BILL 1984

Second reading

Debate resumed from an earlier stage of the sitting.

HON. W. G. ATKINSON (Central) [5.09 p.m.]: To my mind this Bill represents a real threat to the people of this State. That is, the vast majority of people who are not militant union members, as it attempts to take away the right of

individuals to seek and earn their living in a way they determine by ensuring compulsory unionism comes into their lives as never before. It seeks to grant unions sweeping new powers that will enable them under the redefinition of the term "employee" to drag in people who have always been considered private business people. They will be forced into compulsory unionism or to pay an equivalent amount to the State Treasury in lieu as the only exemption open to them. Labor under this redefinition of "employee" will be able to force into compulsory unionism almost the total workforce of Western Australia. The only exception is those who would choose to pay that equivalent union fee to the State Government

This move to vastly increase union membership would enable the Government to get its dirty, grubby hands on more money for the ALP election campaigns from levies collected from every union member's dues and contributed to the ALP funds, whether the member wishes this or not. There is no choice for these members.

A Government member: There is a choice for Labor supporters.

Hon. W. G. ATKINSON: A compulsory levy is deducted from every union member's dues and forwarded to the ALP, whether that union member wishes it or not. There is no choice. There is compulsory union membership. The Government only today, through the media, has been once again shown up in its true light as the highest taxing Government in Australia, having increased taxes by some 17 per cent in the last year, a five per cent greater increase than any other State. The next two most heavily taxed States in Australia are also Labor States.

The ALP promised to balance the Budget without increasing State taxation. It has already been shown up for breaking those promises. Once again, to tax people in the form of union fees going into the State Treasury shows the Government's lack of appreciation of what the word "promise" means.

Hon. S. M. Piantadosi: It was based on the statements of the outgoing Government as regards what was left in the coffers. It was found to be completely untrue. That is a reflection on your party, not the mistakes made by the Labor Party.

Hon. W. G. ATKINSON: The debate about whether the books were cooked will go on for many a day. The ALP has shown a lack of understanding of the short-term money market and what use was being made of those funds. The State would have arrived at a balanced Budget under the previous Liberal Government, so a claim that increases in taxation were due to the actions of the previous Government cannot be sustained.

One could go on for hours about the promises which have already been broken by this Labor Government, but I do not feel this is the time to do it. No doubt you, Mr President, feel the same, so I will direct my remarks in this debate to the effect this most radical piece of legislation will have on the rural communities in this State.

The Government has already shown scant regard for the rural population, and to bring in a piece of legislation written by politically motivated trade unionists is a good example of this. I suspect even the Government is hoping that this Legislative Council will throw out or heavily amend this legislation because of its potential to create havoc—

Several members interjected.

Hon. W. G. ATKINSON: —in the West Australian economy by means of rapidly accelerating inflation and unemployment which would inevitably follow the implementation of what is a large and complex piece of legislation. The various provisions of this Bill will inevitably lead to union Government.

What will be the effect of this Bill on the rural areas?

Several members interjected.

Hon. W. G. ATKINSON: Up to this stage most of the Press comment in opposition to the Bill has come from the building industry. Even the Government speaker so far, the Hon. Garry Kelly, homed in on this point. But one should look further than the effect it would have on the subcontractors in the building industry. There are many contractors and subcontractors in this country who are providing services to the farmers and to the rural communities.

Although the Minister has made out that amendments have been made to the definition of "employee", it is still obvious that these contractors will be drawn into the net. It seems to me that under union pressure this provision has remained basically intact from the 1983 Bill which was withdrawn.

It is not only my opinion that it will cast such a net as to bring contractors and subcontractors in. I quote briefly from a letter from the West Australian Road Transport Association. It reads in part—

> In my view the Minister has been misinformed or misled as to what the latest Bill really means. He states on page 18 of his Speech that the new definition ties back to persons who work for labour only or substan-

tially labour only, sub-paragraph (d) on page 6 of the Bill. If it ties back to sub-paragraph (d), it must also tie back to sub-paragraph (a) on the previous page, which defines an employee as "any person employed by an employer to do work for hire or reward".

Clearly, the 1984 Bill ropes in every subcontractor. The unions never wanted it any other way and would not tolerate legislation that left out significant numbers of sub-contractors.

Having established that the definition of "employee" is so wide, it then becomes apparent that the effect in the rural areas will be nothing short of disastrous if compulsory unionism comes into being, with the commission able to conciliate on disputes with arbitration as a last resort. The rural people can remember time and time again trade unions going before the Industrial Commission. The first approach is one of threat to establish their position in order to receive the best possible outcome for the union's side of the case.

In recent days we have seen the threat of an industrial strife should this Legislative Council delay or reject this piece of legislation. A letter was also sent to builders warning of the consequences of support for opposition to this Bill.

Another aspect of this Bill which spells out real danger is the retrospectivity clauses, not only for the new awards but also for the recovery of wages from one to six years, combined with the retrospectivity in the case of so-called unfair contracts. This will effectively destroy many businesses. This applies especially to new section 80ZF of the Bill.

Hon. D. K. Dans: Is that not the law in most contracts? The Statute of Limitations?

Hon. S. M. Piantadosi: He would not know.

Hon. G. E. Masters: You would.

Hon. W. G. ATKINSON: It takes a lawyer to understand this piece of legislation. I know of no way where a person under contract who feels that he has been disadvantaged by a contract can go back to the Industrial Commission. He can take it to a common law court. I do not think there is anything wrong with that. There is nothing wrong with going back to a court, but why take it to an industrial commission? It might not be an industrial matter; it might be a share-farming agreement. That is hardly an industrial matter.

The Hon. Graham MacKinnon mentioned share-farmers. This legislation will bring in those people. Why should they come within the jurisdiction of the Industrial Commission? There is no good reason for that.

Hon. S. M. Piantadosi: There is if they are treated like slave labour. You make no mention of that at all.

Hon. G. C. MacKinnon: They are generally treated like that by their cousins who migrated here first.

Several members interjected.

Hon. W. G. ATKINSON: I was diverted for a moment; however, for the information of Government members I must mention that share-farmers enter into agreements of their own free will and accord.

Hon. S. M. Piantadosi: You are not very well informed.

Hon. W. G. ATKINSON: By dint of hard work and a bit of good luck with the seasons, they eventually build up enough capital not only to own a modern farming plant, but also to own a farm. However, it is their wish to do that.

Hon. S. M. Piantadosi: You should speak to your colleagues from Lower North.

Hon. W. G. ATKINSON: Share-farmers do not seek holiday pay and all the perks that go with it, such as 17.5 per cent loading. They do not seek 100 per cent paid time off for injuries and these sorts of things. By dint of their own hard work and good management, and as a result of a run of luck with the seasons, these people have benefited themselves and their families and have improved their stations in life.

I cannot see a clause in the Bill which will allow people to do that, because immediately the Bill is proclaimed it will drive many people out of work.

Proposed new section 80ZF reads, in part, as follows—

> (1) The Commission may declare void in whole or in part or vary in whole or in part, either *ab initio* or from some other time, any contract or arrangement or any condition or collateral arrangement relating thereto whereby a person, other than a dentist as defined in the Dental Act 1939 or a medical practitioner, performs work in any industry on the grounds that the contract or arrangement or any condition or collateral arrangement relating thereto—
>
> (a) is unfair;
>
> (b) is harsh or unconscionable;
>
> (c) is against the public interest;
>
> (d) provides or has provided a total remuneration less than a person performing the work would have re-

ceived as an employee performing such work; or

(e) avoids, or was designed to avoid, the provisions of an award or industrial agreement.

I draw the attention of members to subsection (1) (d) of that proposed new subsection. Many farmers in this State, through no fault of their own, as a result of a run of bad seasons or the like, are facing difficulties. They have been trying to generate some sort of cash flow by using their plant to take on such operations as contract harvesting.

In many cases these people have performed that work for little or no wage return in order to satisfy their bank manager and to keep themselves somewhere in the vicinity of being solvent. However, they are prepared to do that.

If a complaint were made under this Bill, that matter could be determined before the commission, and an award could be made against the farmer who entered into that contractual arrangement. In other words, a farmer who thinks he will get his contract harvesting done for a certain price per acre will find suddenly, or even in 12 months' time, that that is not the case. The person involved may decide he has a good case and, therefore, might as well go to the commission and file a complaint in the hope that he will recover wages on top of the contract price for which he tendered.

The deletion from the Industrial Arbitration Act of section 23(3) which relates to the regulation of agricultural and pastoral operations and the hours and conditions of work, is of concern to the rural industry, which of necessity is seasonal and has vastly varying hours of work. It certainly could not fit in with the commonly accepted awards which flow from the Industrial Commission in this country.

The rural industry is most concerned about the proposed new section which will replace section 23(3). It reads as follows—

(3) The Commission in the exercise of the jurisdiction conferred on it by this Part shall not—

(a) prohibit the employment of employees on any day of the week or restrict in any other way the number of days or hours in the week during which any operation may be carried on in any industry or by any employer but nothing in this paragraph—

(i) prevents the registration with the Commission of any industrial agreement that contains or provides for any such prohibition or restriction; or

(ii) prevents the Commission from fixing the rates for overtime, work on holidays, shift work, week-end work, and other special work, including allowances as compensation for overtime or any such work;

Under that provision it appears that farmers will lose the right to come to arrangements with their employees for hours of work, time off, etc., because of the seasonal nature of their work. By not specifically exempting agricultural and pastoral workers, it lays them open to awards and conditions which would preclude farmers from employing anyone, be it as an employee or subcontrator.

The main complaints of primary industry in respect of the Bill relate to the following provisions—

(a) The definition of what constitutes an "employee";

(b) the definition of what constitutes an "industrial matter";

(c) the ability of the Industrial Commission to backdate awards and orders for a period of up to six years;

(d) the introduction of proposed new section 80ZF affecting the operation of contractual arrangements;

(e) the removal of penalties and associated emphasis on settlement by conciliation; and

(f) the deletion of section 23(3) from the Industrial Arbitration Act relating to the regulation of agricultural and pastoral operations.

Let us now turn to the effects this Bill may have on the operations of a typical farm in country towns in general. In this instance I shall take a typical mixed farm operating a combination of cereal crops and sheep both for wool and meat. It will not necessarily be a drought-affected property of which we have heard so much recently, but it will certainly be one in which the farmer has to budget fairly tightly in order to make a reasonable living and at the same time have some return on his capital investment. We trust that this farmer is able to make some return on his capital and not, as in the case mentioned by the Hon. Sandy Lewis in this House yesterday, a minus fig-

ure which, in many cases today, is unfortunately all too true, particularly in respect of farmers who rely mainly on the raising of livestock for the major portion of their incomes.

I shall outline some of the operations that occur on the sheep side of the typical farm. I shall start in the summer, in the months of January and February, when normally a drenching operation is carried out for worms prior to the mating of the ewes. Quite often this job is done by contractors, especially if the farmer wants to have some sort of holiday. At the same time his employee may also be seeking to have time off, so this job is often done by a contractor. A number of private people are set up to perform this operation.

In March-April again we have the late summer-autumn drenching which frequently is necessary, especially when there has been quite an amount of summer rain as we experienced recently. Another operation that is coming into being now and which is part of a tool of management is the pregnancy testing of ewes.

A further operation which applies in the stud field with sheep is the drafting of stud rams by a stud classer. Also in the autumn we have the crutching of the flock prior to the first rains. On the small farm this generally involves shearers only and on larger farms a full contract team may be employed.

Moving into May-June we see little activity with the sheep flock and we move into the cropping part of the farm programme. In the spring period of July-August work starts to hot up. Lambing occurs around July and following on from that we have the tailing, the needling and the mulesing operation on the lambs. This generally involves the use of a contractor, especially in the case of the mulesing operation.

In September-October we run into the blowfly months and also jetting operations, again often carried out by contractors.

If the farmer is spring shearing it is done in these months, and once again a small farmer would be looking to shearers while the larger operations would be looking to contract teams.

In November-December the operation may include the drenching of flocks at the start of the summer and the culling of ewes showing the effects of age. This coincides with harvesting arrangements for those farmers with cereal crops, which usually means they have to bring in contractors.

So for the full year's operation we can see much use is made of so-called contract labour, which is usually one of the following: Firstly, a person who has set up a specialised business for handling stock in the many and varied aspects of animal husbandry; secondly, a person who has set up a specialised business for shearing sheep and, as a contractor, employs other shearers; and thirdly, a person who has set up a business specialising in stud classification and who travels the State and sometimes interstate. All these people have one thing in common: They have set themselves up in private business and act as contractors. To the present day they have not been compelled to join a union.

The PRESIDENT: Order! Honourable members, everyone in the Chamber is carrying on a private conversation and the noise is far too audible. I direct your attention to the Hon. W. G. Atkinson.

Hon. W. G. ATKINSON: Some by their own choice have become union members, and I personally see nothing wrong in their becoming union members so long as it is by their own free choice. What I do see as wrong in this Bill is that these people will now be compelled to join a union because of the definition of "employee" in this Bill, and I refer particularly to page 6. Under the heading "employee" the following is found in the Bill—

> (a) any person employed by an employer to do work for hire or reward including an apprentice or industrial trainee;

I see nothing wrong with that. What does concern me is the following found on page 6 of the Bill—

> (d) Any person performing work under a contract for services where the performance of that contract involves labour only or substantially labour only;

It can be easily deduced from what I have explained about the husbandry of sheep flocks on farms that any or all of those contractors could be classified as an employee and compulsorily made to join a union or to pay the equivalent fee to the State Treasury. Not only could they be compelled to become union members, but they could also be required to comply with Industrial Commission decisions in respect of working conditions and hours or any other conditions that might be applied to overtime, weekend work, and so on.

What will be the position of farmers or graziers who must normally engage these people to perform various tasks? Where will they stand in respect of workers' compensation and ensuring that the conditions of work and the wages set by the Industrial Commission are abided by?

I have already indicated that a farmer may have other operations on his farm to which he must attend, so he cannot be with these contractors all the time. The fact that he has other work

to attend to is the reason he employs them in the first place. They are skilled people and they can be left alone to do their work. If he must now be responsible for ensuring their working conditions and awards are abided by so that his own position is not jeopardised because of this retrospective clause, what is he to do? What is his position when, for example, some time after the price for certain work has been set by agreement between the farmer and the contractor and the work is then performed, the contractor later goes to the Industrial Commission to lodge a complaint under proposed section 80ZF? No-one will know until after the complaint has been lodged whether it will succeed. An order could be made against the farmer to compensate the contractor for time spent on that contract.

Let us consider the case of a shearing contract. These are entered into on the basis of a price relating to whether the farmer or the contractor accepts the extra penalties for delays caused by wet weather. If a long delay were experienced due to bad weather, at a later stage the contractor could feel disposed to file a complaint to cover the increased costs.

Where will all this lead? Will it lead to false tendering, in that not sufficient margin might be built into the tender so that should something go wrong the opportunity would be there to approach the commission for redress?

Taking all these points into consideration, it appears to me that farmers would face greatly increased costs, no matter which way we look at it. In an effort to safeguard themselves they may consider tackling more work on their own backs, thus contributing more to unemployment, something already high in country areas.

I see this legislation intruding into many other aspects of farming and pastoral contract work, even extending to machinery operations, and the cartage of fuel, fertilisers, and livestock.

Already I have mentioned the position of sharefarmers. After entering into a contract with a farmer perhaps for a five-year operation, at the end of the fifth year, should the share-farmer experience a drought, he could take the farmer to the Industrial Commission to look for redress because the drought had totally wiped out his operation. The commission in its wisdom might award costs against the farmer, saying that the contract had been unfair. That might occur even though the sharefarmer had managed to do all right for the first four years.

I hope I have shown the Government that this Bill means that not just subcontractors in the building industry will be dragged into the union movement. Many other people right throughout this State will find that this Bill will ensure they become union members with all the connotations involved, especially when we consider the way militant unionism is starting to run this country. This Bill is nothing short of a recipe for union government.

Debate adjourned, on motion by the Hon. Fred McKenzie.

ADJOURNMENT OF THE HOUSE

HON. D. K. DANS (South Metropolitan—Leader of the House) [5.39 p.m.]: I move—

That the House do now adjourn.

Land Rights Inquiry: Kimberley Land Council

HON. N. F. MOORE (Lower North) [5.40 p.m.]: I apologise for taking the time of the House, but I would like to draw members' attention to an answer I received to a question today. After my comments of last night, the Government has given me the answer to the question I asked, which was—

> How was the $60 000 spent by the Kimberley Land Council?

The $60 000 being the money provided to them to assist them to prepare a submission to the Seaman inquiry. I would like members to remember that that $60 000 was provided by the Government to assist the council to make a submission.

Today I was given a statement of expenditure by the Minister showing where the $60 000 went, and it is quite scandalous and extraordinary. The details of the answer were as follows—

	$
Air travel and fuel	9 703
Accommodation and meals	4 893
Wages	20 400
Purchase of vehicles	11 700
Legal fees	16 000
Miscellaneous costs	1 100

I cannot work out how the Kimberley Land Council needed to spend $14 000 on air travel and accommodation, for a submission to be prepared for the Seaman inquiry. I cannot work out how it could spend an extra $20 000 on wages, on top of $16 000 made available for legal expenses. The $16 000 of course was paid to Philip Vincent, a former Labor Party candidate in the last State election who received $20 000 for preparing the submission for the Kimberley Land Council, on top of the $16 000 in legal fees. A total of $36 000 was paid in wages to prepare the submission. On top of that a motor vehicle was purchased. How

could they need a motor vehicle to assist them to prepare a submission?

Included in the incidental expenses was an amount of only $126 for telephone calls made by the Kimberley Land Council. The council obviously needed to ring the metropolitan area but I spend that amount on telephone calls in my electorate every week. Obviously the council decided that everyone should catch an aeroplane and fly around the countryside. It is unbelievable that the Government has used $60 000 of taxpayers' money on this sort of nonsense.

That is just a drop in the ocean compared with the total amount spent on this inquiry. I will be asking questions about every grant which has been made. I want to know the details of every grant made to every organisation, because this is absolutely scandalous. It is a terrible and total waste of Government money.

What do we get for the $60 000? A submission, written by a Labor Party lawyer, asking the State Government to give the Kimberley back to the Aborigines; that is what we get for $60 000.

Ministers of the Crown: Misleading of Parliament

HON. P. G. PENDAL (South Central Metropolitan) [5.43 p.m.]: I do not believe the House should adjourn until it spends just a couple of minutes on a matter of the utmost gravity; that is, the possibility arising out of the front page report of the *Daily News* tonight that not only are we faced with the possible spectre of two ministers of the Crown having misled the Parliament—I ask members to listen carefully to my words—but also that there is a possibility that the Parliament has been misled by the Premier of this State. At the moment I am falling somewhat short of making an accusation against the Premier, which would amount to a privilege matter, perhaps needing to be examined before one or both of the Houses of this Parliament.

I have to say that there is some measure of fishiness, to say the very least, about the answers to a series of questions given in this House.

I wish to deal with them quickly, in sequence. On the opening day of Parliament on 22 March 1984, I placed a question 816 on the Notice Paper, in which I asked the Premier, "Will the Premier give an unequivocal assurance that the Government is not considering allowing a casino to be built on Burswood Island in my province?"

The first opportunity for that question to be answered was Tuesday, 3 April. Members may recall that the Leader of the House, responding on behalf of the Premier, asked that the question be deferred. In itself that is nothing extraordinary, although I do make the point that 12 days had elapsed since the time that question was placed on the Notice Paper. One can often understand a situation where the Government has to postpone or defer a question for one or two days.

However, with Parliament having resumed on 3 April, some 12 days after the question was first asked, the need for the answer to be then deferred raised in my mind the possibility that the Government was acutely embarrassed in some way over the issue. Consequent to that I asked a question without notice of the Minister for Planning, to which he responded and his answer made light of this important issue. He said the matter was under discussion, but he at least indicated, if not explicitly, that a decision had not been taken at that stage in regard to the building of a casino at Burswood Island. To that point I have not much of a quarrel against the Minister for Planning.

It would appear on the evidence before me that the Premier was not as careful with the facts he gave to this Parliament as was the Minister for Planning. The question was subsequently answered on 4 April; that is Wednesday of last week wherein the Premier said, "The report of the Government Casino Advisory Committee is with the Cabinet subcommittee. No decision has yet been made".

So last Wednesday, at approximately 5.10 p.m. we were informed that no decision had been made regarding the building of a casino at Burswood Island. Yet, last Monday the Premier appeared on the Bob Maumill show and was questioned by Bob Willoughby, a journalist with Channel 9, and in the course of that discussion the Premier admitted, as he has now admitted in the other place, that the decision for a casino to be built at Burswood Island was taken by the Cabinet on Monday of last week. I ask members to note this: Two days before the Premier answered a question asked of him in Parliament about whether any decision had been made on the building of a casino at Burswood Island, Cabinet had decided that a casino would be built at Burswood Island. Subsequent to that I asked a question on notice of the Premier as follows—

(1) Did the Premier tell Bob Willoughby on the Maumill Show on 9 April that the casino decision had been made by Cabinet on Monday, 2 April?

(2) If so, how does this equate with his answer to me to question 816 that, fully two days later on Wednesday, 4 April, a decision had not yet been made?

(3) How does the Premier reconcile the two answers given?

I suggest the Premier has compounded the misleading information that he has given to the Parliament because he said—

> The decision made by Cabinet on 2 April, 1984—

The Premier now confirms in Parliament what he said on the "Bob Maumill Show" on Monday of this week, that Cabinet had decided on 2 April that a casino would be built on Burswood Island. The answer also stated as follows—

> The answer to question 816 was prepared on the day of the Caucus meeting on 3 April and before the Premier's action on 4 April.

By his own admission, the answer given to me was prepared on 3 April to say there had been no decision in the full knowledge still that the Cabinet had decided one day earlier that a casino would be sited on Burswood Island. There may well be some explanation for the Premier's giving what to me is misleading information. If there is—and I appreciate that the Leader of the House may not be in a position at the moment to respond as to why the two dates do not tie up—the very least I am entitled to ask of the Leader of the House is that he makes some inquiry of the Premier in order for me to establish whether or not the Premier misled Parliament deliberately. I have been careful to this point not to suggest that the Parliament has been misled in a deliberate fashion. However, there is no question that the Parliament has been misled and the evidence is the Premier's own words; it can be found in the transcript of the "Maumill Show" and in *Hansard*.

I suggest this is a matter of the utmost gravity. The casino site is part of my electorate and it is a matter I raised in this House long before it became a public issue. I raised the matter despite some considerable derision from a particular Minister in the Government, and I now find several days later that the information given by the Premier is misleading. I leave it on that basis with a serious request to the Leader of the House that it be discussed with the Premier to ascertain how it is that on the two occasions on which the Premier has addressed the Parliament with answers via Ministers in this House, misleading information has been given to me.

Question put and passed.

House adjourned at 5.52 p.m.

QUESTIONS ON NOTICE

890. *This question was further postponed.*

GAMBLING: CASINO

Burswood Island: Decision

904. Hon. P. G. PENDAL, to the Leader of the House representing the Premier:

(1) Did the Premier tell Bob Willoughby on the "Maumill Show" on 9 April that the casino decision had been made by Cabinet on Monday, 2 April?

(2) If so, how does this equate with his answer to me to question 816 that, fully two days later on Wednesday, 4 April, a decision had not yet been made?

(3) How does the Premier reconcile the two answers given?

Hon. D. K. DANS replied:

(1) to (3) The decision made by Cabinet on 2 April 1984 was subject to consideration by Caucus on 3 April and further consideration and action by the Cabinet subcommittee.

In the light of deliberations by Caucus on the Tuesday and speculation by the Opposition and in the media, action was taken on 4 April consistent with the views of Cabinet.

The answer to question 816 was prepared on the day of the Caucus meeting on 3 April and before the Premier's action on 4 April.

905. *This question was further postponed.*

GAMBLING

Casino: Submissions

907. Hon. P. G. PENDAL, to the Leader of the House representing the Premier:

(1) Will the Premier release the general outline of all 17 submissions placed before the Government for a casino development?

(2) If not, is there a need for any secrecy surrounding any of the proposals?

(3) If the answer to (1) is "No", how will the public come to know who have made proposals and the form those proposals took?

Hon. D. K. DANS replied:

(1) The general details are outlined in appendix "E" of the 1983 report of the Government casino advisory committee which lists the names of individuals and organisations who made submissions in 1983 to build and/or operate casinos in Western Australia.

(2) and (3) There is need for confidentiality regarding proposals submitted to the Government by each developer and/or operator, particularly as they have been invited to submit further proposals for a casino on Burswood Island.

PASTORAL INDUSTRY

Leases: Elvire and Koongie Park

910. Hon. N. F. MOORE, to the Leader of the House representing the Minister for Lands and Surveys:

(1) Who is the current leaseholder of the Koongie Park and Elvire pastoral leases?

(2) Does the Minister know if these leases are currently available for sale?

(3) Will the Minister advise if the State Government intends to either purchase these properties or make loan funds available for their purchase?

(4) If the Government is involved in their purchase, what is the purchase price of each property?

(5) If the State Government is not involved, can the Minister advise whether or not the Aboriginal Development Commission intends to purchase the leases?

(6) If the Aboriginal Development Commission is purchasing the properties, what is the purchase price of each and what Aboriginal groups will be given the leases?

Hon. D. K. DANS replied:

(1) The registered proprietor of Koongie Park Station is Mr E. F. Bridge as executor of the will of E. K. Bridge, deceased. Elvire Station is registered in the names of E. F. and M. I. Bridge.

(2) Yes.

(3) and (4) The Government has not had any discussion about a possible State Government purchase of these pastoral leases.

(5) and (6) The member is the shadow Minister with responsibility for Aboriginal Affairs. It shows the state of his ignorance that he is apparently unaware that

the Aboriginal Development Commission is a Federal body. For the member's future information and assistance, any questions dealing with the body should be addressed to the commission at Suite 28, "Piccadilly Suites", Nash Street, East Perth.

GAMBLING: CASINO

Yanchep Sun City

911. Hon. P. G. PENDAL, to the Leader of the House representing the Premier:

(1) Is it correct that one of the proposals for a casino development was for a "casino-on-the-water" 150 metres off-shore at Yanchep Sun City?

(2) If so, can the Premier explain how this proposer can avoid being disadvantaged in that a "casino-on-the-water" at Burswood Island is a contradiction in terms?

(3) Would he acknowledge in these circumstances that at least some of the proposers have been permanently disadvantaged by the choice of Burswood Island?

Hon. D. K. DANS replied:

(1) A proposal was submitted by Yanchep Sun City Pty. Ltd. to build an offshore casino complex located at Two Rocks.

(2) It is not proposed to have a "casino-on-the-water" at Burswood Island.

(3) All individuals and organisations who made submissions in 1983 to build and/or operate casinos in Western Australia have been invited to submit a further proposal for a casino in the Burswood Island area.

925. *This question was further postponed.*

LAND: ABORIGINES

Rights: Inquiry

930. Hon. N. F. MOORE, to the Minister for Planning representing the Minister with special responsibility for Aboriginal Affairs:

In his letter to me dated 22 November 1983, in response to my question 553 of 1983, the Minister with special responsibility for Aboriginal Affairs advised that "Details of exact expenditure by each recipient of funding is to be furnished at the end of each month to the Liaison Committee".

In view of this requirement, why is the Minister unable, in his answer to my question 821 of Tuesday, 3 April 1984, to provide details of how the $60 000 provided to assist the Kimberley Land Council's submission to the Seaman inquiry was spent?

Hon. PETER DOWDING replied:

Details of how the $60 000 provided to assist the Kimberley Land Council's submission to the Seaman inquiry are provided as follows—

STATEMENT OF EXPENDITURE—OCTOBER 1983—20 MARCH 1984

	$
Meetings	
Air travel and fuel	9 773.74
Accommodation/meals	4 893.94
	14 667.68
Wages	20 406.79
Vehicle	
Purchase	11 753.80
Insurance	521.97
Service cost	15.00
	12 290.77
Legal fees	16 000.00
Miscellaneous	
Tapes for consultation	49.85
Telephone calls	126.97
Stationery	35.00
Printing costs	933.77
	1 145.59
Total	64 510.83

CHARITABLE ORGANISATIONS

Street Appeals

934. Hon. V. J. FERRY, to the Minister for Administrative Services:

With regard to street appeals conducted by authorised organisations under the Charitable Collections Act from 1 July 1982 to 30 June 1983, will the Minister please list—

(a) the dates on which collections took place;

(b) the names of the organisations authorised to collect in the metropolitan area on those dates; and

(c) the total amount collected by each organisation on the day of collection?

Hon. D. K. DANS replied:

(a) Date	(b) Organisation	(c) Amount Collected $
9/7/82	University Camp for Children	1 751.04
	Aboriginal Advancement Council	514.42
16/7/82	Civil Rehabilitation Council	833.97
23/7/82	League of Home Help (Claremont - Cottesloe - Nedlands)	453.02
	Anglican Health & Welfare Services	1 723.66

30/7/82	Southern Cross Homes	12 265.92
6/8/82	Australian Huntingtons Disease Association	1 254.36
	Multiple Sclerosis Society	3 938.76
	Association for Autistic Children	1 837.00
13/8/82	Braemar Presbyterian Homes for the Aged	1 876.90
	ACRAH	2 238.70
20/8/82	Royal Life Saving Society	512.16
	Mofflin Group Children's Home	4 669.53
27/8/82	Australian Brain Foundation	no return submitted yet
3/9/82	Torchbearers for Legacy	27 448.37
10/9/82	Australian Kidney Foundation	2 144.28
	R.S.P.C.A.	10 120.30
17/9/82	Slow Learning Children's Group	8 662.68
24/9/82	Speech & Hearing Centre for Deaf Children	10 908.00
	West Australian Deaf Society	2 326.50
1/10/82	Catherine McAuley Residential Child Care Centre	6 362.33
	Sister Kates Child and Family Services	3 525.35
8/10/82	Swan District senior Citizens Association	no return submitted yet
	City of Canning Aged Persons Trust, Canning	1 080.33
	Society of St. Vincent de Paul	6 394.93
15/10/82	Blinded Soldiers of St. Dunstans	2 736.02
	Air Force Association	493.79
14/1/83	Cat Welfare Society	2 248.15
	Swan Animal Haven	6 067.32
21/1/83	Surf Life Saving Association	15 832.95
28/1/83	Amateur Rowing Association	707.77
4/2/83	Amnesty International	1 915.19
11/2/83	Salvation Army	12 573.38
18/2/83	Native Animal & Bird Rehabilitation Association	490.40
	Mentally Incurable Association	no return submitted yet
4/3/83	Wesley Central Mission	3 87[illegible].84
11/3/83	Mind (Mental Health)	2 692.25
18/3/83	Fremantle Meals on Wheels	965.40
	Paraplegic /Quadriplegic Association	7 230.60
25/3/83	G.R.O.W. -W.A.	no return submitted yet
	Association of Civilian Widows	$1 270.78
8/4/83	Christian Welfare Association	803.00
	Lions Save Sight	3 542.44
15/4/83	Bassendean Senior Citizens' Association	355.34
	Parkerville Children's Home	6 751.71
22/4/83	Council on the Ageing	2 766.00
29/4/83	Australian Association for Better Hearing	2 557.68
	W.A. Epilepsy Association	5 848.82
6/5/83	Muscular Dystrophy Research	8 268.49
13/5/83	Association for the Blind	10 127.51
20/5/83	Jesus People	3 482.54
27/5/83	Citizens Advice Bureau	342.22
	Civil Rehabilitation Council	no return submitted yet
3/6/83	Bible Society	4 540.72
10/6/83	Y.W.C.A.	2 022.94
17/6/83	Asthma Foundation of WA	3 042.32
24/6/83	Castledare Boys Home	cancelled

RECREATION: FOOTBALL

Bunbury Match: Financial Assistance

935. Hon. N. F. MOORE, to the Minister for Planning representing the Minister for Sport and Recreation:

(1) Did the State Government contribute financially to the WAFL football match between East Perth and Swan Districts at Bunbury on Sunday, 1 April 1984?

(2) If so, how much was contributed, to whom was the money paid, and for what purposes?

Hon. PETER DOWDING replied:

(1) and (2) No State Government contribution has yet been made to the WAFL football match in question. However, it has offered to meet some expenses incurred in the match if presented with a detailed request from the WAFL and the SWNFL. It has offered up to $10 000.

If a contribution is made it will be for the purpose of promoting sport in country areas. The match was an historic event which attracted a large crowd and was designed to illustrate that significant sporting fixtures could be held in regional centres.

RAILWAYS

Westrail: Stockyards

936. Hon. MARGARET McALEER, to the Minister for Planning representing the Minister for Transport:

(1) Would the Minister advise me how many Westrail stockyards have been leased in rural areas?

(2) Are the lessees in every case the local shire councils?

(3) What is the total number of lessees?

(4) What are the terms and conditions of the leases?

(5) Are they the same for every lessee?

Hon. PETER DOWDING replied:

(1) Three.

(2) Yes.

(3) Three.

(4) This information is confidential to Westrail and its lessees.

(5) No. Terms are negotiated according to location, the type and condition of the facility, and the purpose of the lease.

PASTORAL INDUSTRY

Leases: Statistics

937. Hon. N. F. MOORE, to the Leader of the House representing the Minister for Lands and Surveys:

(1) Will the Minister provide a list of the names of all pastoral leases currently held by, or on behalf of, Aboriginal communities?

(2) For each station what is—

(a) the stock carrying capacity;

(b) the estimated number of stock currently on the property?

(3) For each cattle station, what was the number of cattle sold in 1983?

(4) For each sheep station, what was the number of bales of wool produced at the last shearing?

Hon. D. K. DANS replied:

(1) and (2)(a)

Station	Estimated Carrying Capacity (For Rental Assessment Purposes)
	large stock units
Pantijan	6 156
Dunham River	13 971
Glen Hill	441
Noonkanbah	10 489
Waratea	10 155
Frazier Downs	4 309
Billiluna	6 708
Lake Gregory	11 194
Carson River	11 698
La Grange	11 129
Mowanjum	1 620
Carlindie	2 019
Coongan	6 637
Kangan	2 349
Lalla Rookh	1 916
Strelley	1 535
Pippingarra	2 022
Walagunya	2 700
	small stock units
Coonana	15 212
Mt. Welcome	23 031
Peedamulla	27 757

(b) This information is provided to the Pastoral Board by the lessee in the form of a statutory declaration on a confidential basis.

(3) and (4) Not known.

COMMUNITY WELFARE

Department: Laverton Hostel

938. Hon. N. F. MOORE, to the Minister for Planning representing the Minister for Youth and Community Services:

Further to my question 881 of Wednesday, 4 April 1984, will the Minister advise—

(a) the names, addresses, and dates and duration of stay of the four children referred to in part (3) of his answer;

(b) the name, address, and date of commencement of residence of the one child referred to in part (4) of his answer;

(c) the total cost of building the Laverton DCW hostel;

(d) the total expenditure to date on operations of the hostel; and

(e) whether the department will consider allowing students, who are currently bussed daily to and from Mt Margaret, to use the hostel during the school week?

Hon. PETER DOWDING replied:

(a) and (b) It has not been the practice to divulge names and addresses in Parliamentary questions and I do not intend departing from that practice;

(c) the construction costs for the Laverton Hostel were $235 000;

(d) administrative and catering expenditure since February 1984 when the hostel opened to 31 March 1984 was $755.65;

(e) I have already indicated in my previous answer that there are a number of groupings of children who may require the service of the hostel.

The department therefore is sensibly flexible in respect to admissions. As to accepting children who are currently bussed daily to school, this will need careful consideration. It is presumed that this refers to children from Mt. Margaret. Mt. Margaret is some 29 kilometres from Laverton, and from a child care point of view it would be hard to reconcile removing the children from parents' care during the week for the sake of half an hour's travel time each way for the children involved.

QUESTIONS WITHOUT NOTICE

CHARITABLE ORGANISATIONS

Street Appeals

223. Hon. F. J. FERRY, to the Minister for Administrative Services:

Further to my question 934 which the Minister answered in this House this afternoon and for which I thank him, the detailed response he gave me appears to be incomplete. It appears that the person who compiled the response deleted the three-month period from 10 October 1982 to 14 January 1983. I ask the Minister to investigate this matter.

Hon. D. K. DANS replied:

I shall speak with the member and endeavour to obtain the information for him.

PORNOGRAPHY AND VIOLENCE

Video Films: Censorship

224. Hon. MARK NEVILL, to the Minister for Administrative Services:

In view of the meeting that he had in Sydney last Friday with other State Minister and the Federal Attorney General on censorship, would the Minister outline the present situation with regard to the censorship of pornography.

Hon. D. K. DANS replied:

The present situation in Western Australia is that arising from a meeting last year some guidelines were set down and the State Governments were asked to adopt a voluntary scheme of classification of video films and publications. Prior to that meeting no classification was required and for the benefit of members who do not know, the Commonwealth Government handled the classification of films and gave them their rating.

The Government passed through this House an interim Bill that made it possible for its advisory committee to view video films, examine publications, and give them one of two ratings—either "R" or "X". If films were given those classifications they were required to be placed in a certain section of the outlet and no-one under the age of 18 years was allowed to look at or purchase them. The ludicrous situation was that prior to the implementation of that Act, if a film had an "R" rating, by law no-one under the age of 18 could view that film. However, prior to the interim legislation the situation was that anyone could enter a video store and purchase an "R" rated video. Therefore, to some extent the voluntary scheme which had been operating in an *ad hoc* and illegal manner in many areas became controlled.

In other words, a video film could receive a "X" or "R" rating. When the advisory committee wrote on its report to the Minister the word "prosecute" it did not mean the person in possession of the film would be prosecuted immediately. It meant that the Minister of the day would view a clipping of that film and confirm what the board members said—in other words, prosecute. If that film was found on the shelf of a video store or was found in any person's possession, the person responsible would be prosecuted. The same thing applied in regard to publications.

Since February, 400 videos and 600 lications have been classified in this State, and this was undertaken under difficult circumstances. The committee was unable to sit through the filming of the 400 videos and, as a result, individual members have been paid to view them and give them a classification. This scheme has had the blessing of the Premier's women's adviser. A meeting of a group of people from the Catholic Church, including Mrs Ryan and Mr Hogan, advised it was happy with the way the classifications were being undertaken. However, I have some misgivings about it.

With regard to the meeting that was held in Sydney last Friday between State Ministers in my capacity and Attorneys General, it was decided that if and when the Commonwealth Government passes legislation through the Senate—I believe it will go through the Senate—it will become responsible for the classification of not only films but also all video films and literature. They will be classified "X", "R", "parental guidance", "M", or whatever. I said that this Government would agree with the proposal along with other States, subject to the proviso that this Government retains its own advisory committee. The Government will adopt similar legislation to that which it uses in respect of the classification of films—12B. Therefore, irrespective of what the Commonwealth classification is, if the advisory committee feels it is necessary to change the classification it will have the final say as to what category should be placed on it, or indeed if it goes into a video outlet at all.

Hon. G. E. Masters: You can override them.

Hon. D. K. DANS: Yes, because people have different opinions and artistic bents. I might add that in Sydney we viewed a film on violence, not just sexual violence, and I had to shut my eyes. I have not led a sheltered life; but what some people may call "artistic" appears revolting to me.

The unfortunate thing, of course, is that the Customs Department cannot cope with the influx of videos into this country. One person may bring in a video from which hundreds can be taped. The whole matter comes down to parental control. Once a video leaves a store or once a periodical leaves a store they can end up anywhere; and there must be some parental control over this.

I saw a clip from the film *The Exterminator* which Mr Hassell banned in Western Australia when he held this portfolio. He has my wholehearted support; and for as long as I am in the position in which I now find myself that film will never be shown in Western Australia.

That is the situation in which we find ourselves. The Commonwealth Government will become responsible for all materials. I cannot say what the guidelines will be until they have been approved by the Senate. However, I will be asking Parliament to give the Government the final say in a similar situation to that which we have with regard to films.

PORNOGRAPHY AND VIOLENCE

Video Films: Access by Children

225. Hon. LYLA ELLIOTT, to the Minister for Administrative Services:

I have a further question to the previous one.

Will the Government give some attention to the question of the protection of children who may be affected as a result of the "X" and "R" classifications of video films—even though the law provides that they may be distributed from the outlets only to people over 18 years of age—by consulting with child welfare authorities?

Hon. D. K. DANS replied:

I am prepared to give an undertaking that we will consult with child welfare authorities on this matter. In our very complex society today, I still believe that the family unit is the mainstay of society. It might sound old-fashioned, but I firmly believe it. Parents must become involved. I have some unofficial figures which show that 70 per cent of all videos taken from outlets are "X" or "R" rated. The figures go further to state that the majority of those taken out—approximately 70 per cent—are taken by married couples mostly in the 40 to 50 years age group. The young people apparently prefer violent films. I should add that this is not a qualified report and I do not have the information written down; but the people who know about these things are always ready with the information.

I am aware of films showing in Sydney such as *Scarface* and *The Deerhunter*, and these are extremely violent films. When the Commonwealth Government gets into classifying all the material I hope it will take cognisance of the effect these are likely to have on people.

I heard the Leader of the Opposition talking on this subject and it is not often we agree. However, I have yet to be convinced, irrespective of what the learned psychiatrists and psychologists may say, that some of these things do not have an effect on people who may be a little unbalanced. I have seen excerpts from films entitled *Maniac* and *Bloodsucking Freaks*. I could not look at them.

However, I feel we need to take stock of ourselves. No amount of legislation, policing, or penalty can clean up these things unless one has the maximum amount of public co-operation. It has been mentioned that Sweden, which has no censorship laws, has reached the stage where it has run its race and one could not sell such a film there. However, I do not think we want to go through a period of 10 to 15 years to reach that stage. I hope the new legislation will go part of the way and that the public, and parents in particular, will accept their responsibilities to society and to their children.