

place. It has received their approbation, and I thank the honourable member for supporting it in this place.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

House adjourned at 10.23 p.m.

Legislative Council

Wednesday, the 2nd October, 1974

The PRESIDENT (the Hon. A. F. Griffith) took the Chair at 4.30 p.m., and read prayers.

QUESTIONS (2): WITHOUT NOTICE

1. PARLIAMENTARY DEBATES

Time Limits

The Hon. H. W. GAYFER, to the Minister for Justice:

Would the Minister consider calling a meeting of the Standing Orders Committee with a view to altering our Standing Orders to provide for time limits on general and Committee stages of debate along the line pursued by the Legislative Assembly following its experience of 1963, which now appears to be occurring in this House?

By way of explanation, I handed in this question last night, but in the flurry which occurred I would not be at all surprised if the Minister has not been advised of it. From the evidence I have I feel he well may not have been advised. I apologise for this.

The Hon. N. McNEILL replied:

I have had some notice of the question, although perhaps not in the precise form in which the honourable member directed it to me. I would convey to him that I am prepared to forward to you, Mr President, and to the Standing Orders Committee for further consideration, his request that the Standing Orders Committee give consideration to time limits on general and Committee stages of debate.

2. CONSUMER PROTECTION INQUIRY

Raymond Marketing Company and Pinelands (Australia) Pty. Ltd.

The Hon. CLIVE GRIFFITHS, to the Minister for Education:

In view of the announcement in an article in the *Daily News* of the 25th September, 1974, concerning the activities of Raymond Marketing Company and Pinelands (Australia) Pty. Ltd. that the Minister for Consumer Affairs was having an investigation into the activities of these organisations, would the Minister advise—

- (a) has the investigation been completed;
- (b) by whom was the investigation carried out;
- (c) if the answer to (a) is "Yes" has the Minister for Consumer Affairs been furnished with a report;
- (d) if so, will he lay the report on the Table of the House?

The Hon. G. C. MacKINNON replied:

Mr Griffiths was kind enough to give prior notice of this question to my colleague, the Minister for Consumer Affairs. The answer is that the investigation has been completed. It was carried out by the Consumer Protection Bureau, and the Minister has been furnished with a copy of the report, which I seek leave to lay on the Table of the House.

The report was tabled (see paper No. 236).

QUESTIONS (5): ON NOTICE

1. INDUSTRIAL STOPPAGES

Closure of Hotels

The Hon. D. J. WORDSWORTH, to the Minister for Justice:

- (1) On the 1st October, 1974, was union labour withdrawn from the hotel industry?
- (2) Did the Swan Hotel Chain decide to close its hotels, as did many of the larger hotels which were dependent on other than family staff?
- (3) Did the union movement bring pressure on the Swan Brewery to change its decision and open for a short period before and after the proposed public meeting?
- (4) What staff are manning these hotels during these limited opening times?
- (5) Has the Licensing Court allowed bottle departments to open if insufficient staff are available to open the bars?

- (6) If lounges and cocktail bars open, has the Licensing Court permitted the normal charging for these areas?

The Hon. N. McNEILL replied:

- (1) Yes. I am given to understand there was a direction that union labour be withdrawn under threat to management that if such labour worked on the 1st October the establishment would face a black ban.
- (2) to (5) No precise information is available. However the Licensing Court left the opening and staffing of hotels to the discretion of the individual managements and permission of the Court was not required.
- (6) The matter of prices charged in hotels is outside the jurisdiction of the Licensing Court.

2. HOUSING

Port Hedland

The Hon. J. C. TOZER, to the Minister for Justice:

- (1) What is the State Housing Commission programme for construction of houses under the Commonwealth/State Housing Agreement in South Hedland in 1974-75?
- (2) How many persons are on the waiting list for State Housing Commission houses in the Port Hedland area?
- (3) (a) Is it planned to remove houses from the "green belt" area between Anderson Street and North West Coastal Highway in Port Hedland, for re-erection in South Hedland, in this financial year; and
(b) if so, how many?
- (4) What is the estimated cost to remove and re-erect each house?
- (5) Are these re-erected houses—if any—included in the programme referred to in (1)?

The Hon. N. McNEILL replied:

- (1) The Commission's building programme for 1974-75 with funds available under the Housing Agreement Act 1973 is ten houses.
- (2) As at the 2nd October, 1974 there are fifty-six applicants seeking accommodation in the Port Hedland area—as distinct from South Hedland.
- (3) (a) Yes.
(b) The ten remaining Commission duplex units are programmed for removal to South Hedland.

- (4) The current Commission forecast to remove and re-erect is \$14 000 per building.
- (5) No.

3.

HEALTH

Pediculosis: Treatment

The Hon. R. H. C. STUBBS, to the Minister for Community Welfare:

- (1) Would the Minister please clarify the responsibility for the treatment of Pediculosis (Head Lice) infestation in a community in respect of—
(a) schools;
(b) in the home; and
(c) any other place where it occurs?
- (2) Who has the necessary power to carry out the treatment?
- (3) What part does Community Welfare play in this problem?

The Hon. N. E. BAXTER replied:

- (1) The responsibility for obtaining treatment for infection with pediculosis capitis (head lice) rests with the individual, or in the case of a minor, with the parent or guardian.
- (2) Treatment may only be carried out by a person authorised to do so by the individual, or where appropriate by the parent or guardian.
- (3) Basically the responsibility for the detection and follow-up of infestation in a community rests with the local health authority who may be assisted by officers of the Community Welfare and/or Public Health Departments.

4. EAST MADDINGTON SCHOOL

Sewerage

The Hon. CLIVE GRIFFITHS, to the Minister for Education:

- (1) Will the new East Maddington Primary school be connected to a sewerage system?
- (2) If the answer to (1) is "No" would the Minister give the reasons?
- (3) Is a sewerage system available in the vicinity of the school?

The Hon. G. C. MacKINNON replied:

- (1) Yes.
(2) (Not applicable).
(3) Sewerage services are to be provided in the area.

5. *This question was postponed.*

FUEL, ENERGY AND POWER RESOURCES ACT AMENDMENT BILL

Second Reading

Debate resumed from the 1st October.

THE HON. V. J. FERRY (South-West) [4.42 p.m.]: As we know, this Bill seeks to deal with an emergency situation if and when it arises. When one considers the history of this legislation since it was first introduced to the Parliament, it can almost be said that the opposition to it by ALP members was insincere. It could certainly be said that the members of the ALP are inconsistent in their attitude to the Bill. In fact, if members of the Opposition were racehorses—and I am not suggesting they are—perhaps the stewards may be interested in taking a swab of their performance because of their inconsistency.

The Hon. R. Thompson: They would be found to be thoroughbreds.

The Hon. V. J. FERRY: I do not suggest that they are nags notwithstanding what happened during the previous sitting of this House. It is quite obvious, however, that members of the Opposition have their tongues in their cheeks, and still have them there when opposing this measure.

The Hon. D. K. Dans: I can assure you that I do not have my tongue in my cheek.

The Hon. V. J. FERRY: Quite remarkably, the Tonkin Government approved of the drafting of a Bill similar to this one.

The Hon. R. F. Claughton: Did the Tonkin Government approve of the printing of that Bill?

The Hon. V. J. FERRY: It is obvious that Opposition members do not understand what their own Government, under the former Premier (the Hon. J. T. Tonkin), arranged to bring to this Parliament. That Government approved the drafting of a Bill similar to this one, and now Opposition members are denying that this was ever so. It is quite extraordinary for a Minister of the previous Labor Party Cabinet to deny that this was the situation when there is ample proof that the Bill was approved.

This is emergency legislation and I want to deal with the principle underlying that type of legislation. In order to refresh the memories of members, I would mention that it is well known that other States, and indeed other countries, have emergency legislation. In New South Wales there is an Act entitled the Emergency Powers Act. This Act was introduced under a Labor Premier (the Hon. J. McGirr). In Victoria there is the Essential Services Act of 1948. That was introduced by the then Premier (the Hon. T. T. Holloway) who was a Liberal.

It is known that Queensland also has emergency legislation. It has the Industrial Law Amendment Act of 1948, and also it has certain provisions to deal with an emergency under its Traffic Act of 1961. It is interesting to note that the Indus-

trial Law Amendment Act in Queensland was introduced by a Labor Premier (the Hon. E. M. Hanlon), and the Queensland Traffic Act of 1961 was introduced by the Nicklin ministry which was a Liberal-Country Party Government.

Of course in the Commonwealth scene, in 1949, the Chifley Labor Government introduced the national security legislation.

The Hon. D. W. Cooley: That does not make this legislation good.

The Hon. V. J. FERRY: The honourable member made his speech at great length during the previous sitting and he would do well now to listen to what other members have to say.

At the present time we are aware of the situation in South Australia, where a Labor Government has introduced a Bill to that Parliament, and I understand it is still with the Parliament. So there is wide recognition for this type of legislation in principle by a number of Governments, irrespective of their political colour, and, of course, in general terms, the United States of America has its emergency powers Statutes, and in Great Britain the Emergency Powers Act of 1964 is on the Statute book. I will not go on to mention any more, but those I have mentioned illustrate that there is need for emergency legislation and it is not unusual for countries to frame legislation for emergency purposes.

The Hon. R. Thompson: Has any one of our members said that he does not believe there should not be emergency legislation?

The Hon. V. J. FERRY: I will be very interested to hear the Leader of the Opposition make his contribution to the debate—as I hope he will. The Essential Services Act of 1948 of Victoria contains many provisions but I will quote only from section 3 of that Act as follows—

In this Act unless inconsistent with the context or subject-matter—

"Essential service" means any of the following services, namely—

- (a) Transport;
- (b) Fuel;
- (c) Light;
- (d) Power;
- (e) Water;
- (f) Sewerage;
- (g) Any service specified from time to time by Order of the Governor in Council published in the *Government Gazette*—

The section goes on to provide for other things. I merely mention that in passing to show that the Victorian Statute is indeed very wide.

I would like now to refer to the emergency powers legislation that was introduced to the South Australian Parliament and which, I understand, is still with that Parliament. In doing so I quote from the speech made by the Hon. T. M. Casey, the Minister for Agriculture, when speaking in the South Australian Parliament on the 6th August, 1974. This extract is taken from page 249 of the *South Australian Parliamentary Debates*. When introducing the Bill, the Hon. T. M. Casey had this to say—

Twice, in the past two years, this Parliament has been asked to consider and pass, in a period of somewhat less than 24 hours, legislation dealing with situations of emergency. In each case the situations were somewhat similar, being brought about by an expected acute shortage of petrol supplies. Notwithstanding that the Government and indeed the people of this State of every political complexion have good reason to be satisfied with the way this Parliament rose to the occasion, it is considered that there must be a better method of dealing with such situations than by the enactment of special legislation to cover each case. Two considerations are paramount when an emergency occurs: first, the Executive Government must be armed with sufficient power to ensure that appropriate action can be swift and effective, and secondly, in a Parliamentary democracy, the action taken must be open to a considered and an effective review by Parliament.

It is very interesting to read what members of the Labor Government in South Australia think about emergency legislation.

The Hon. R. F. Claughton: A very sound comment.

The Hon. V. J. FERRY: I would now like to refer to what the Premier and Colonial Treasurer in New South Wales said when dealing with emergency legislation on the 28th June, 1949. When he introduced the Bill he said—

As hon. members will appreciate, this Government was elected by a majority of the people of New South Wales to govern this State, upon a policy of conciliation and arbitration so far as industrial matters are concerned. We intend to govern upon that basis. There are at work in this community forces who do not subscribe to this policy. I now refer to those who believe that arbitration should be abolished. In fact there are those who believe in the overthrow of constitutional government and the establishment of a complete dictatorship; some to the Right, and some

to the Left. Certainly leaders of some unions who hold office are endeavouring to foist this view upon the people.

Those were the words of the Labor Premier of New South Wales at that particular time.

The Hon. D. W. Cooley: Do you mind telling me whether there are any provisions in that Act which would override industrial awards and agreements?

The Hon. N. McNeill: Indeed, I will tell you.

The Hon. V. J. FERRY: If Mr Cooley does not know these things, he should do some homework.

The Hon. S. J. Dellar: You must have done yours in a hurry.

The Hon. V. J. FERRY: When the Chifley Labor Government held office in the national Parliament in Canberra, it introduced the National Emergency (Coal Strike) Bill in 1949. I would like to quote a well-known person who represented a Federal seat for this State at that time. I refer to Mr Burke who represented the electorate of Perth. As we know he was a prominent and well respected Labor man. On page 1681 of the proceedings of the Federal Parliament for the 29th June, 1949, he is reported as follows—

The general coal strike, which has paralysed the industrial community of Australia, has been caused, we believe, by the Communist-led miners' federation at the behest of the Communist party of Australia. The evidence shows clearly that the trouble is not an industrial dispute but a purely political move. What the long-range objectives of the Communist party are, we can only conjecture, but I freely claim that its aim now, as it always has been, is to defeat the organized Labour movement and the governments which that movement has elected to parliaments in Australia. It is also a matter of conjecture that the Communist party hopes, by the defeat of Labour governments, to cause chaos and discord in the community. In the circumstances, this bill, drastic as it is, and anathema as it is to many life-long supporters of the Labour movement, is completely justified.

Now I will refer to the words of another very prominent Labor member—indeed, a Minister—of that time, if my memory serves me correctly.

The Hon. R. F. Claughton: What happened to the Chifley legislation?

The Hon. V. J. FERRY: I am referring to Mr Dedman who is reported on page 1686 of the same debates.

The Hon. R. F. Claughton: Who wrote your speech for you?

The Hon. V. J. FERRY: I do not think I will bother to reply to that inane interjection.

The Hon. R. F. Claughton: You would not want to.

The Hon. S. J. Dellar: This is just a number of quotes. That is an easy way to make a speech.

The Hon. V. J. FERRY: The Minister said—

I am glad that the Opposition is supporting the measure and the action of the Government in declaring a state of emergency.

In the same debates, at page 1693, another prominent member of the ALP in the person of Mr Arthur Calwell, is reported as follows—

In our view, the strike is Communist-inspired. The Coal Industry Tribunal was established by this Government. The miners have foolishly repudiated it. Seventy-five per cent. of the miners are not Communists. They are good Australians and they have as much enthusiasm for their country as the average Australian worker has, and they are as good citizens as most other Australians are. But they have allowed themselves to be manoeuvred into a false position by the trickery of those of their leaders who are members of the Communist party.

The Hon. Lyla Elliott: Are you saying that this is the position today?

The Hon. V. J. FERRY: I now wish to refer to what a Minister in the present Whitlam Government said in 1949.

The Hon. R. F. Claughton: What has this to do with the Bill?

The PRESIDENT: Order! That is a question which was asked many times last night.

The Hon. V. J. FERRY: On page 1711 of Federal *Hansard*, Mr Beazley is recorded as having said, among other things—

The Government has been driven into doing so because it represents the the community in this matter and it is simply acting in defence of the community. That is the present position, and it is the explanation for this legislation.

I have quoted some very interesting comments from prominent and respected members of the ALP who were talking about emergency legislation. Although I could do so, I do not intend to quote at very great length from any other documents. I merely wish to give a brief extract from a report of a Royal Commission of 1950 which inquired into the origins, aims, objectives, and funds of the Communist Party in Victoria, and other related matters. The commissioner asked—

Do you think the Communist Party provided the driving force or the leadership in this propaganda campaign against the Essential Services Act?

The answer was—

I feel that they were the driving force and that without their assistance I do not think it would have been possible for the leaders of the movement to have conducted such a fine campaign as they did at that time.

So this indicates that the Communists and the ALP do have some similarity.

The Hon. S. J. Dellar: Gutter tripe!

The Hon. R. F. Claughton: Do you believe in the preservation of individual liberties?

The Hon. V. J. FERRY: It is very interesting to hear Mr Claughton. He addressed the Chamber at great length last night and he apparently wants to do so again today. However, I am sure that you, Madam Acting President (the Hon. Lyla Elliott), would agree that I have the right to the floor on this occasion.

The Hon. R. F. Claughton: I listened to your interjections last night and gave answers.

The Hon. V. J. FERRY: Last night or early this morning—I forget which because he spoke for so long—Mr Claughton quoted from a particular pamphlet which this House requested him to table.

The Hon. R. F. Claughton: Which I did.

The Hon. V. J. FERRY: Indeed, when challenged during the course of the debate to identify the author of the pamphlet, Mr Claughton refused to do so. Consequently I will do this now.

The Hon. R. F. Claughton: You asked me who the author was and it did not have one.

The Hon. V. J. FERRY: On the pamphlet is the following—

Printed and Authorised By: Communist Party of Aust. 75 Bulwer Street, Perth. Telephone: 28.8449.

That pamphlet was one of the exhibits from which Mr Claughton so proudly quoted.

The Hon. Clive Griffiths: He said it did not have an author. He said it did not have one.

The Hon. R. F. Claughton: It did not say who the author was.

The Hon. V. J. FERRY: Apparently Mr Claughton is proud and pleased to be associated with the Communist Party which was very much to the fore in the demonstration yesterday. Recognised members of that party were on the platform.

The Hon. R. F. Claughton: You have no need to resort to smear tactics. You should be bringing something worth while to the debate. Are you saying the information there is incorrect?

The Hon. N. McNeill: Where did he get the pamphlet?

The Hon. R. F. Cloughton: Get down to the information in the pamphlet. Do you think it is wrong?

The Hon. V. J. FERRY: I have touched Mr Cloughton on a raw spot.

The Hon. G. C. MacKinnon: Isn't he touchy?

The Hon. V. J. FERRY: Members opposite need Communists to assist them in their campaign on the legislation.

The Hon. S. J. Dellar: At least you have forgotten about centralism.

The Hon. V. J. FERRY: If Mr Cloughton continues as he is doing, he will really run out of gas!

I do not propose to quote at length from this pamphlet, which apparently was handed out during the meeting at the Supreme Court Gardens yesterday, but it is quite obvious that the Australian Labor Party is very content to use and be used by the Communist Party in connection with the legislation before the House today. It is quite interesting that on other occasions the Australian Labor Party has been quick to condemn the destructive attitude of the same Communist Party in the Federal sphere and in other places, yet it chooses to be its ally and good mate on this occasion. Members of the Labor Party cannot deny it.

Several Opposition members interjected.

The PRESIDENT: Order, please!

The Hon. V. J. FERRY: It hurts them that the Australian Labor Party is allied with the Communist Party in its attempt to disrupt the legislative programme of this Parliament, and from their noisy interjections it is quite apparent that is the case.

There are a number of matters contained in the Bill which I do not propose to touch on at this stage, because it would be more appropriate to do so at the Committee stage of the proceedings. But I would like to make the point that so many people apparently choose, either deliberately or out of sheer ignorance, to take one clause and analyse it without relating it to the remaining clauses of the Bill or to the parent Act. This is why so many people fall into the hole, become confused, and cannot understand the position; and no wonder. I suggest many people do not want to understand it. They are making it their business to remain confused and to confuse others.

I maintain that this particular legislation has adequate parliamentary safeguards because measures to be taken under it must be referred back to the Parliament for ratification within stipulated periods of time, and Parliament is paramount irrespective of the Government of the day or what Mr Cloughton says. The Parliament holds the key. That is the way democracy should work. I am therefore disappointed that so many opponents to the legislation have seen fit to confuse the issue, and they

are still confusing it. It does not do them any credit whatsoever and the public is becoming so sick of the tactics employed by the Australian Labor Party in opposition to this Bill that they are voicing their disapproval.

The Hon. G. C. MacKinnon: Mr Hawke said they could not win.

The Hon. V. J. FERRY: I have no desire to delay the House at great length on this issue, as some members have done. I have registered my views on the attitude adopted by the Opposition to the measure, inspired by and in cahoots with the Communist Party. It is the duty of this Parliament to protect the community, as the Chifley Government found it necessary to do, and as the New South Wales Labor Government and other Governments have found it necessary to do, against so much disruption, chaos, and street rule.

The Hon. D. K. Dans: Before you sit down, will you tell me what you think of the Bill?

The Hon. V. J. FERRY: I fully support the Bill.

The Hon. R. Thompson: Up to date, you have not mentioned potatoes.

The Hon. D. K. Dans: He has picked the eyes out of those.

The Hon. V. J. FERRY: I have no desire to speak at great length. I will be interested to hear the contributions of the remaining speakers, and I look forward to the Bill passing the second reading because it is a good measure which is designed to protect the community from disruptive, irresponsible elements and street rule. I support the second reading.

THE HON. I. G. MEDCALF (Metropolitan) [5.04 p.m.]: We have heard a great deal of comment about this Bill in many quarters, both inside and outside of Parliament. I must confess I was rather horrified when one member spoke on the Bill last night for four or five hours. I have always believed that while occasionally it is necessary to speak at great length, if one has an important message to convey—and no doubt the honourable member felt he had—it is much better for one to express it simply and try to make one's point fairly quickly so that the listeners can get an appreciation of one's point of view.

It is only by exchanging our points of view that we ever reach any proper arrangement of the laws. If we all simply maintained our point of view from the beginning to the end we would never be able to get by in a democracy or, indeed, in any form of civilised life. It seems to me one of the purposes of Parliament is to enable members to put a point of view succinctly and properly and as a complement to that of other members. Simply

to talk and talk and talk, and be repetitious, does not strike me as serving the best interests of this House or this Parliament.

Having said that, I have put myself in a situation where I must ensure that I myself do not transgress. Before dealing with the Bill proper, I would like to say we have been confronted with a number of emergency situations in this State and, indeed, in the whole of Australia in the last few months and years, but this has been particularly noticeable in the last six or seven weeks.

It has certainly been very noticeable to me because, I suppose, partly by virtue of the fact that I am a member of the Constitutional Convention, I have been attending subcommittee meetings in the Eastern States quite regularly. In the last six weeks I have made three visits to Sydney or Melbourne and on each occasion there have been serious delays in the aircraft arrangements—quite serious delays which were very distressing, not so much to me but to many other passengers involved. Some six or seven weeks ago we had a nationwide transport strike, organised by the Transport Workers' Union, which of course chiefly involved the refuellers at the various airports in Australia.

On the day of the strike, or the day immediately following the strike, I had a booking to travel to Sydney by a direct flight. This pleased me greatly because it would enable me to get all my work done and give me a little extra time to go through the preliminary matters to be discussed. All the flights on that particular day were cancelled and I managed to get onto the midnight flight with TAA. When I reported to the airport at about 11.15 p.m. I was told the plane would possibly be leaving at 1.15 a.m., the strike having been over for some 24 hours. I believe this is relevant to the Bill, which deals with emergencies. It was explained to me that the TAA planes arriving at the Perth Airport, where there was no fuel, simply took the cleaners on board and took off for Kalgoorlie or Meekatharra, where they refuelled. When they returned to Perth Airport the cleaners were put off and the passengers taken on, having lost a couple of hours in the meantime and having burnt up many hundred gallons of fuel.

At any rate, at about 2.00 a.m. the plane took off, and instead of making a direct flight to Sydney it went to Melbourne, where all the luggage was taken off, including the luggage of passengers who were about to join a P & O tour from Sydney that morning. The luggage was taken off in order that the plane might be refuelled, because there was no fuel at the Sydney Airport. On arrival at Sydney some two hours late, there was no fuel and no luggage, and we went about our various business, as did the passengers for

the P&O tour. How they got on for their luggage I could not say. I sincerely hope it reached them somewhere.

The Hon. H. W. Gayfer: You should have rung up the Swan Brewery and got the same treatment as was meted out to Mr Hawke.

The Hon. I. G. MEDCALF: Unfortunately I did not have any influence with the Swan Brewery, nor did I have the requisite control of the situation which Mr Hawke, in his position, obviously has.

The Hon. H. W. Gayfer: Well said!

The Hon. I. G. MEDCALF: On my return there was complete chaos at the Sydney Airport—such chaos that all planes were delayed and I could not get a seat allocation to go down to Melbourne. The clerk finally said to me, "You have no luggage, have you?" I confessed I had not because I had lost it. He said, "Well, run out onto the tarmac. There is a plane just leaving and if you run you will get on it." I ran, got up to the gangway, and the hostess said, "No, go to that one." So I ran down the tarmac, dodging in between trucks and so on, and got on the next plane. There were six passengers on the plane and as soon as I boarded it the doors were closed and the plane took off for Melbourne, although there were people inside the airport clamouring for a passage to Melbourne. It was complete chaos.

This is the type of situation we are trying to avoid. I believe it is necessary for us to face the fact that we must be able to take emergency action in this community of ours at the present time. Emergencies result from breakdowns in the supply of fuel and energy. This is quite well recognised by the Opposition. I do not believe any member of the Opposition seriously contends we should not have legislation to deal with emergencies. Indeed, we have been told—and I believe it to be true—that a similar Bill was approved by the Labor Cabinet in the last Government and that the Cabinet file bears Mr Tonkin's initials with the date. I do not think it is seriously disputed that the Labor Cabinet had approved emergency legislation, but for one reason or another it did not proceed with it.

I am saying it must be generally accepted that a State or a country must have emergency legislation. There are very few States and countries which do not have it, and this is one of the few. Some six, seven, or eight weeks ago, shortly before that transport strike, I asked a question as to what action the Government proposed to take to deal with emergencies. The answer I was given indicated quite clearly that the Government had no power to enforce fuel rationing or to see that petrol went to essential users such as industry, commerce, and hospitals, and to maintain power supplies. It could all have been frittered away to people who were prepared to pay the highest price for it—black marketers or

anyone else. There was no legislation on the Statute book of this State to give the Government any power to control the situation.

On making closer inquiries of the Minister for Labour, which were not recorded in the question, he assured me that were he to enforce any system of fuel rationing on service stations he would be smartly told where to go by the service station proprietors, the oil companies, or someone connected with the fuel industry.

In those circumstances I believe it is essential for us to face the situation that we must have emergency legislation. That must be accepted before we start. Some people in the community do not want emergency legislation. I do not say these people are members of the Opposition in this House, but there are people in the community who do not want it. I do not think such legislation suits the book of certain very radical groups in the community which would prefer a state of revolution and chaos. Chaos breeds revolution.

The Hon. D. W. Cooley: This does not include the trade union movement, does it?

The Hon. I. G. MEDCALF: I would not know. I am saying I believe some people in our community want a state of chaos and revolution. I did not mention the trade union movement.

The Hon. D. W. Cooley: I am asking you.

The Hon. I. G. MEDCALF: I have not named any particular group and I do not propose to do so but I believe such groups exist. I have read the statements of leading communists, some of whom, unfortunately, are connected with the trade union movement—if this is an answer to Mr Cooley.

The Hon. Grace Vaughan: There are only 82 altogether in Western Australia.

The Hon. I. G. MEDCALF: I quite accept the honourable member's comment. I do not for one moment suggest that the trade unions are cultivating the communists, but I do know that there are some leading communists in the trade union movement; and I also know it is one of the tenets of the Communist Party that revolutions should be encouraged by every means possible, and that these means will include the creation of confusion, the demoralisation of industry and commerce and of the workers themselves—setting worker against worker, and worker against employer. This will be denied but I know from experience that it is what they want.

The Hon. D. W. Cooley: Do you think this is happening in the trade union movement at the moment?

The Hon. I. G. MEDCALF: Had the honourable member listened to what I said it would not now be necessary for me to answer him. I said there are people in our community who desire a

state of chaos and who are against emergency legislation and some of them are connected with the trade union movement. Unfortunately this is the case. In fact, one of them, Mr Munday has been described by Bob Hawke as a menace.

The Hon. D. W. Cooley: Mr Munday is not in Western Australia; he is in Sydney.

The Hon. D. K. Dans: He is one of the leading conservationists.

The Hon. I. G. MEDCALF: I did not know Mr Munday was not a trade unionist. I thought he was a leading member of the builders' union.

The Hon. D. K. Dans: He has resigned and he now leads the green belt move.

The Hon. I. G. MEDCALF: That does not alter my feeling that there are some communists in the trade union movement. I presume members opposite would not like me to name any others.

The Hon. D. K. Dans: I do not deny that.

The Hon. D. W. Cooley: You were talking about the influence of the communists on the trade union movement in Western Australia, and this is not right.

The Hon. I. G. MEDCALF: I do not deny what Mr Cooley is saying, but I reiterate my point so that members will know exactly what I am saying—that there are some people in our community who are associated with the trade union movement and who do not want emergency legislation.

This Bill deals only with emergencies caused by problems associated with the supply and distribution of fuel, energy, and power resources. It does not deal with anything else.

The first point that must be made quite clearly and categorically—because this is the greatest mistake that has been made by some of the critics of the Bill who have expressed an opinion to the contrary—is that the whole purpose of the Bill, the headnote, the name, and the long title refer to the one subject of fuel, energy, and power resources, their supply and distribution, and the control of an emergency resulting from the failure of such resources.

Bearing that in mind we must look at the Bill in the light of what it purports to do. It does not purport to control all emergencies in the community; it does not purport to control an emergency in connection with food, as it has been suggested it should. A food emergency, of course, would be to some extent controlled wherever there were limited supplies of fuel and energy, but this does not deal with all other emergencies in the community; for example, it does not deal with a riot, a strike, or a lockout unless these have some connection with the supply and distribution of fuel, energy, and power resources.

Nor does the Bill in any way cut down the right of a citizen to claim all his basic civil liberties with which he is endowed at birth in this country—and I refer to the right to demand *habeas corpus*, the right of personal liberty and protection by the police, and the other basic liberties to which we are entitled. The Bill in no way cuts down those rights or liberties except in relation to the emergency which might arise out of fuel, energy, and power resources, and then only to the limited extent that is mentioned in the Bill. I will deal with that aspect in due course.

I would like to mention some of the major points which could be emphasised in this Bill, and here I will summarise some of them which seem to have a special significance at the present time, particularly the suggestion that the Bill overrides all the laws in the community.

It has been said that it overrides the Constitution Act and the Electoral Act and that it will enable the Government to declare an emergency, obtain all the necessary power, and stay in Government for all time. This is not the case at all. It is categorically incorrect.

The overriding power referred to simply relates to legislation which may be affected by the provisions of the Bill. It does not refer to the Constitution. The Bill cannot override the Constitution by any stretch of the imagination. The Constitution can be amended only in the way that all members of Parliament who have been here for a long time will know, because we have amended the Constitution on a number of occasions; but it must be done in a specified manner in Parliament. We could not amend the Constitution by using a Bill such as this.

The Bill certainly cannot amend the Electoral Act, because that would require a special method of amendment; and there are several Acts in the same category. All the Bill does is to deal with the subject matter contained in it, which is limited to fuel, energy and power resources. In this respect the provision which says that it overrides all laws is remarkably the same as similar provisions which we see in several other Acts, which have appeared almost without comment—although I do recall the Hon. Frank Wise commenting on that aspect in relation to some of the iron-ore agreements which have been prepared. He took exception to this aspect, and yet a similar provision was inserted by the Tonkin Labor Government in several of the agreements it drew up.

When we wish to ensure there is no inconsistency with some other Act in order to get done what we require in this Act, it is necessary to insert such an overriding proviso. This is quite common. We see it done in the iron-ore Acts which state that the agreement, which is in the

schedule to the Act, overrides all the provisions of the Land Act, the Mining Act, and half a dozen other Acts. This is to prevent people saying they want the right to apply for a particular mining lease or to set up a business on a particular piece of land, and so on. So we override all other Acts and not merely the two Acts to which I referred. So, as I have said, this is a fairly common type of provision to insert in a Bill when one wants to achieve a particular object.

This Bill is quite limited and there is no power to override the Constitution and it is absolute nonsense to say otherwise.

Another important aspect in connection with the legislation is that it has been said the Minister can declare an emergency and virtually run the country. The Minister cannot declare an emergency; it must be declared by the Governor in Council; that is, by the Governor on the recommendation of Cabinet.

If we are to say that is wrong then, I ask, whom should we nominate to declare an emergency—that is, if we are not to nominate Cabinet for this purpose? Would we nominate an individual Minister? No, obviously, we would not. Would we nominate the Governor on his own? No, obviously we would not, because this must be done in a constitutional manner. But whom would we nominate? A judge has been suggested for this purpose; but how on earth can a judge sitting in his Chambers or, as some say—though I certainly do not—in his ivory tower, be aware of the situation which must be taken into account when an emergency is declared; because if such an emergency is declared the body or group declaring it must accept the political responsibility for the declaration? We cannot leave this to a judge. We cannot allow the initial declaration to be made by a judge.

The Hon. D. W. Cooley: Would not you worry that the communists about whom you have been talking could control and implement the Bill?

The Hon. I. G. MEDCALF: No.

The Hon. D. W. Cooley: I thought you said they would take over.

The Hon. I. G. MEDCALF: No, I did not say that. The honourable member must have been listening to Mr Claughton, or perhaps he is feeling the effects of last night. I made no mention of this.

The Hon. D. W. Cooley: I thought you said there would be a takeover by the communists.

The Hon. I. G. MEDCALF: No. As I was saying, whom would we nominate to make this decision? We have ruled out the Minister individually; we have ruled out the Governor individually, and we have ruled out a judge.

Would we have Parliament declare an emergency? How could we do that in practice if Parliament were not in session

during such an emergency? The members of Parliament may be all over the place; some of them may be in their electorates, while others may be out of the State. It is not possible in the short time available to get Parliament together to declare an emergency; the emergency may be over before Parliament meets.

In those circumstances it would be difficult to suggest that the emergency must be declared by Parliament. That would be a shocking law, and no Government, no matter what its political colour, would suggest that Parliament should actually make the declaration of emergency. But Parliament does come into the matter under this legislation. Parliament is called together and it must ratify the emergency, but this is a different matter. Surely the declaration of an emergency must be made by the Cabinet of the day! Surely nobody else could make it! What greater safeguard could we have than getting Parliament to ratify such an emergency? If members believe in Parliament as I do—and I am sure they do—and if we all believe in having members of Parliament as representatives of the people, and we believe in this honestly, surely we can find no better group of people who should be called together to ratify an emergency! This is what the Bill says. If this is not ratified by both Houses of Parliament the emergency is revoked automatically; simply because Parliament has not ratified it.

I am sure there is no better safeguard in democracy than that. Another point about which much has been made, and which I have read, is that no one can challenge this state of emergency, and nothing can be done about it. This is absolutely incorrect. This emergency is challengeable from the first day the order is made. It can be challenged in the courts immediately and it will be challenged, I venture to say, by those who may wish to do so.

Immediately an emergency is declared there is nothing to prevent any person who may so desire to seek an injunction to restrain the Government, or the Minister, or the fuel commission from enforcing any of the powers and authorities in this legislation.

The Hon. Lyla Elliott: The Law Society feels that proposed new section 41 in clause 4 of the Bill renders judgments of the court invalid.

The Hon. I. G. MEDCALF: I do not agree with that point of view, but I will deal with that aspect in due course.

In addition to having the right to challenge the state of emergency, provision is made in the legislation that if anyone suffers personal injury he has full access through the courts—from go to whoa—on appeal and can take his case as far as he likes in respect of any personal injury he

might have suffered, just as if there were no emergency. In addition he will have the right to claim compensation and appear before the compensation court which is comprised of a Supreme Court or District Court judge, and the ordinary rules of a civil action of the Supreme Court or District Court would apply.

That is where there is a loss of property of some sort and they want to claim compensation. This additional section has been written into the Bill. In addition, there is a full right of appeal in respect of any person who is prosecuted for any offence. He can go right through the whole box and dice up to the Court of Criminal Appeal and, even further, if he is granted leave to appeal. In other words, he has the full, normal rights of any person accused of any offence or crime. His rights are not cut down in any way whatever.

Finally, a further right of appeal is written into this Bill which has been greatly criticised. I refer to the right of appeal to the Minister in respect of administrative acts which the Minister or his commission or somebody delegated by him may perform. Members will not find that provision in many Acts. Sometimes we find in an Act a right of appeal to the Minister, which shall be final and which is the only avenue of appeal provided for in the Act. In my view, such a provision is disgraceful and I have criticised it many a time in this House, as honourable members would know.

The Hon. G. C. MacKinnon: And at great length, on occasions.

The Hon. I. G. MEDCALF: I think the Minister handling this Bill would have felt the lash of my tongue on this very subject on other occasions. I have always criticised the fact that some Acts provide a right of appeal only to the Minister and that his decision shall be final and that the person appealing cannot go to a court or anywhere else. Many Acts on the Statute book have such a provision and those Acts were put there by Liberal-Country Party and Labor Governments alike. However, this is not one of them. This Bill provides a further right of appeal to the Minister, additional to all the other rights of appeal which I have mentioned.

The final point I make in my summary is that there exists a basic right which we all enjoy or, at least, if we do not actively enjoy it, it is open to us. We can assert that right by asking for one of the prerogative writs, which are a writ of mandamus, a writ of *habeas corpus* or one of the other prerogative writs. Every citizen enjoys the right to ask the court to take certain action, where a Minister or a public official is not doing the right thing or where some injustice has occurred. Those rights remain in this Bill; as I see it, no attempt has been made to remove them. Indeed, the courts are very jealous

of any attempt by legislation to cut out these rights and usually find a way to restore them and ensure that the subject will enjoy such rights. I do not find any provision in this Bill which deletes those rights.

The Hon. Lyla Elliott: What about proposed section 54 which states that no action shall lie against the Minister or any person or body authorised by him in the exercise or purported exercise of his powers?

The Hon. I. G. MEDCALF: That is against the Minister; it relates to where the Minister carries out some proceedings authorised under the Act. I am talking about all the rights which citizens have and will still have under this legislation to seek justice. To my way of thinking, these rights still exist.

The Hon. Lyla Elliott: I thought we were talking about the rights under the Bill, in a situation where a person may suffer some injury or loss.

The Hon. I. G. MEDCALF: Well, the person will still have his rights. If he suffers personal injury or damage to his property or if he is prosecuted and wants to appeal against the sentence or the conviction, he will still have his rights; there is nothing to prevent him from exercising them. In addition, he will have the right of appeal to the Minister. If, for example, the Minister closes down a service station and says, "You are not allowed to serve petrol for the next 10 days" the person involved can appeal to the Minister against the decision.

The Hon. G. C. MacKinnon: Doesn't it refer to direct action against the Minister himself, like putting him in gaol?

The Hon. I. G. MEDCALF: If the Minister is carrying out his duties laid down under the Act or his servants are carrying out delegated duties—

The Hon. R. Thompson: Or under the regulations.

The Hon. I. G. MEDCALF: Yes.

The Hon. R. Thompson: But we do not know what the regulations are; they have not been laid down.

The Hon. I. G. MEDCALF: Of course we do not know what the regulations are, because we have not passed the Bill. We cannot have regulations before an Act is promulgated.

The Hon. R. Thompson: Your point is not clear on that, when you say, "under the Act".

The Hon. I. G. MEDCALF: Well, I will make it transparently clear; I will add the words that the honourable member has mentioned—"or under the regulations".

The Hon. R. Thompson: That is right.

The Hon. I. G. MEDCALF: If the Minister or one of his servants performs some action under the Act or the regulations

which is within the terms laid down by the Act or the regulations, he is immune from action under that section in respect of acting maliciously or some other prosecution, not necessarily a criminal prosecution. What we are talking about are the civil rights of people affected by the legislation.

The Hon. D. K. Dans: And this Bill does not interfere with those in any way?

The Hon. I. G. MEDCALF: No, not in respect of anything except where there is a particular loss that they have suffered in common with everybody else during the emergency or where they have suffered some loss which is related to that emergency which is not a personal injury or loss of property. To that extent, some small limitations are placed on this area.

I should like to refer to the report of the Law Society because we have heard a great deal about it. I believe the Law Society had every right to express its views on this Bill, as indeed has every other society, private person or citizen in our community, on every Bill which comes before the Parliament, whether it be the Fuel, Energy and Power Resources Act Amendment Bill, the Aboriginal Heritage Bill or any other Bill. Any person or any society can and indeed does express views on such Bills. There is no reason that they should feel in any way inhibited in so doing. Therefore, just in case anyone has any doubts, I believe it should be said that the Law Society had every right to express its views. We have seen those views reported in the Press and we have heard them referred to on a number of occasions by various people.

I do not know if it has been made clear that the President of the Trades and Labor Council, the Hon. D. W. Cooley in fact, had been in communication with the President of the Law Society before the Law Society ever considered the Bill.

The Hon. D. W. Cooley: The only contact I had with him was to hand him a copy of the Bill and invite his comments on it.

The Hon. I. G. MEDCALF: Yes, that is right. The President of the Trades and Labor Council, Mr Cooley, communicated with the President of the Law Society before the Law Society ever considered the Bill. Mr Cooley handed a copy of the Bill to the President and invited the Law Society to comment on it.

The Hon. Lyla Elliott: What is wrong with that?

The Hon. I. G. MEDCALF: Nothing, but I do not know whether that has ever been clearly stated.

The Hon. G. C. MacKinnon: I do not think it has been.

The Hon. Clive Griffiths: It has not been mentioned at all.

The Hon. Lyla Elliott: What are we being accused of?

The Hon. D. W. Cooley: Why mention it at all?

The Hon. I. G. MEDCALF: I am not objecting to it; I am merely mentioning that the communication took place.

The Hon. D. K. Dans: Mr Medcalf is getting a lot of backing up from his side which is confusing the issue.

The Hon. I. G. MEDCALF: I did not hear Mr Cooley mention the fact last night; perhaps he mentioned it when I was out of the Chamber. There is no reason that he should not mention it. Indeed, he is entitled to wait on the President of the Law Society as the Law Society is entitled to consider the Bill.

The Hon. D. W. Cooley: I think it was the first time I ever met the President of the Law Society. I am not in the habit of telling lies; that was the first time I met Mr Rowland.

The Hon. I. G. MEDCALF: I am not suggesting for a moment that Mr Cooley is in the habit of telling lies. I did not make any such suggestion and I certainly would not dream of making such a suggestion.

Interesting as that discourse between Mr Cooley and the President of the Law Society is, in the light of subsequent events, it does not mean that the Law Society could not properly have considered the Bill at a general meeting or a meeting of its council or one of its subcommittees. Indeed, there are aspects of this Bill which could easily occasion comment on the basis of the terms used and without any political prompting whatsoever. Mr Cooley's communication with the President of the Law Society did not necessarily have any bearing on what subsequently occurred.

At its meeting at 5.30 p.m. on the 21st August, after certain specific matters of special business had been dealt with by the Law Society, the matter of the legislation was raised. One of the members of the society moved a motion which was subsequently discussed and amended and which ended up in a slightly different form. The final motion was—

The Society expresses concern at the provisions of the Fuel, Energy and Power Resources Act Amendment Bill, 1974, which appears to make inroads into the freedom and liberty of the individual in our society and instructs the President to wait on the Government immediately and ask that the Government defer consideration of the Bill until the Society has had an opportunity to submit comments on the Bill and the President is instructed to convene a sub-committee

to give urgent consideration to the Bill and report to the Council with a view to the submission of the Council's views to the Government.

The next speaker but one was Mr Hartrey, who was already involved in the Bill through his participation in the Legislative Assembly. He supported the motion. However, other than Mr Hartrey, most of the members of the Law Society had not read the Bill when they discussed the motion and when it was passed. The resolution was adopted and a subcommittee of three members was formed, which reported to the Council of the Law Society two days later. Remember, the meeting was held and the motion moved at 5.30 p.m. on the 21st August. I understand that the Council of the Law Society held a meeting at one o'clock on the following Friday afternoon at which its members received the report of the subcommittee. I am not certain of those times; I have not had them verified but I believe this is so.

I am not in any respect being at all critical of this. However, I mention the times merely to indicate that although there was good reason for meeting quickly—the good reason was that the Law Society believed the legislation could be introduced and passed through Parliament before the society had time to study it—the legislation was rather hastily considered. The Law Society did not really have the time to produce full and detailed information of every aspect of this legislation.

The Hon. D. W. Cooley: Members of the Law Society had only to glance at it to gather the impact the legislation would have. One does not have to be a Rhodes Scholar to understand the intention of the Government in regard to this legislation in the form the Bill was presented.

The Hon. I. G. MEDCALF: I am not suggesting that one would have to be a Rhodes Scholar to understand the Bill; I am merely suggesting that the report was prepared fairly speedily, and for good reason. The subcommittee of the Law Society felt the legislation would proceed through Parliament and unless it presented its report its views would not be considered. Therefore, the members of the subcommittee put their case before the Council of the Law Society, which endorsed it.

On the same day, the 23rd August, the Law Society sent its report to the Premier (Sir Charles Court). Subsequently the report was placed before a general meeting of the Law Society held on the 9th September. Although a week before that certain amendments had been announced in the Press, these were not considered by the Law Society, because the report dealt only with the original Bill.

The amendments which were announced by the Premier on the 2nd September were very substantial, and many of them overcame some of the problems which were referred to in the report of the Law Society. To this extent, therefore, the report of the Law Society which at the time it was written was written in good faith, and with a view to making suggestions to the Premier, had become outdated by the events which occurred. When the Law Society was considering the report, it had become outdated; yet we still hear in the Press, on television, and in other places references to the comments of the Law Society which were made on the original Bill.

The Hon. Lyla Elliott: Only three of the 18 points which were made by the Law Society have been affected by the amendments.

The Hon. I. G. MEDCALF: In due course I shall deal with those points, one at a time. We must bear in mind this was a report only; it did not purport to be a carefully considered opinion. There was not sufficient time for the Law Society to give a carefully considered opinion. The report must be looked at in the light of what appears in the heading—

This is a report of the Council of the Law Society of Western Australia and does not purport to express the views of the general body of lawyers in this State.

The report then sets out a commentary on the Bill. That is the manner in which the report has been described. The Council of the Law Society has referred to it as a report, and it has been described as a commentary.

Naturally people agree or disagree with items which appear in reports, whatever they may be. Lawyers themselves will disagree over points of law, and anyone is at liberty to have his personal view about a point of law whether or not he is a lawyer. That is only right and proper; but it is not right or proper for a report such as this to be quoted as gospel. I believe it is wrong for the report to be quoted as gospel.

The authors of the report would be the first to admit that they did not write a gospel. They are fair-minded people. My view is that they were advising the Government, and they believed they should state fairly and frankly what they thought should be the position. However, on a matter of law their opinion would be open to argument.

When it is all boiled down, most matters of law end up as opinions; judgments of courts are opinions; and the most learned statements of Queen's Counsel are called opinions. Anything else, such as a report by a committee that is not the considered opinion of a Queen's Counsel or a judgment of a court, is even more of an opinion.

The Hon. D. W. Cooley: We will accept that from what you have said today. Your comments on the Bill and the doubts expressed by you on safeguards would also be your opinions. I am sure you admit that you are not infallible.

The Hon. I. G. MEDCALF: I admit I am not infallible, and if I gave the impression that I was infallible I apologise. I do not have an infallible attitude on matters, therefore I must agree that I am not infallible. If Mr Cooley thought previously that I was infallible then I would like to correct him.

The Hon. D. W. Cooley: There are some doubts in respect of the Bill, and as a House of Review we ought to look at them.

The Hon. I. G. MEDCALF: There are also grave doubts about the opinions expressed publicly by many people who have quoted from the Law Society report. Many of those expressions are only matters of opinion.

The Hon. G. C. MacKinnon: I hope Mr Cooley has no doubt about the validity of his own opinions!

The Hon. D. W. Cooley: Not at all.

The Hon. G. C. MacKinnon: When I appeared on a television programme with you I was under the impression that you were infallible.

The Hon. D. K. Dans: I think he is fallible.

The Hon. G. C. MacKinnon: So do I.

The PRESIDENT: Order! I would like to hear Mr Medcalf.

The Hon. I. G. MEDCALF: In my view some of the points in the Law Society's opinions are valid, and others are not valid. I do not question the sincerity of the report or the opinions expressed, but I do question the sincerity of some people who have jumped on the bandwagon to gain as much political mileage out of this situation as they possibly can. I think it can truly be said that some of the honest opinions of the members of the Law Society have been prostituted for political purposes. I feel it is necessary for me to deal with some of the specific provisions in the Bill, because of some comments that have been made.

The Hon. R. Thompson: Can you give us an interpretation of what the Law Society has said in respect of proposed section 41?

The Hon. I. G. MEDCALF: I am about to do that. In respect of proposed section 41 the Law Society said that the Act, and the regulations made under it, are to prevail over all other laws, judgments, and agreements. The Law Society criticised that provision by saying that it will limit the powers of the court in respect of the Act itself and the regulations. That was the first criticism of the Law Society.

The second criticism was that there would be no power for the courts to entertain a challenge to the Act or a declaration of an emergency. The third criticism of the Law Society was that the Supreme Court could not declare a regulation made under the Act to be invalid. The Law Society did not say that in a categorical way: the society expressed the view that it could be said that this would be the effect. I have summarised the major criticisms of that section.

What the Law Society actually said in its report was—

It appears the effect of subsection (2) is to limit the power of the Courts with respect to the Act and its regulations . . . On a proper construction it may be that there is no power for the Courts to entertain any challenge to the Act . . . Even if the jurisdiction of the Courts is not so affected it could be argued that subsection (2) would render nugatory a Supreme Court declaration that a regulation was invalid.

Those were the three criticisms. What the Law Society has said is that it appears, it may be, and it could be argued. That is a pretty general kind of opinion, to say that something appears, may be, or could be argued. It is safe to say that, because such an opinion could be correct.

The Hon. D. W. Cooley: These were all lawyers who were involved. You ought to know how they operate. Usually they have two bob each way in respect of legal opinions.

The Hon. I. G. MEDCALF: Mr Cooley is proving what I have been saying: that the report is a matter of opinion. It is one opinion to say something, and another opinion to say something else. However, it is wrong to say to the public and to the Press that the Law Society's opinion is firm, and that the Act overrides all other Acts. That is not what the Law Society has said.

I have already pointed out what the Law Society did say. It has said that the Act may do something, it could do something else, and it could be argued that it would, yet again, do something else.

The Hon. Lyla Elliott: If you turn to page 4 of the report you will find the Law Society states quite categorically that the legislation is open to abuse.

The Hon. I. G. MEDCALF: I shall deal with that aspect in due course. At the moment I am dealing with page 3 of the report. In answer to the criticisms of the Law Society about this section—I believe they are only criticisms, because the society is saying to the Government that there could be a case of looking into some aspects—I say they are very valid; and I contend it was the proper thing for the society to do. I do not quarrel with what the Law Society has said, but I do not

believe that the legislation before us will limit the power of the courts, and in this regard I refer to the Act itself and the regulations made under it.

Although the regulations have not yet been made, when they are made they will have to deal specifically with matters with which the Act empowers them to deal. The regulations derive their force only from the powers provided under the Act. I do not believe proposed section 41 will limit the powers of the courts. This cannot affect the Constitution, the Electoral Act, or any Act that is required to be amended or dealt with in a particular way. This legislation has effect where it is inconsistent with other Acts or with the wording of them. Where it is inconsistent then this legislation is to prevail. I therefore disagree that this will limit the powers of the courts.

I do not believe it will limit the powers of the courts, but we should be grateful to the Law Society for bringing this matter up. I think it is a valid comment for the society to make, and personally I constantly make comments of this sort. After all, the Law Society had only 36 hours within which to make a report, but it should not be quoted as gospel. The authors of the report would not be happy at being quoted that they have put forward a gospel, but their comment is quite valid. I do not believe that the legislation before us will do what some people have claimed it will do, but it is worth while to look into the matter.

The second comment of the Law Society on proposed section 41 is that there is no power in the courts to entertain a challenge to the Act. I say there is ample power, and I shall indicate exactly where that power lies. There is ample power for the courts to hear the claim of any person who maintains that there is no emergency. Cabinet might declare a state of emergency; after it has done that it is open to Mr Cooley, in his capacity as President of the Trades and Labor Council, to apply to the court for an injunction to restrain the Minister from exercising any powers or authorities under the Act. That power is contained in proposed section 45. The power is set out quite clearly in that provision, and I shall deal with it in greater detail in due course.

The Act will override any laws which are inconsistent with sections therein, but this does not put the sections of the Act beyond challenge. The Act will override contracts and agreements which are inconsistent with sections of the Act, but this also does not put the sections of the Act beyond challenge. It overrides them to this extent: that a contract or agreement might set out, as many contracts do, that the emergency powers legislation shall not apply to the contract or agreement. Many contracts contain provisions which attempt

to exclude Acts of Parliament; these are contracts which stipulate that nothing in the prescribed regulations can affect them.

The Hon. D. W. Cooley: Can an industrial award override an Act of Parliament?

The Hon. I. G. MEDCALF: No, it cannot.

The Hon. D. W. Cooley: Why should they be included in proposed section 41 (2)?

The Hon. I. G. MEDCALF: That is a different matter. We can have an Act of Parliament of a specified type which overrides industrial awards in respect of certain areas in relation to, say, a state of emergency. Mr Cooley will have to excuse my ignorance of some of the details of this example. Under an industrial award a worker might have to wear gloves to avoid the dangers of an accident, but in certain circumstances gloves may not be available. This may not be a very bad state of affairs, but a worker may be without a pair of gloves and have to do some work in an emergency. In that respect it could be said that some regulations might override a part of an industrial award. However, I do not believe that the Act with which we are dealing can in general override industrial awards, but it can override only those relating to sections of the Act, in a particular emergency in respect of some aspect of industry, fuel, or power resource.

It has been said—and, here again, I am still referring to subsection (2) of proposed new section 41—that the emergency regulations might well override all laws. I will quote the subsection as follows—

(2) Emergency regulations made under this Part of this Act shall have effect notwithstanding anything, whether express or implied, in any other Act or any law

Now, the regulations which will be made under this Act cannot override other Acts. A regulation, itself, only derives its strength and force from an Act, or from a section of an Act. A regulation never stands on its own; it must always work within the requirements of its mother Act. Therefore, these are the only items which are dealt with under the section concerning emergency regulations which can override other Acts or other agreements.

If we turn to the section dealing with emergency regulations—which I will do shortly—we will find they are very restricted, much more restricted than I would have expected. To come within the emergency regulation-making power there are a very limited number of subjects which deal exclusively with fuel, rationing, and the obtaining of information in connection with fuel, rationing, and power resources and matters of that type. That is as far as they go. We are talking only about power and energy resources

regulations, and they have to be made under the regulation-making power contained in the Bill. Therefore, the position is not as has been suggested by many good people who have been misled into believing that the comment of the Law Society—valid as it is—is gospel.

The Hon. Lyla Elliott: I would not say that proposed new section 47 (2) (1) is restrictive.

The Hon. I. G. MEDCALF: I will deal with that in due course. I now turn to clause 6 of the Bill which will add a new section 43 to the Act. Proposed new section 43 (1) deals with the declaration of a state of emergency and, to summarise the comment of the Law Society regarding this provision, the test of this is subjective. The Governor must be "satisfied" with the criteria or the standards upon which a state of emergency is declared. The Law Society considers the provision to be vague and it would like to see the criteria precisely stated. It considers that there must be provision for the Supreme Court to review such a declaration so as to ascertain whether the criteria, on an objective assessment, do exist.

My answer is that it just is not possible to be precise regarding every situation which might create an emergency. I do not believe all the situations can be precisely stated, because once an attempt is made to be precise the case intended to be included usually escapes because of the wording. To be precise, many hundreds of different situations would have to be named, and that cannot be done. It is inevitable that in situations such as this the law must be general.

The Hon. R. F. Cloughton: That is what I said when I spoke yesterday.

The Hon. I. G. MEDCALF: I am glad the member said that but I am afraid I missed it. The criticism of the Law Society was that there must be provision for the Supreme Court—and I want to make this absolutely clear—to review a declaration so as to ascertain whether the criteria do, on an objective assessment, exist. The answer to that criticism is that, in a material way, proposed new section 45 contains such a provision. That section sets out that the powers of this Bill cannot be exercised unless there is an emergency. Once those words are used—"that there is an emergency"—the matter is open to the courts. It is the job of the courts to interpret the meaning of the word "emergency". That is where the courts can examine the criteria to see whether there is an emergency. That is the simple answer. The criticism of the Law Society, in my opinion, is not valid because there is already provision for the Supreme Court to examine an emergency and to decide whether there is, in fact, a state of emergency existing.

The Hon. R. F. Cloughton: Under what section does that appear?

The Hon. I. G. MEDCALF: This is a point which has not been really appreciated by many people. I do not think it has been appreciated by Mr Cooley.

The Hon. D. W. Cooley: It is not appreciated by me. However, to put me right, where in proposed new section 45 it is stated that the matter can be referred to the court?

The Hon. I. G. MEDCALF: Proposed new section 45 states—

The powers and authorities conferred by this Part of this Act shall not be exercisable—

(b) except in respect of an emergency in relation to which a state of emergency has been declared.

This means that the state of emergency would have to be proved, if this were required by anyone who was prepared to go to court.

The Hon. D. W. Cooley: The situation can be challenged under the provisions of this section?

The Hon. I. G. MEDCALF: Anyone with an interest can seek an injunction. Such a person is allowed to take out an injunction. He can go to the court and ask for an injunction to restrain the Minister from exercising any powers, on the grounds that there is no emergency. That is all one would have to say. Of course, one would have to give his evidence. Nevertheless, that is the ground for such an action and, therefore, in my opinion there is already effective power to review a declaration.

That is a dangerous situation in which to place the Minister. He would have to be quite sure there was an emergency before he declared it. It would be too bad if Cabinet were to declare an emergency and on the next day the court declared that there was not an emergency. That would be most embarrassing, politically.

The Hon. R. F. Cloughton: Under the provisions of that proposed new section the judge has to assess whether a state of emergency has been declared.

The Hon. I. G. MEDCALF: The court must decide whether there is an emergency.

The PRESIDENT: Order! I think these matters would more properly be dealt with in Committee.

The Hon. I. G. MEDCALF: Thank you, Mr President. I must confess I had a little doubt as to whether I was going into too great detail and I would be quite willing to reduce the detail at this stage on some of the matters I am discussing whilst simply answering queries.

The PRESIDENT: The Committee stage will give an opportunity for questions to be asked.

The Hon. I. G. MEDCALF: I was attempting to answer detailed questions asked by members opposite.

The Hon. D. W. Cooley: I must say the member is making a better contribution to the debate than did all his colleagues put together.

Sitting suspended from 6.10 to 7.30 p.m.

The Hon. I. G. MEDCALF: I would now like to turn to subsection. (2) of proposed new section 43 of the Bill. This subsection has been criticised by the Law Society. The comments made by the Law Society are that the order may continue in force for up to six months, and then, of course, it may be extended. The Law Society feels that a transport strike may last only a week, but the Government has the power to declare an emergency for up to six months. The Law Society says the emergency must be lifted.

Secondly, the Law Society says that the declaration of emergency must be ratified by Parliament within one month, otherwise it should lapse. Now, it is scarcely necessary for me to say very much on this point because it has been mentioned by a number of other members. I have referred to it myself several times. Mr Clive Griffiths referred to this matter last night, or early this morning. The Law Society suggested that within 30 days Parliament must ratify the emergency. That proposal has been improved upon somewhat by the amendment which requires Parliament to be recalled within 14 days. The statement from the report of the Law Society reads as follows—

We would suggest that provision should be made, if necessary in the Constitution Act, that the exercise of this power be ratified by Parliament within one month, and if not so ratified the declaration cease to have effect from the expiration of that period. This is probably the most important suggestion this Council has to make.

As the Hon. Clive Griffiths said, and it cannot be said too often, this is the most valuable comment in the whole report. I agree most wholeheartedly with this comment of the Law Society. In my view it is undoubtedly the most important suggestion the society has made; that Parliament must ratify the emergency. There was no provision for that in the original measure, and the Law Society pointed this out, quite correctly.

As a result of amendments made in the Legislative Assembly, and particularly to subsections (4), (5), and (6) of proposed new section 43, and subsections (1) and (2) of proposed new section 44, both Houses of Parliament must now ratify the order or it lapses. Not one House, but both Houses of Parliament must ratify the order. I believe this is a safeguard.

I have heard the comment, "What does that matter? If you have a majority in both Houses you can ratify the emergency." I would like to say that this is only a temporary situation for one party to have a majority in both Houses. When we are talking about principles, we must bear in mind certain principles of parliamentary democracy to which we subscribe. One of these is that Parliament should, in the final analysis, govern the country; and that Parliament should not be bypassed. We have a bicameral system here, and by the word "Parliament" we mean both Houses of Parliament. I know that in the platform of the Labor Party it says that there should be only one House of Parliament, and in that case there would be but one House to ratify an emergency. However, we do not have that situation. We have two Houses of Parliament, and each of those Houses has identical powers in this respect. Both Houses must ratify the emergency. That is a very necessary and important safeguard and we should be indebted to the Law Society for pointing it out.

The Law Society notes refer to proposed new section 46, and reference is made to the fact that this provision will validate anticipatory acts. We then see a reference to "rendering legal what was illegal". The criticism of the society is that this proposed section will validate acts done before emergency regulations have been promulgated; in other words, before the gazettal of the emergency regulations. For instance, the people charged with the duty to carry out regulations may do things in advance of the gazettal of the regulations. This provision will validate those acts.

The first criticism made by the Law Society is that this "renders legal what was illegal". Secondly, the society says it is retrospective legislation. The third criticism is that the marginal note is misleading.

The marginal note to clause 9 of the Bill reads as follows—

Validation of acts done in anticipation of emergency regulations.

I would like to point out one matter which appears to me to have been overlooked by the Law Society; that is, we cannot have emergency regulations before an emergency is declared. We are talking here about a situation where acts are performed by the Administration without regulations having been gazetted. To take an obvious case, let us say that the *Government Gazette* comes out on a Friday. In an emergency it may have been necessary to perform some acts on the Thursday afternoon before the regulations were gazetted. This section will legalise acts done under those regulations which were not law at the stage the acts were done. Therefore, the marginal note is correct in that the section will validate anticipatory acts before the regulations are promulgated.

However, is it retrospective legislation? I submit it is not. My reasons for saying that are that we cannot have emergency regulations promulgated—that is, gazetted—before we have a declared state of emergency. Until a declaration of an order of emergency has been made, we cannot act under the regulations, whether gazetted or not. So my point is simply that if a declaration of a state of emergency is made on a Thursday at midday, no regulations can be declared under that declaration until they are gazetted. In the meantime, however, after the declaration of the state of emergency, someone may do something which is then validated by the regulations which are gazetted on the Friday. I do not believe that is retrospective legislation, because I do not believe anyone can take any action at all until the declaration of an emergency. In other words, one cannot act illegally and then declare an emergency to cover up what one did the day before.

The Hon. R. Thompson: Would this be a very short-term arrangement, or could it extend back for say, a fortnight?

The Hon. I. G. MEDCALF: No limitation is placed on the period of time. This applies to acts done in anticipation of an emergency.

The Hon. R. Thompson: That is what I thought.

The Hon. I. G. MEDCALF: However, by implication, clearly the regulations must be promulgated very quickly because this provision could not be extended indefinitely.

The Hon. D. W. Cooley: If an act were perpetrated against a union before the legislation came into force, and then an emergency is declared, the act could be covered by the regulation.

The Hon. I. G. MEDCALF: I do not believe that would be proper.

The Hon. D. W. Cooley: It would not be proper?

The Hon. I. G. MEDCALF: No. In other words, I am saying an emergency must be declared before action can be taken. My authority for saying that is proposed new section 45, which I referred to earlier. This says—

The powers and authorities conferred by this Part of this Act shall not be exercisable—

(a) . . .

(b) except in respect of an emergency in relation to which a state of emergency has been declared.

Therefore, the legislation would not validate any act which occurred before the declaration of the state of emergency. The actions of a person a day or a week before an emergency has been declared cannot be validated. However, if the

emergency had been declared but the regulations had not yet been promulgated, actions taken in that period can be validated by the regulations.

The Hon. D. K. Dans: That would be a maximum of about a seven-day period?

The Hon. I. G. MEDCALF: The absolute maximum I would think. Probably that is a little too long.

The Hon. D. K. Dans: Two days then?

The Hon. I. G. MEDCALF: I am only guessing, and it would depend on the circumstances. However, I believe it is clearly the intention of the Legislature that this should be a short period. The word "anticipation" is used. If this principle were abused, it would be open to question.

If an administrator takes some action, perhaps to close a service station, for instance, the action must be within the regulations. One would have to be prepared to prove that any action was within the regulations. One would still be liable for any actions which were not within the regulations. One cannot take some action flagrantly outside of the regulations and then cover up the action by saying that one thought a regulation would be promulgated along those lines.

Any action taken outside of the regulations would still be illegal action. There is no license in this Act for anyone to act illegally.

The Hon. Lyla Elliott referred to proposed new section 47(2)(d) which deals with the emergency regulations themselves. Paragraph (d) deals with industry and commerce. Subsection (1) commences—

Where a state of emergency is declared under this Part—

And do not forget that the emergency must be declared first. To continue—

—the Governor . . . may make emergency regulations not inconsistent with this Part of this Act.

Subsection (2) reads as follows—

(2) Emergency regulations made under this Part of this Act may make provision for or with respect to—

Then paragraph (d) reads as follows—

the adjustment of industry and commerce to the requirements of the community in time of emergency including the determination of user priority, the prohibition of specified uses, the taking of specified measures, and the allocation of supplies to prescribed consumers;

I am sure no-one would assume that that provision deals with anything but fuel and energy. Paragraph (a) of subsection (1) reads as follows—

providing or securing supplies and services required by the community. And paragraph (b) refers to preventing

supplies or services being disposed of, etc. The statement of the Law Society referring to the previous subsection, 47 (2) (c), as it is now numbered, reads as follows—

It may be that 46(2)(c) does not go too far. However, when one compares (d) with it, the clear intent of the latter is to give the Government of the day almost absolute powers with respect to "industry and commerce". This means that the economic life of the community could, for a period of as long as twelve months without any parliamentary surveillance, be directed entirely by regulation.

That is on the assumption that the regulations extend beyond fuel and energy but I believe this will be demonstrated to be an incorrect interpretation of the regulations.

It is also based on the supposition that not only is one order made for six months, but there is an extension of the order for a further six months and that Parliament has no right of supervision over these orders. That was written before the Government brought in its amendment to require each emergency order to be ratified by both Houses of Parliament. Therefore, that is no longer valid in the sense that both Houses of Parliament must now ratify not only the first order for an emergency, but any extension; if there is any extension of six months that must also come before Parliament. So in the context of the amendments to the Bill it is no longer valid to say that a period as long as 12 months could occur in which there is no parliamentary surveillance.

The Hon. D. W. Cooley: It is a rather broad regulation, though; you must admit that. I can understand your submission regarding the six months; but, good Lord, it is broad in anybody's language.

The Hon. I. G. MEDCALF: The Bill relates only to the supplies of fuel and energy resources. There is no power in the Bill to go beyond that. If we went beyond that the regulation would be described as *ultra vires*; it would be beyond the powers of the Bill. Therefore, these regulation-making powers are rather limited; in my opinion they are much more limited than people have been saying they are.

The Hon. D. W. Cooley: In your opinion. Were you one of those who dissented at the Law Society meeting?

The Hon. I. G. MEDCALF: No. I did not attend either of the meetings because I believe that as a member of Parliament and of a political party it was not appropriate for me to be there and to try to influence the deliberations of people acting in a sincere attempt to put forward suggestions to the Government.

The Hon. D. W. Cooley: They were rather conclusive deliberations: 65 to 4.

The Hon. I. G. MEDCALF: As a matter of fact the deliberations were not conclusive because the members of the Law Society were working on a Bill which had already had amendments proposed to it. They were working on the original Bill. As I think I indicated at the outset—and I do not wish to repeat myself—the report was based on a rather quick study necessarily made because the committee believed it had to act quickly in order to make suggestions to the Government.

The next provision referred to in the report is proposed section 47 (2) (f). That paragraph is no longer applicable. The Law Society criticised and questioned the provision for enabling premises to be searched without a warrant. It was suggested to the Government that the paragraph be amended. That provision no longer appears in the Bill; it was removed by amendment in the Assembly, and search warrants are now required.

The Hon. R. Thompson: The Minister's notes are confusing. He said, "The Government has agreed to delete . . ." What he should have said is, "This provision has been deleted."

The Hon. G. C. MacKinnon: A point well made.

The Hon. R. Thompson: I spent considerable time looking for this.

The Hon. G. C. MacKinnon: Don't labour it; I feel bad enough.

The Hon. I. G. MEDCALF: The next reference is to proposed section 47 (2) (i), which deals with the making, negotiation and settlement of claims for compensation. Remember I am still talking about regulations, and this is one of the matters which can be prescribed under the regulations. In other words, details of how compensation may be arranged for people who have suffered property loss or similar damages were to be prescribed by regulation. This has been amended to "the making, negotiation and settlement and arbitration of claims for compensation under this Part of this Act". The Law Society criticism of this was that any compensation should be on just terms.

The Law Society has taken the phrase "on just terms" from the Constitution of the Commonwealth of Australia, which states that acquisition by the Commonwealth Government of the property of private citizens must be on just terms. There has been a great deal of litigation over the years as to exactly what "on just terms" means, because different interpretations have been placed on it. However, it is commonly agreed that it should mean the person concerned should be paid something which approximates the real, true market value of the property.

The Law Society has suggested that the phrase should appear in this paragraph. I would submit that if it is to appear in

the Bill, this is the wrong place for it. It is not needed in paragraph (i) of proposed subsection 47 (2); because this is only a regulation. It will not be a substantive part of the Act at all; it will be only a regulation which prescribes for the making of compensation.

At the time the Law Society made that suggestion no provision was included in the Bill for this type of compensation. So it was legitimate for the society to make the suggestion; but it no longer applies because in the Assembly the Government inserted another proposed new section which provides for the award of compensation by an arbitrator, who shall be a Supreme Court or a District Court judge using the processes of the courts as if it were an ordinary civil action. Hence there is no point in spending more time on that.

However, the point of the Law Society, apart from the technical details—and I would like to stress this to Miss Elliott—is a good one. The technical details do not quite fit in with the rest of the Bill due to the changes which occurred in the amendments. But the point of principle that we should have compensation on some proper, reasonable basis and on just terms was a good one; and it is now incorporated in the Bill in a different way in the proposed compensation section.

The Hon. Lyla Elliott: I do not think that was the point I made.

The Hon. I. G. MEDCALF: I think Miss Elliott made a general statement that there were many points of difference and the Government accepted very few of the amendments proposed by the Law Society—only three out of the 18. I am just pointing out that many of these points have, in fact, been accepted perhaps without some members being aware of it.

The Hon. Lyla Elliott: I am aware of that. I have this in my copy as having been amended. I have no objection to that particular provision.

The Hon. I. G. MEDCALF: The next point referred to by the Law Society is in relation to paragraph (1) of proposed new section 47 (2). This is the provision which has occasioned the greatest amount of criticism.

The Hon. Lyla Elliott: It is the one I was referring to.

The Hon. I. G. MEDCALF: Yes. This is the one which gives the power to make regulations generally for ensuring that the whole resources of the community are available for use, and are used, in a manner best calculated to serve the interests of the community. As I have said before, that is limited to the provisions of the Bill, which are set out quite clearly in the title; that is, "to make provision for the securing of present and future sources of fuel, energy and power and of services relating thereto, for the protection of the community in cases of emergency . . .".

This Bill is limited to fuel, energy, and power resources. There is nothing in the Bill which provides a general power to relate to emergencies other than those in connection with fuel, energy, and power resources.

The Hon. Lyla Elliott: "Resources" is an all-embracing term.

The Hon. D. W. Cooley: That word would not have been used if they did not mean to use it.

The Hon. I. G. MEDCALF: Even the words "fuel" and "energy" are fairly hard to define, because the questions arise: Where does fuel begin and end, and where does energy begin and end? If one examines the word "energy" one gets into the realms of proposed new forms of energy such as tidal power, power from the sun, and things of that sort. Therefore we have to be a little general in the term we use. The term "power resources" is subject to technological change. However, I still believe the scope of the Bill is limited to fuel, energy, and power; and those words have a finite meaning.

For that reason I believe this general power to make regulations has been misinterpreted as being far more general than in fact it is. To me it is an incidental power to pick up the details of things which relate to the supplies of fuel and energy and which are not specifically referred to in the other provisions of proposed new section 47. It is to do that, but no more. I believe if anyone acted under a regulation which went further than that he would be acting at his risk and would be liable to have the regulation declared invalid by a court.

I repeat what I said earlier: this power is more limited than that contained in many other Acts. Many other Acts contain a far greater power. In fact, many Statutes have too wide a power—so wide that a number of members have been concerned for a long time that all these regulations and regulation-making powers should be reviewed. One cannot make a regulation beyond the power the Act gives one. One might think one can, and one might pass a regulation. It might be tabled in Parliament and survive without being disallowed by Parliament and, therefore, become law. But, in fact, it is still liable to be challenged at any time in the courts as being *ultra vires*; and they are challenged.

Not a month goes by without in some court somebody challenges a regulation under the Traffic Act or some other Act as being invalid. We find Acts are subject to constant scrutiny—and more particularly the regulations. It is the regulations which are often *ultra vires* because the people who make them frequently do not realise they are going beyond the power Parliament gave them in the Act. It is the words that Parliament uses in the Act which are important; the Act is made

up by its sections, and the regulations must conform with the sections. What I am discussing now is quite subsidiary to the words of the Bill.

The Hon. R. Thompson: The Bill states, "provided the Governor is satisfied by reason of embargo for the disruption of supplies or for any other reason". The phrase "for any other reason" is very wide.

The Hon. I. G. MEDCALF: I am afraid at the moment I am dealing only with proposed new section 47, which is the regulation-making power. The Leader of the Opposition has raised a matter which is in an earlier section and I have already referred to that. I think perhaps we could deal with it more adequately in the Committee stage, although I am quite prepared to deal with it now.

The PRESIDENT: That is the proper time to deal with these matters.

The Hon. I. G. MEDCALF: May I say in passing that I have already indicated my view that I believe it is not possible to define all the situations which may occasion an emergency.

The Hon. D. W. Cooley: You have missed the conscription of labour provision. You have not commented on proposed new section 47 (2) (k).

The Hon. I. G. MEDCALF: I do not believe that is for conscription of labour, and the Law Society made no suggestion that it is.

The Hon. D. W. Cooley: They looked at it hurriedly according to you. Maybe they missed it.

The Hon. I. G. MEDCALF: The Law Society made no suggestion that it is conscription of labour. I am dealing specifically with its report. If the honourable member wishes to discuss this at a later stage in Committee I will be glad to discuss it with him. I am dealing specifically with the report of the society, and it did not make any reference to the point raised by Mr Cooley.

Personally I do not believe there is any reference to conscription in that clause, but that can be dealt with at a later stage if the honourable member so desires.

The Hon. R. F. Claughton: The word is used.

The Hon. I. G. MEDCALF: It is significant that the Law Society has not given consideration to that. If it had thought the provision refers to conscription I am sure it would have mentioned it.

I now turn to proposed new section 48 which deals with intimidation and retaliation. Here the criticism is that the clause is too wide and that if an offence of retaliation is created it might be misconstrued to mean a person using power after default under a contract. In other words,

if somebody has a contract and the other party defaults, then the person who is in control might take action against the defaulting party and this would be construed as retaliation in an emergency. That might happen, of course. There is no end to what may happen in life. Every day we hear of foul murders and other acts that are committed and no doubt what I have mentioned could happen. Some person could do that, because people do almost anything in exceptional circumstances.

The Hon. S. J. Dellar: How true.

The Hon. I. G. MEDCALF: One has only to pick up a newspaper to read of some extraordinary situation; that is, if one can get hold of a newspaper.

The Hon. Grace Vaughan: But there are laws that cover those acts.

The Hon. I. G. MEDCALF: Yes, that is so, but I am suggesting that if a person takes retaliation against another person in the manner referred to, is it not possible that that would become apparent to a court? Surely it is not logical that a court would not have pointed out to it that this was not a genuine case of retaliation; in other words, that this retaliation was occurring as a result of some other activities. Or, to put it another way, to say that retaliation would be misconstrued to include a person who uses his powers under a contract, or to suggest that a court would not appreciate this point, seems to be stretching the position a little.

The great safeguard is that the court must decide whether the offence would be construed as retaliation; and the court must be aware if this is only a subterfuge. Surely we must credit our courts with the ability to sort the chaff from the grain and to appreciate that what is submitted as one thing is not really another, and whilst these acts may occasionally happen, I do not think, in this situation, it is much of a point to raise.

The Hon. R. F. Claughton: We should be able to make laws to do it.

The Hon. Grace Vaughan: That is a cavalier way of dealing with what has been mentioned in the Law Society's report.

The Hon. I. G. MEDCALF: I now turn to proposed new section 49(3) (a), which is the penalty provision. This has been criticised on the ground that it should vary for different offences and that there is no limit on a fine imposed on a company; it is left to the court's discretion.

The Hon. D. W. Cooley: And there is no limit on a union.

The Hon. I. G. MEDCALF: Yes, a union, or a corporate body. A court could award a fine if it so desired. I ask: Do we seriously believe that if a court awarded a fine of \$5 million there would not be an appeal against such an excessive penalty?

The Hon. D. K. Dans: Would you get any default?

The Hon. I. G. MEDCALF: One would perhaps get it in the life of oneself and one's grandchildren. If a court awarded a penalty of \$5 million, this would be quite excessive, although with the rate of inflation progressing as it is, in 10 years such a fine might be regarded as normal. However, assuming the situation is the same as that which we have today, a fine of \$5 million would be imposed only in the most serious situation. I cannot imagine that such a fine would ever be imposed. Nevertheless, the real point the Law Society is making—and it has illustrated it with this absurdity to prove the point—is that a limit should be placed in the Bill on the amount of penalty that a court can award against a corporation.

The Law Society states that it does not know of a case where a penalty has not been limited in some way. However, there are many cases of the law in other countries—in the United Kingdom, for example—where a penalty has not been prescribed, particularly in relation to a corporation. No penalty has been prescribed, because of the difficulty of imposing it, and because some of the people concerned may have received a vast benefit, but this is not applicable to private persons—only to corporations which often deal in substantial sums. We know that all corporations are not scrupulously honest and some of them could well make a profit out of an emergency situation somewhere along the line by engaging in a form of black-marketing. No-one would be foolish enough to say that blackmarketing does not occur in situations such as fuel rationing.

Those of us who are aware of what happened during the last war know that there were some extremely active black-marketing operations in regard to fuel that were conducted right under the noses of officialdom in this country. Black-marketing was very rife indeed and undoubtedly a great number of people were making money out of it. It may be that a corporation that is in a position to dictate the terms of fuel sales or the control of fuel outlets could well be in a position to make a substantial profit. If this should occur, would it be proper to impose a limit of, say, \$5 000, or even \$10 000 in that case? Of course it would not.

The Hon. Lyla Elliott: It happened in South Australia.

The Hon. I. G. MEDCALF: That does not make it right. I do not believe it is right because it happened in South Australia, nor do I believe it is right because it happened in New South Wales. Many Acts in the United Kingdom do not have prescribed penalties in them.

The Hon. D. W. Cooley: You are drawing an analogy there, so why not go to South Australia?

The Hon. I. G. MEDCALF: Yes, I am drawing an analogy with this Bill. For that reason I cannot really say this is such a great point. I admit it is a point worth receiving. I think it is a good idea the Law Society has raised this point in much the same way as I think it is a good idea it has raised the other points, but I do not necessarily go along with it. I do not believe there is any real significance in the point raised.

Subsection (6) of proposed new section 49 refers to the fact that a penalty may be increased if the offence occurs on a daily basis. In other words, if somebody is told, "You are not to do something", and instead of obeying that order and not doing something that person continues to do what he did before and disregards the order, then he should pay an increased penalty. There must be an increase in penalty if it is a continuing offence.

In proposed new section 49 (6) we are dealing with a continuing offence; not with a single offence; not with somebody who does something wrong on one occasion and never does it again. We are dealing with a corporation or an individual continuing to carry on what was being done before to the detriment of the community. In other words, if a person continues to supply people with fuel when that fuel is required for public hospitals then he should be liable to a daily penalty for every day he continues such an offence.

The Hon. D. W. Cooley: Or a strike.

The Hon. I. G. MEDCALF: That depends whether it comes within the offence, and I am talking about where an offence continues. Even in the Companies Act there is reference to company directors, secretaries, and managers facing a daily penalty, sometimes amounting to thousands of dollars, if they continue in default and fail to give some information that they should have given and thereby prejudice somebody else or members of the public. Those officers may face a very substantial fine on a daily rate under the Companies Act, and the fine is assessed.

The Hon. R. Thompson: There is a very good let-out section in the Companies Act, though.

The Hon. I. G. MEDCALF: No, under the Companies Act it is a daily penalty.

The Hon. R. Thompson: But there is a let-out provision in the Companies Act for those officers. The Act says, "if they cannot reasonably explain" or words to that effect.

The Hon. I. G. MEDCALF: The position is exactly the same under the Bill. A corporation has the opportunity to put up a defence in this case. If it is subject to a charge in the courts as a result of committing an offence it can put up a defence under the provisions of this Bill in the

same way as officers of a company can put up a defence under the Companies Act. A corporation can say, "We did not do it." The onus of proof is still on the Crown. The Crown still has to prove the case and if the company can put up a defence then the company can be excused, in exactly the same way as somebody who is charged under the Companies Act can be excused.

Proposed new section 50 is the next one to which I will refer. This section is also referred to in the report by the Law Society and it covers the power of the Minister to make orders and directions. It reads as follows—

50. (1) Emergency regulations made under this Part of this Act may confer upon any Minister of the Crown the power to make any order or give any direction for the purposes of the regulations.

The rest of the proposed section then deals with the orders and directions made. This is a kind of subregulation. These are not the main regulations. Those will be made under the Act. These are subregulations under which the Minister makes an order or a direction and the criticism which has been levelled against this provision by the Law Society is that it is too wide and that Governments may not be responsible. However the answer to this criticism is, I believe, that the orders and directions must still be made within the regulations. The Minister cannot make an order at his own uncontrolled discretion. He has to make an order which comes within the regulations which, in turn, come within the provisions of the Act. The Minister is very restricted. His orders and directions must be within the scope of the regulations made under the Act that Parliament enacts. Therefore an order must come within the regulations and must not go beyond the powers of the Act. The Minister's action must not be *ultra vires* the Act.

Obviously it is not possible to specify all the situations which may occur and which require the Minister, almost from day to day, to make some orders or directions. This is a very detailed matter and clearly it would be quite impossible, without writing a volume, to specify all the situations. I suggest it would be a lamentable state of affairs if Parliament ever set itself the task to find all the situations that could occur. To my way of thinking Parliament's task is to lay down the broad guidelines by which the regulations and the orders must be made with whatever safeguards Parliament wants. But if Parliament is to go to the length of writing in all the exact headings excluding situations and circumstances when the Minister may make orders and regulations, then I suggest this is not the function of Parliament.

We may as well bring the civil servants to Parliament and all sit together and work it out simultaneously, because under these circumstances it would not work. It

is beyond the wit of man to visualise all the things that may happen in any given situation. For that reason I believe that, necessarily, the power has to be reasonably wide, but it is circumscribed by the regulation-making power and all the sections of this Act when it is passed.

The Hon. D. W. Cooley: The fear we have about the Bill and as expressed by the Law Society is that an irresponsible Government, in a period of emergency, could make regulations which could give the Minister the power under this section.

The Hon. I. G. MEDCALF: It is true I mentioned that the Law Society has said Governments must be responsible and that an irresponsible Government might do something it should not do. However, even if an irresponsible Government were in power it still must act within the regulations or the order the Minister has made is *ultra vires*. So really the whole focal point is that the power comes from the Act itself and the regulations must conform with the Act. If they do not they are *ultra vires*. The orders and directions must conform with the regulations and the Act.

Proposed section 50 (6) reads—

(6) The Interpretation Act, 1918, shall apply to the interpretation of any order made under this Part of this Act as it applies to the interpretation of a regulation, and for the purposes of section 36 of that Act any such order shall be deemed to be a regulation.

This provides a further safeguard. It states that if the Minister makes an order or direction that order or direction must lie on the Table of Parliament and Parliament has the right to disallow it. That is what has to occur under the Interpretation Act. In other words, it is the same as with a regulation. So, although it is only an order or direction—that is, a kind of subregulation—it is given the status of being placed on the Table of the House so that Parliament can disallow it under section 36 of the Interpretation Act which provides that Parliament may disallow a regulation within 14 sitting days.

The Hon. Grace Vaughan: Are you seriously suggesting that under the two-party situation regulations would be disallowed by the Minister's own Government?

The Hon. I. G. MEDCALF: In answer to the honourable member, I am seriously suggesting that. Since I have been in this House, many regulations have been disallowed and they have been disallowed irrespective of the Government in office. In any event, in a sense, the question really means that the honourable member is throwing doubt on the whole parliamentary system. What better system could we get than by having elected

representatives of the people who have the power to disallow regulations made by Government?

It is a fact that at certain times we will have people of one particular political colour or another in charge of the Government benches, but what better safeguard can we have than a parliamentary system under which we do have periodic elections when the people have the right to make a choice?

It is not sufficient to say that if one particular party is in power, this will not happen. I believe that is quite false and that it is part of the whole present habit of trying to polarise people's opinion. It assumes that those on the other side are a lot of blackguards who do not do the right thing. This happens so frequently now and the sooner we make a united effort to stamp out—

The Hon. S. J. Dellar: Take it back and we will have a look at it.

The Hon. D. W. Cooley: That is what we were trying to say yesterday.

The Hon. I. G. MEDCALF: I have read some of the things that were said yesterday and I do not think they made much contribution to parliamentary government.

The Hon. D. W. Cooley: I am talking about what was said when we were discussing the matter with the Premier.

The Hon. I. G. MEDCALF: I now turn to proposed section 51 about which the Law Society says the Minister should delegate his power to another Minister. That is the fairly mild criticism of the Law Society because it does not like the Minister having the right to delegate his power to some other person. The section provides—

51. The powers of the Minister under this Part of this Act may be exercised on his behalf by any person for the time being so authorized by the Minister, and where the exercise of those powers is expressed to depend on a discretion or state of mind of the Minister that reference shall be read as if it referred to a discretion or state of mind of the person authorized to exercise those powers.

The Law Society states—

The power of delegation should be to another Minister only. There must be some assurance that the powers are reasonably exercised, and hence it is undesirable that simply any person should be in a position to exercise the powers vested in the Minister.

I do not believe it is practical for a Minister to delegate his powers, which are many and varied in a state of emergency, to another Minister who will be equally engaged. Each Minister must be presumed to be able to delegate his powers to responsible and trusted civil servants who are answerable to him and in that respect

they are answerable to Parliament. Therefore, I believe this is a reasonable provision and it would not be possible to insist upon a Minister always delegating his powers to another Minister.

The Hon. R. Thompson: How can you write into a regulation a person's state of mind?

The Hon. I. G. MEDCALF: It cannot be done. This is a matter for the court to interpret.

The Hon. D. K. Dans: It is a rather dangerous one. Would it not be a case for a neurosurgeon?

The Hon. I. G. MEDCALF: One of the things which the courts must decide is whether a person has acted reasonably and properly in accordance with the standards of ordinary and reasonable citizens and that cannot be expressed in words. The circumstances cannot be included in a general phrase like that and necessarily—

The Hon. R. Thompson: Do you think that is a good clause when it refers to the discretion of a state of mind?

The Hon. G. C. MacKinnon: It is a commonly-used one.

The Hon. I. G. MEDCALF: The point is that if a responsible person is exercising an authority on behalf of the Minister, then it is no good referring to the Minister's state of mind, but only to the state of mind of the person exercising the discretion. What is the good of having me as a civil servant exercising the power, and then examining the Minister's state of mind to see whether I exercise it properly? My state of mind must be examined. Perhaps I should not have said that in this context!

The Hon. D. W. Cooley: Is it common in Acts to give Ministers the authority to delegate their powers to another person?

The Hon. I. G. MEDCALF: I believe the Minister must answer for this and I would not know what the Minister would do, but he must answer as to whom he has delegated his powers. It is common for a Minister to delegate powers to what is called "any person" but, in practice, "any person" is not any Tom, Dick, or Harry, but some responsible official in the Minister's department.

The Hon. R. Thompson: I think we could logically say that in any Government there would be Ministers we would not like to have these delegated powers and have to rely on the discretion of their state of mind.

The Hon. I. G. MEDCALF: Now we are getting personal.

The Hon. R. Thompson: No, I said "in any Government".

The Hon. I. G. MEDCALF: I think we have to accept that we must use the material available and if we have some Ministers

with one state of mind and others with another, we cannot distinguish and say that unless they belong to this party or that party, or unless—

The Hon. R. Thompson: No, I am not on that theme at all.

The Hon. I. G. MEDCALF: I thought the Leader of the Opposition was saying that some Ministers would not be trustworthy.

The Hon. R. Thompson: I am saying that irrespective of the Government you could find a person who would not be responsible.

The Hon. G. C. MacKinnon: But in theory he is, in fact, responsible.

The Hon. R. Thompson: He is a responsible Minister only.

The Hon. D. K. Dans: "State of mind" intrigues me. What may be hot to one person may be cold to another. What is the definition of "state of mind"? We have been told that President Nixon was probably a bit unbalanced for the last 12 months and his state of mind would not be the kind we would like to be dealing with in a situation like this.

The Hon. I. G. MEDCALF: I come back to the point that what is a person's state of mind in any particular context is a matter which the courts must decide. Whether he has acted reasonably and what his intentions were is deduced from the circumstances and we must assume that a Minister is responsible, although some Ministers are more responsible than others.

The Hon. D. K. Dans: Thank you very much.

The Hon. I. G. MEDCALF: I now turn to proposed section 54 which refers to acts of the Minister not being actionable. The Law Society criticised the reference to "purported exercise of his powers". The proposed section reads—

54. Subject to section 55, no action shall lie, and no proceedings of any kind shall be instituted or heard in any court in respect of any act or decision of the Minister or any person or body authorized by him in the exercise or purported exercise of his powers under this Part of this Act.

The Law Society has drawn attention to the phrase "purported exercise of his powers" and states—

There is probably no objection to protecting the Minister or others with respect to acts or decisions in exercise of statutory powers.

However, the section goes further, and refers to "purported exercise of . . . powers". This may be read so widely as to mean that no matter what might be done, save the causing of death or bodily injury, (see 54)

the Minister or his functionaries will have a complete bar to claims being made against them, simply by saying that they thought they were entitled to act as they had done by reason of the provisions of the Act. This is to invite irresponsible administration. The width of the protection is such that it also confers immunity from criminal proceedings.

In other words, what the Law Society is saying is that the Minister is able to say that he thought he was entitled to act. It is saying that when he does something wrongly he will say in his defence that he thought he was entitled to do it. "Purporting to exercise powers" does not mean "concocting a story". The Minister cannot pretend that he thought he had the power. Clearly he must think he has it; he must believe honestly and reasonably that he has the power.

This comes back to the question of a state of mind which a court may have to interpret. It may also have to interpret whether the Minister honestly and reasonably believed he had the power. The proposed section means that the Minister, in exercising his power, must believe that he had the power. He must believe it honestly, and without malice he must carry out his duties. If the Minister acted maliciously or criminally he could not take refuge in the section because "purporting to exercise powers" means he must exercise them honestly and reasonably in a proper and responsible manner. If a Minister does not act responsibly he is liable. He must act responsibly and reasonably. In other words, he must have a reasonable belief that he had the power, and he must not act maliciously.

The Hon. R. Thompson: But what about the person to whom he delegated his power—the "any person"? That is the dangerous provision.

The Hon. I. G. MEDCALF: That is exactly why the provision refers to the state of mind of the other person and not the state of mind of the Minister.

We must remember that we are dealing with a state of emergency occasioned by fuel and power supply failure and there could well be occasions when a Minister purports or intends to exercise a power believing he has the power when in fact he might, in some respects, transgress. After all, he is only human, as Mr Thompson has been saying, and he might transgress. If he honestly and reasonably transgresses, then he must be given some protection in such a situation. We cannot leave him like the proverbial shag on a rock merely because he made an error or was advised by one of his administrators that he had the power when, in fact, some court, perhaps on appeal later, decides he did not have the power.

The Hon. R. Thompson: Knowing you as I do, and listening to and respecting your arguments over the years, I can hardly see how you can agree with this proposed section.

The Hon. I. G. MEDCALF: I believe it is justified by the fact that we are dealing with a state of emergency which, as I have said, is limited to the type of situation I have described.

It has relation to a fuel and energy distribution crisis and in such a state of emergency I believe we must allow the Minister to make a genuine mistake occasionally in respect of exercising a power which he believed he had but about which the High Court might say six months later, "You did not have the power to go up that street; you could go only as far as this street, and when you stopped the people in the next street from selling petrol you were going beyond your power; therefore you were personally liable."

The Hon. R. Thompson: It is a fairly costly exercise for John Citizen, is it not?

The Hon. I. G. MEDCALF: The entire emergency is a costly exercise for the community.

The Hon. R. Thompson: But where the wrong state of mind of one person is exercised.

The Hon. I. G. MEDCALF: It is regrettable that the community has to deal with costly exercises at all. It is regrettable that we have a situation where, for instance, the public cannot be permitted to farewell aircraft; they are not allowed to go out to the edge of the tarmac to see their friends off. We have in our community people who would cause chaos and confusion. I am not saying that relates to the type of emergency under discussion, but it is regrettable that we must legislate for some unfortunate situation in order to protect the main body of citizens who, like the Leader of the Opposition and me, want to go about their daily work in peace.

The Hon. R. Thompson: If a person made a mistake under a state of mind here it could cost a man his livelihood, his living, and his life savings.

The Hon. I. G. MEDCALF: I should direct my words to you, Mr President. My attention was drawn to this matter by another member, and perhaps I should pursue my general argument.

Before I leave that point, I want to say I do not believe this provision would confer any criminal immunity on the Minister concerned. If a Minister acted criminally he would be liable under the Criminal Code.

The Hon. Lyla Elliott: Do you believe this proposed section would prevent any person seeking an injunction to restrain

the Minister from closing down his newspaper or garage or taking some other action?

The Hon. I. G. MEDCALF: No, I do not believe it would stop that at all. The proposed section 54 says—

... no action shall lie, and no proceedings of any kind shall be instituted—

The Hon. Lyla Elliott: What is your definition of those words?

The Hon. I. G. MEDCALF: It continues—

... or heard in any court in respect of any act or decision of the Minister ...

If the honourable member refers back to proposed section 45 she will see it is the other way around. It says—

The powers and authorities conferred by this Part of this Act shall not be exercisable—

In other words, the Minister cannot even exercise any powers under proposed section 45 if an injunction is obtained to restrain him.

The Hon. Lyla Elliott: Where does it refer to an injunction?

The Hon. I. G. MEDCALF: The proposed section states—

The powers and authorities conferred by this Part of this Act shall not be exercisable ...

(b) except in respect of an emergency ...

My point is that any person can go to the court, claim there is no emergency, and seek an injunction to restrain the Minister from exercising his powers and authorities.

The Hon. Lyla Elliott: That is a different thing. That is the whole question of the emergency. It does not concern an individual's personal problem.

The Hon. I. G. MEDCALF: It stops the Minister from exercising his powers and authorities.

The Hon. Lyla Elliott: In a legitimate emergency a person could still be dealt with unjustly by the Minister.

The Hon. I. G. MEDCALF: I thought the honourable member's point was that it was impossible to obtain an injunction under proposed section 54. I am saying an injunction can be obtained at any time under proposed section 45.

The Hon. R. F. Claughton: Does that not render the legislation useless?

The Hon. I. G. MEDCALF: No, it does not. It is an additional very strong safeguard.

The Hon. R. F. Claughton: You are saying—

The Hon. I. G. MEDCALF: The honourable member asked me a question, did he not?

The Hon. R. F. Claughton: Yes.

The Hon. I. G. MEDCALF: Does he want to answer the question himself or would he like me to do so?

The PRESIDENT: I would like the honourable member to confine himself to the second reading of the Bill. These discussions can take place in the Committee stage.

The Hon. I. G. MEDCALF: Very well, Mr President. I shall proceed. I now refer to proposed section 58, which deals with appeals. Before I say anything about this proposed section I would like to reiterate that a very peculiar kind of appeal is dealt with in proposed section 58. It is an appeal from an administrative action. It is not a general appeal. This is thrown in and it is not found in many Acts that one can ask a Minister to review a decision at any time. One can make an appeal irrespective of what one's claim is. One can go to a court to appeal in a claim for compensation or to appeal against conviction for an offence; or one can appeal to the Minister, or one can do both. Under proposed section 58 one can go to the Minister and say, "I want you to review your decision." The proposed section says—

A person aggrieved by any act done or omitted, or any decision or order made, or any direction given ... may appeal in writing to the Minister in the prescribed manner, if any, and the Minister may thereupon, in his absolute discretion, take such action as he thinks fit and effect shall be given to the determination of the Minister.

It does not say the decision shall be final; nor does it stop one from going to the court. After receiving the Minister's decision one can still go to the court. So in fact this is an extra which is thrown in, and I do not know why it has been the subject of so much criticism. Perhaps it is because the original Bill did not contain a provision that one could apply to the court for compensation for loss of property. At the time the Law Society prepared its report that amendment had not been put in the Bill and had not been considered.

I believe the reason for the Law Society raising this point was that it assumed this was the only right of appeal and there were no other rights. At that time the rights of appeal were limited. Now that the compensation provision and further rights of appeal in other matters have been incorporated in the Bill, this provision is left as an additional right to go to the Minister. If one does not want to go to the courts and incur legal expenses one can go straight to the Minister and say, "I want you to review your decision." If one puts it in writing, the Minister should review it.

There is a criticism about proposed section 60 which provides that the Attorney-General must consent to a prosecution. I

would have thought it was an advantage for a citizen to have not only the Minister but also the Attorney-General decide there would be a prosecution. That means virtually two Ministers must decide, or it may become a Cabinet matter. Therefore it is an additional safeguard for the subject. There are many offences where no Minister must approve before a charge is laid. It is unusual for a Minister to have to give his approval before the police bring a case against somebody in the Police Court. In many instances, the police have brought cases without even consulting the Crown Law Department. I think it is a great advantage that in this situation not only does the Minister have to approve a prosecution but also the Attorney-General. We cannot overcome the fact that the Attorney-General is a Cabinet colleague, but the proposed section is an additional safeguard.

Another reason for the criticism was that prosecutions will be launched by the State and not by an individual. This is probably so, but not necessarily so. It is still possible for prosecutions to be launched by individuals but the provision ensures that a decision to prosecute must be made responsibly after proper referral. Therefore, an individual cannot launch a prosecution unless the Attorney-General has consented.

Mr President, you have been more than patient in permitting me to deal with the details of this Bill but I believed it would be a useful exercise to go through them at this stage. In closing my remarks I would like to say that many points which the Law Society has made in its report are very valid, useful, and important. As I said at the outset, the Law Society was quite entitled to make the report conveying suggestions to the Government. I will briefly refer to what I regard as the significant points made by the Law Society.

The first one is that there must be power in the courts to review a declaration of emergency. This is a good point and I hope I have demonstrated that the courts have this power.

The second point is that a declaration of emergency must be ratified by Parliament. The Law Society described this as a most important point, and I agree that it is. I am very pleased the Legislative Assembly accepted an amendment to the Bill which means that any declaration of an emergency must be ratified by both Houses of Parliament within 30 days, otherwise it will lapse. The Law Society stated this was probably its most important point, and the amendment is a justification, if needed, for the comments it made.

The third point is that a state of emergency may apply for up to 12 months without parliamentary surveillance. It was a good point and has been overcome by the amendment just referred to.

The next point is that search warrants should be required in all cases, and it has been accepted by the Government through dropping from the Bill the power to search premises without warrant and question individuals. I may say in passing that I have been hammering the point for some years that a search warrant should be required in all cases. Many Acts on the Statute book, framed by Governments of all political colours, contain provisions that premises may be searched without warrant. I am pleased the society's suggestion was adopted.

The final point is that there should be adequate compensation on just terms, and by implication the Government has accepted the principle put forward by the Law Society by incorporating an amendment providing that where there is property damage or loss of property one may go to an arbitrator who will be a District Court or Supreme Court judge.

In closing, may I say that many people have expressed views on this Bill which demonstrate concern about some of the matters which have been raised. I believe the report of the Law Society was put forward sincerely with a view to persuading the Government that some of the provisions required further study. I am pleased that the major items, which I have enumerated, have been accepted; and I believe that with a proper explanation the public, generally, will see and accept that this legislation is intended to relate only to the specific emergencies related to fuel and energy to which it purports to relate.

Government members: Hear, hear!

The Hon. S. J. Dellar: I wish you were right.

THE HON. W. R. WITHERS (North) [8.45 p.m.]: I consider the Bill before us does need to pass the second reading and it is also important that it be debated in the Committee stage so that we may point out how wrong the opponents of the measure have been. I know some of its opponents are most anxious to prevent the Bill getting to the Committee stage because they do not really want the truth to come out.

The Hon. S. J. Dellar: Who does not want the truth to come out?

The Hon. W. R. WITHERS: The opponents of the Bill. I have very good reason for saying that because there has been a lot of subterfuge together with a great deal of planning in connection with this Bill.

The Hon. D. W. Cooley: All from your side.

The Hon. W. R. WITHERS: I can prove otherwise, and it is a shame that what I am about to mention has been done by the TLC and other unions. In their fight the trade unions—and I now refer to some

of the union executives of the Trades and Labor Council, and not the men of the unions—and the TLC have either shown great incompetence or have deliberately set about to fool the public and the members of their associations.

Let us have a look at their propaganda programme. I will first refer to a little blue document entitled, "Gun-butt on the door WA, 1974". This is authorised by the Amalgamated Metal Workers' Union, the Amalgamated Postal Workers Union, the Electrical Trades Union, the Federated Engine Drivers & Firemen's Association, the Marine Industry Group of Unions, the Miscellaneous Workers' Union, the Transport Workers' Union, and the Building Trade Associations of Unions.

The document in question was, in the first place, written about the original Bill and the provisions that appeared in that Bill. As we all know, however, the original Bill was amended, but the unions concerned did not worry about that.

The Hon. Lyla Elliott: That was written before it was amended.

The Hon. W. R. WITHERS: As I have said, the unions did not worry about that; the document was handed out after the Bill had been amended, and in the full knowledge that it had been amended, under the date of Tuesday, the 17th September, 1974. We all know, however, that the Bill was amended long before the amended Bill was introduced into this House on the 19th of last month.

The Hon. D. W. Cooley: Who handed the pamphlets out?

The Hon. W. R. WITHERS: I do not know.

The Hon. D. W. Cooley: You do not know anything.

The Hon. W. R. WITHERS: Mr Cooley was not at the meeting to which he referred, and yet he indicated he was. The gentleman opposite indicated quite clearly that he was at this meeting and he said during his speech in the debate that he would like to hear me repeat what I had said at the meeting. I propose to do this.

Later on however, by interjection, I asked the honourable member whether he was at the meeting because I had not seen him there, and he replied that he was not at the meeting. The pamphlet was handed out at the meeting in the full knowledge that the Bill had been amended. The purpose was to inform the people there what the Bill contained. This had nothing to do with the Bill before Parliament.

The Hon. D. W. Cooley: How about telling us who organised the meeting.

The Hon. W. R. WITHERS: The meeting was called by the Labor member of Parliament for Balga who said that the

purpose was to discuss the Bill and indicate what it was all about. The meeting turned out to be quite an unusual one and I will describe this later. All the speakers on the rostrum were Labor members.

I will continue with the description of the brochure or pamphlet to which I have referred, on the first page of which is stated—

The powers it proposes to give the Ministers, Commissioners and persons appointed under Regulations, are possibly the most sweeping and draconic outside of Military Dictatorships.

That is a highly emotive phrase. It is there purely for the purpose of stirring the people up.

The Hon. D. W. Cooley: Do not look at me. I did not write it.

The Hon. W. R. WITHERS: People who desired to refer to the amended Bill—that is, the real Bill—would be terribly confused if they tried to relate the measure to the document to which I have referred. Even Mr Burke, who addressed the meeting, made four mistakes in the first few minutes of his address in referring to clauses and subclauses and I had to correct him. That is how confused he was while speaking to the people who attended the meeting. He was also confusing them.

The Hon. R. Thompson: You have been doing that for three years.

The Hon. W. R. WITHERS: That is the honourable member's opinion.

The Hon. Lyla Elliott: Can you tell me what sections have been amended since it was introduced?

The Hon. W. R. WITHERS: I will address my remarks through you, Mr President.

The Hon. R. Thompson: You just do not know.

The Hon. W. R. WITHERS: On the second page of this little blue brochure we find the following—

Under the guise of controlling oil supplies their Bill if carried could destroy industrial democracy and unionism in W.A.

This is merely an opinion, but it becomes a statement of fact in this document which refers to a Bill that does not exist.

The Hon. D. W. Cooley: You have not shown us it does not.

The Hon. W. R. WITHERS: The pamphlet then refers to section 42, and reports on a section which is not in the Bill. It then goes on to say—

This gives the Minister power to override 500 years of common law rights, criminal law, trial by jury, appeals to a judge, industrial awards etc.—in short measures so sweeping as to be akin to dictatorship.

All that is contained in that passage with reference to criminal law, trial by jury, etc., is not true.

The Hon. Grace Vaughan: Why is it not true? It is in the Bill.

The Hon. W. R. WITHERS: It is not in the Bill, but it has been read to the people to create the impression that it is in the Bill, even though it is not.

The Hon. D. W. Cooley: Is not section 41 in the Bill?

The Hon. W. R. WITHERS: Yes, but the pamphlet refers to section 42.

The Hon. D. W. Cooley: That is a typographical error.

The Hon. W. R. WITHERS: The pamphlet appears to be full of typographical errors and that is what I am trying to point out; that everything in this document is wrong but even though that was the case it was handed out at a public meeting to describe the wrong Bill which is before Parliament.

I am pleased to note, however, that members opposite admit that the pamphlet is full of typographical errors.

The Hon. D. K. Dans: Were there many people at the meeting?

The Hon. W. R. WITHERS: Yes there were, but that does not really matter.

The Hon. D. W. Cooley: Were there any Communists at the meeting?

The PRESIDENT: Order!

The Hon. W. R. WITHERS: The pamphlet refers to subclause (k) and states—

(k) engaging persons, whether for reward or otherwise to perform functions and to carry out acts in order to assist the maintaining, controlling and regulating of supplies and services;

The pamphlet further states—

Not only will this section enable Strike Breakers to be organised, the next Clause 45, sets out to protect such "scabs" from future retaliation.

There is another matter which was admitted by Mr Claughton early this morning which refers to a South Australian Act. I pointed out this was the law and Mr Claughton said it was an error, that it should have been a South Australian Bill. In referring to the South Australian Act the blue pamphlet states that "South Australia's Labor Government has an Emergency Powers Act, 1974". This, of course, is not so. The South Australian Government has never passed an Act like this.

The Hon. D. W. Cooley: That is nothing new to us. We know all about that.

The Hon. W. R. WITHERS: In that case why should Labor members of Parliament hand these pamphlets out at a meet-

ing knowing that what they contain is a lie? I must say in doing so they have misled the public rather successfully.

The Hon. D. K. Dans: That is something; everyone reckons we have been unsuccessful.

The Hon. W. R. WITHERS: The other pamphlet to which I wish to refer is the yellow one headed, "Threat to Democracy" which is authorised by the Fuel and Energy Bill Campaign Committee Trades and Labor Council.

The Hon. D. W. Cooley: We will get the truth now.

The Hon. W. R. WITHERS: The pamphlet refers to "What could happen", and under that heading there are five cartoon-style drawings which are supposed to be funny though I do not think they are the least bit funny.

The Hon. S. J. Dellar: Are they good quality?

The Hon. W. R. WITHERS: The first of these cartoons shows a man of authority—and from his dress he could be a Minister of the Crown—before whom stand five policemen. The Minister in the cartoon is shown as saying, "Now those are my orders. Don't worry about a public outcry—by next week I'll have it made legal!" The pamphlet then refers to section 45 and says—

If something that would be legal under a state of emergency is done illegally before a state of emergency is declared, it will be pardoned after the declaration!

As we all know that is not the purport of the section at all.

The Hon. D. K. Dans: Do we know that?

The Hon. W. R. WITHERS: Mr Medcalf has explained that point very effectively, and if members have not been able to understand what Mr Medcalf had to say they could possibly seek information on the matter during the Committee stage.

The second cartoon shows a Minister smiling cruelly.

The Hon. D. K. Dans: How do you do that?

The Hon. W. R. WITHERS: I have found this very difficult to do. The cartoon in question also shows the Minister dropping pieces of paper into a wastepaper basket and on those pieces of paper are written the words, "civil liberties", "contracts", and "regulations". The reference under this cartoon is to sections 41, 42, 43, 49, and 50. Under those sections the pamphlet states—

The Minister, according to his "state of mind", declares a state of emergency giving himself total power to suspend all agreements, deeds, rights, contracts, even laws like the Electoral Act.

This, of course, is not so, as Mr Medcalf has explained. The pamphlet continues and states—

—and he can give these powers to anyone he chooses.

As Mr Medcalf has already explained, the Minister cannot give these powers to every Tom, Dick, and Harry, and this is explained in section 42 (f) as members will see if they care to study it. The section is wrong.

I find the third cartoon quite repulsive. It shows a service station attendant holding in his hand the nozzle of a petrol pump and in front of him stands a policeman jabbing him in the chest in rather an aggressive manner; and, incidentally, the policeman has attached to him by handcuffs a person who appears to have a rather hang-dog expression. The policeman, while jabbing the station attendant in the chest, is saying—

Let me put it this way—if you don't work this guy's pumps for no pay—you'll get 6 months like him!

Reference is made to section 46 and it states that this section "makes it legal for a person to be conscripted to work, for no pay, against his will." This is incorrect. The section uses the words, "engaged for reward". The legal interpretation of "engaged" is that there must be a contract between two people and under that interpretation people cannot be conscripted or seconded. This means there was absolutely no legal interpretation before this had been drawn up. The yellow pamphlet is headed "Threat to democracy" and is signed by Richard Harding, Associate Professor of Law, University of WA and I suppose this is used to give these matters some weight.

The Hon. S. J. Dellar: That is how he sees it; in his opinion.

The Hon. D. W. Cooley: Of course.

The PRESIDENT: Order! Both Mr Cooley and Mr Dellar have already made their speeches.

The Hon. W. R. WITHERS: I sincerely hope that Mr Dellar will stand up in the Committee stage and tell us what he thinks.

The Hon. G. C. MacKinnon: Do not encourage him.

The Hon. S. J. Dellar: I certainly will.

The Hon. W. R. WITHERS: I do not mind encouraging Mr Dellar to stand up and tell us what he thinks. What I would like to see him do is to stand up and say that he agrees with every one of the interpretations given by Richard Harding, Associate Professor of Law, University of WA.

The Hon. S. J. Dellar: I do not know him so how could I say that?

The Hon. W. R. WITHERS: I challenge him to do that. The inference was that Professor Harding had made this interpretation, but I do not think Professor Harding would have made that interpretation.

The next cartoon shows a rather dejected, cranky looking Minister hunched over a desk. In fact, with due respect to the Minister, it looks a lot like the Minister who is handling the Bill looks when he is a bit cranky and on the telephone. The caption under the cartoon states, "Appeals? Yes, yes. Name? Address? Occupation? Oh, I'm so sorry—no appeals today." The article states—

This section—

That is, proposed new section 56—

—gives one Minister absolute power to reject appeals by anyone aggrieved by the implementation of the Act.

As Mr Medcalf explained in a very fine manner, within this legislation a person has all rights of appeal under law. On top of that, an extra appeal has been put in; namely, an appeal to the Minister. That is something extra which is not in other Acts. Knowing that, whoever published this brochure deliberately created the impression that the Minister was the only one who could grant the right of appeal. That is incorrect.

The last cartoon smacks of nazi Germany and concentration camps. It shows a high wire fence with two strands of barbed wire above it, and two policemen with truncheons drawn surrounding some men, who are chained or roped together in a compound.

The Hon. S. J. Dellar: It sounds like Laverton on a Saturday night.

The Hon. W. R. WITHERS: The caption underneath the cartoon reads, "Don't worry mate—the situation will be reviewed by Parliament in 14 days!" The notes underneath the cartoon state—

Section 43

Says that Parliament must ratify the state of emergency within 14 days.

That is one of the few parts of this pamphlet that is correct. It goes on to say—

If they do (and it is unlikely that the government would fail to support its own Minister)—

Every member in this Chamber knows that that is not a true statement because we have seen it happen here. Members have crossed the floor and opposed Ministers. In fact, we saw the recent case where Ministers actually opposed a Government Bill.

The Hon. S. J. Dellar: That was quite humorous.

The Hon. W. R. WITHERS: Yes, it was quite humorous, but it shows that this is incorrect. The pamphlet gives the impression that what goes on in Parliament is

quite different from what will go on when the Bill becomes law. It goes on to say—
 . . . then it can remain for 6 months before the situation is reviewed—and this can be continued ad infinitum.

That is a little misleading because the pamphlet is referring to a state of emergency whereas, as Mr Medcalf pointed out, a person can apply for an injunction and appeal through the courts.

The back of the pamphlet carries the heading, "Other points". I will refer to a few of them. The interpretation of clause 43(1) is as follows—

This means that a state of emergency may be declared over almost anything. (Queensland declared one when the Springboks came.)

Even if the same situation occurred, that could not be done under this Bill. Whoever wrote this pamphlet would have known that.

The Hon. Lyla Elliott: Why could it not?

The Hon. W. R. WITHERS: For the simple reason that the amending Bill refers only to emergency powers in relation to fuel, energy, and power.

The Hon. Lyla Elliott: Say there was a strike in protest against something?

The Hon. R. Thompson: It also refers to services.

The Hon. W. R. WITHERS: I will not be drawn into a debate on supposition.

The Hon. R. Thompson: If you did not have that pamphlet, you would not have been able to make a speech on the Bill.

The PRESIDENT: Order! If the honourable member ignores the interjectors, he will make better progress.

The Hon. W. R. WITHERS: Thank you, Mr President, but I cannot ignore that interjection. After all, I received this pamphlet only last Tuesday. I think I have done fairly well over the last three years.

The PRESIDENT: Interjections are disorderly and the honourable member must ignore them.

The Hon. W. R. WITHERS: I will endeavour to ignore them, Mr President. The pamphlet goes on to say—

Clause 46 gives the Minister wide-ranging powers to make regulations (which under a state of emergency become the laws of WA). These powers are so wide that they could encourage the recognition of paramilitary groups as strike and lockout breakers.

The word "paramilitary" is emotive in this context. If people start handing out pamphlets like this at public meetings, trying to stir people and trying to polarise one section of the community against the other,

it is possible that paramilitary organisations may be established. However, it will not occur as a result of this Bill.

The Hon. Lyla Elliott: It certainly would not be as a result of people receiving a pamphlet like that.

The Hon. W. R. WITHERS: The pamphlet continues—

Clause 42.2 (k) allows the State to conscript people whether paid or otherwise . . .

That is incorrect. I have already covered that point, as has Mr Medcalf. Underneath these points is the heading "Action". It goes on to say—

Rally at Parliament House. Thursday, 19th September.

Stop work at midday—rally at Parliament House at 3 p.m.

The pamphlet does not request people to stop work at midday; it does not suggest that union members should stop work; it does not invite them to stop work; it is a demand that people should stop work at midday.

The Hon. S. J. Dellar: You should have said it the other way; namely, "Stop! Work at midday."

The Hon. W. R. WITHERS: If they had done that, we would have been quite happy.

The Hon. R. Thompson: Those people did; they had their lunch.

The Hon. W. R. WITHERS: That was a rather neat interjection; I must congratulate the honourable member because I fell right into that one.

The Hon. D. K. Dans: Never become a dingo trapper.

The Hon. W. R. WITHERS: The pamphlet goes on to say—

24 hour general stoppage. Tuesday, 1st October.

At the bottom of the pamphlet, it indicates that it is authorised by the "Fuel and Energy Bill Campaign Committee Trades and Labor Council".

The sentiments expressed in these documents are destructive. They are not constructive; they do not endeavour to show union members what the Bill is all about; they do not endeavour to show the public the ramifications of the Bill; they do not teach people what our democratic system is all about. The documents are totally destructive and disruptive and they are rather frightening. This is part of the propaganda programme.

I promised Mr Cooley that I would speak about a public meeting held on Tuesday at the Balga High School. The meeting was called by Mr Brian Burke, MLA. Mr Cooley wanted to know what I said. My first words were that I agreed with Mr Brian Burke, MLA, in his statement that the Labor Party's Bill was never presented to Labor Caucus. He was perfectly correct

because the Bill was presented only to the Labor Cabinet. It was agreed to and signed by Premier Tonkin on the 22nd January, 1974.

I went on to say that I objected to some parts of the original Bill and because of this I submitted written amendments to the Minister, as did other colleagues, saying that they did not like some parts of the Bill. Some of those amendments were accepted by the Minister; we all know about this. They were presented in the Legislative Assembly during the Committee stage. I might add that they were accepted. At the time this was done, I was not even aware of the comments of the Law Society. I would not normally bring this up, but I mentioned it at the meeting. I mentioned it because I did exactly the same thing as many other people have done. I read this Bill clause by clause and did an analysis on each separate clause. I fell into the trap which was so simple because it was emotive. Instead of looking at the Bill in toto, I looked at each individual clause. I did it rather late at night; possibly if I had studied it at a reasonable time of day, I would not have made the mistake of submitting amendments which I later found to be totally unnecessary.

The Hon. H. W. Gayfer: Superfluous.

The Hon. W. R. WITHERS: This is all part of a propaganda programme.

The Hon. R. Thompson: That is an admission, you know. You have always reckoned that you are infallible.

The Hon. W. R. WITHERS: I have never said that but I am pleased to hear the Leader of the Opposition say it because it is very good for the ego to hear that sort of thing.

I should like to go on and say that at this meeting which was designed to let the public know what the Bill was all about we had three Labor speakers. One was a Labor member of Parliament, one a Labor nominee for a Federal seat, and one a trade union deputy chairman. The chairman of the meeting was a reverend gentleman—a man of the cloth. When I asked if it would be a little more democratic to have another person from the Liberal Party to explain the Bill from our point of view, the chairman's answer was, "No, this has been organised by the Labor Party." I said, "Granted, but this is a public meeting which has been called to describe the Bill to the public." They would not agree. However, the chairman did say after a few murmurings from the crowd, "We will allow three minutes for a couple of speakers to put their views after the main speakers have spoken."

He said he would allow one speaker for the Bill and another against the Bill, each to speak for three minutes after the main speakers. This sounded fine until we went

to speak and we found that we could not go on stage and use the PA system. We had to speak from the floor. The reverend gentleman would not allow us to use the microphone in a democratic way, the same as Labor speakers. Having heard the three-minute speeches there was a voice from the floor which said, "Mr Chairman, I wish to put a resolution." The chairman said, "Yes, I will accept a resolution." I turned around and recognised the person speaking. It was Mr Gil Barr, Secretary of the Australian Workers' Union. It was obvious that everybody knew about the resolution except the people who were not in the Labor Party. His resolution was that this meeting totally disagreed with the emergency powers Bill before the Parliament. The chairman said, "Do you wish to speak to the resolution?" and Mr Barr said he did not. However, the seconder of the resolution said, "I will speak to the resolution" and he did. I stood up and sought leave to speak against the resolution and so did another gentleman who is mentioned in today's newspaper—a gentleman by the name of Mr Bob Pike. However, the chairman said, "There will be no speakers against the resolution. All those in favour say Aye. Carried!" That is how the meeting went.

The Hon. G. C. MacKinnon: That is the way to run meetings.

The Hon. W. R. WITHERS: The chairman would not even permit anybody to speak against the resolution.

The Hon. R. Thompson: It reminds one of the Legislative Council, does it not?

The Hon. W. R. WITHERS: If the people presenting their views were so right why were they so worried about letting other people speak at that meeting?

The Hon. Lyla Elliott: At least they did not physically bash interjectors, like they did at a Liberal meeting in the Eastern States.

The Hon. D. K. Dans: You should set up your own meeting.

The Hon. W. R. WITHERS: I am not sure what Miss Elliott is referring to.

The Hon. Lyla Elliott: You know very well that it happened at a Liberal meeting during the last Federal campaign.

The Hon. W. R. WITHERS: I was not aware of that; I was not there. One cannot believe all the stories one reads in the newspaper because often the stories are published with bias.

The Hon. H. W. Gayfer: I bet you could not organise a meeting as well as that.

The Hon. W. R. WITHERS: I would not try to organise a meeting like that.

I wish to explain what sort of propaganda programme has been conducted within my province, and I take the part

of union members who have been misled. Last weekend the member for Pilbara and I visited the town of Pannawonica. At the request of the management and the Council of Combined Unions we held a meeting. It was not called to discuss the fuel, energy, and power resources legislation, but a few other matters. However, at the meeting one of those present asked about the Bill and what the strike was all about. The Trades and Labor Council had called those workers out on strike, but it failed to send them any information whatsoever.

I know why some Labor members are now leaving the Chamber; that shows how interested they are in their union members. The workers at Pannawonica were called out on strike, but the TLC did not send any word or advice, and not even a copy of the amended Bill. That was what happened in this mining town in the Pilbara where the workers were called out on strike.

The next town we visited was Paraburdoo. There we had a meeting with the chairman of the Combined Unions Council. He had read the Bill, and he said he knew all about it. He made a few comments. I then told him that I did not think he had an amended copy of the Bill that is at present before Parliament. He replied that he did. I asked whether his copy had the words "As amended in Committee" on the front page. He said he thought it had. He had been really stirred up by the propaganda he received. Like everybody else he acted on the advice and the information that had been handed to him by the union executives in Perth, which is nearly 1000 miles away.

At the next town of Tom Price we had a meeting with the members of the Combined Unions Council, and not just with the president. These people were most upset about the Bill, and they questioned the member for Pilbara and myself. We were puzzled by the type of question put to us. In each case we said the information they had been given was not correct, and that such and such was not in the Bill. We pointed out that some of these things might have appeared in the Bill as it was presented originally, but not in the amended Bill. They said they had an amended copy. They sent one of their members to fetch their copy, about which much of the TLC propaganda was written. However, this was a copy of the original Bill, and not the amended one.

We promised to send them copies of the amended Bill, and on our return we sent by air express 12 copies. I contend that these men have been let down by their executives in Perth. If I had been given the information that was given to them, and provided with a copy of the original Bill containing the comments which they thought had been checked by

their executives in Perth, I would have reached the same decision as they had reached. These people were fooled by the executives of their unions, and that is indeed a shameful thing.

Generally members and officials of trade unions are responsible people, and they have to give directions to the workers as to whether or not to go on strike. People do not like to go out on strike, except those who are bent on mischief and want to disrupt the community. Generally these people are responsible, and I contend they should be led correctly. If I were one of their numbers I would be asking for more responsible action from the executives in Perth. I say that the executives in Perth have misled their union members for political ends.

The Hon. S. J. Dellar: When was the original Bill and the so-called propaganda on it sent to them?

The Hon. W. R. WITHERS: I did not ask for the date. If the honourable member is referring to the possibility that the Bill was sent up long before it was amended, I suggest that if the union executives in Perth are really interested in the affairs of their members in the north they should have sent a copy of the amended Bill, immediately after it had been amended.

I have covered all the matters I wish to raise. I have said repeatedly that Mr Medcalf has done a good job in commenting on the report of the Law Society, so it is pointless for me to cover the same ground. Any other points which I wish to raise will be raised in the Committee stage.

THE HON. D. K. DANS (South Metropolitan) [9.22 p.m.]: I have listened with considerable interest to the debate on the Bill and to all the comments that have been made. I agree that over the last couple of weeks many of these comments have been made in a very emotive manner. The first reasonable objective discussion of the Bill was made by Mr Medcalf tonight. He was quite fair in saying that he was advancing his opinion.

However, I find it difficult to follow some of the statements that have been made in the debate tonight. I listened to the contribution of Mr Ferry who seemed to get giddy chasing communists around the seats opposite. He seemed to be labouring on the question of what Mr Chifley did in 1949. I agree with what Mr Chifley did, and what he did had a great bearing on the declaration of a state of emergency and the actions that can be taken in Western Australia by the Government, because it seems that the Government is taking unto itself powers which it does not possess.

I happened to be in New South Wales in 1949, and Mr Withers might also have been there. At that time a terrible situation existed on the coalfields. It was the stated objective of the Communist Party to take over the country, and a determined effort was made by it to do just that. Ben Chifley was a very honourable Australian. He did something which he did not like doing; he introduced a special Act of Parliament, because there was an emergency. Arising from the passage of the legislation he moved troops into the coal-mines. We know the result of that action. The honourable gentleman died not long after his Government lost the following election; he died from the strain that had been placed on him, as it was too much for him to take.

That action defeated the objective of the Communist Party. Then for some time we had to listen to the howlings of the colliery owners, arising from the damage that was done to the open-cuts and to the machinery by the troops who had moved into the mines. I agree that Mr Chifley had to act in the manner that he did in 1949. In the overall picture in that period of time production actually decreased. I make no apology for saying that. I am quite sure that the action taken by Mr Chifley in 1949 has nothing to do with the Bill before us.

Mr Medcalf gave us an entertaining dissertation on the delays he experienced at airports, arising from the action of oil refuellers and baggage handlers. I should point out that on one occasion I experienced a similar delay for six days just as I was about to board an aircraft. That was caused by the tanker drivers in New South Wales going out on strike for better wages and conditions.

I do not know whether Mr Medcalf was trying to draw the inference from that situation that somehow or other the passage of this emergency legislation could have prevented the action that took place at Perth Airport recently.

The Hon. T. O. Perry: I do not think he did.

The Hon. D. K. DANS: Neither do I, but the seed might have been sown in the minds of some people. The position is this: the Commonwealth owns the Perth Airport. I admit this is no solution, but it is a fact; and facts are sticky things with which to tangle.

In this debate reference has been made to emotional issues. I do not know exactly which Government members have introduced emotion, but it has all come from the Government side; that is, until Mr Medcalf spoke tonight. We have heard a whole string of extravagant language; and despite all the assurances given by members opposite, this is probably one of the reasons that people do not believe what

they say any more. At one time the workers who went on strike were described as communist unionists; then they were labelled militant unionists; later they were referred to as unionists; yet later they were described as responsible unionists; and finally they were termed irresponsible unionists. Such categorising of people disturbs me.

I understand that every member has received a letter from the Automobile Chamber of Commerce, and a telegram from the professional radio operators. I myself have received letters from the Institute of Marine and Power Engineers, the Merchant Service Guilds, and my old friend the Federated Clerks Union which at one time formed wax effigies of myself and placed pins in them. Now that union has written to me to say that this piece of legislation is no good.

The Hon. A. A. Lewis: They have really fixed you.

The Hon. D. K. DANS: After fixing the honourable member they would not have enough wax left to fix me.

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

The Hon. D. K. DANS: I agree. The slinging of words has caused a great deal of misgiving in the community. We cannot categorise the people. The airline pilots belong to an organisation, the ship captains also belong to an organisation, and a whole host of other people belong to organisations; but they resent very greatly being branded as reds, militants, and other types. A whole range of people outside the trade union movement are opposed to the Bill, and all the explaining in the world—even by Mr Medcalf—will not change their minds. I shall give the reasons for saying that.

The Hon. G. C. MacKinnon: Many people are in favour of it.

The Hon. D. K. DANS: It would, indeed, be an outstanding occasion if every piece of legislation which comes before Parliament in times of peace and prosperity receives the absolute support of 100 per cent of the population. That is too much to hope for.

The Hon. D. J. Wordsworth: You used the word "prosperity".

The Hon. D. K. DANS: Yes. I knew that comment would bring one of the small fish up from the bottom. Let us see what is wrong with the Bill. I appreciate the fact that the Bill now before Parliament is designed to control energy, fuel, and power resources in times of emergency. I agree wholeheartedly with that objective, as I am sure every sensible person would.

It is unfortunate that the Bill is drafted in such a way that it could be used—or abused—in a genuine industrial dispute. That is my opinion.

I still belong to a trade union. Whilst the union is associated with the Trades and Labor Council, it also has a direct affiliation with the ACTU. There is only one branch of the union in this State; but it is not registered here, it is a real Federal union. That union also has access to lawyers and legal advisers to whom it pays very high fees. Those lawyers give opinions and whilst I appreciate the points advanced by Mr Medcalf, it is well known that one can go along to three eminent Queen's Counsel in this State—or in New South Wales—and the only thing one will get in common from those three persons would be the fee. One would get three separate opinions on most occasions, and that is just as it should be.

The Hon. D. J. Wordsworth: In that case some of them would agree with this Bill.

The Hon. D. K. DANS: Of course they would. One can imagine the dearth of legal people if they all had the same opinion. There would be one on every street corner just like butchers' shops.

The Hon. H. W. Gayfer: They would be accepting fees illegally, would they not?

The Hon. D. K. DANS: I do not know. I think they hijack fees illegally now, but that is only a matter of opinion.

The Hon. A. A. Lewis: Now we can get back to the Bill.

The Hon. D. K. DANS: We have been on the Bill; do not worry about that. Let us look at some of the problems associated with the Bill, and let us assume it will do what the Government says it will do. Let us assume that it does none of the things we think it may do.

For better or for worse—and I do not deal in slander—a whole range of people over the whole political spectrum do not trust the Premier, and a number of them actually fear him. I do not know how he earned that reputation. I will now refer to a speech made by Mr Mensaros in 1971 in which he gives us grounds, once again, to doubt the Bill. I well recollect the speech to which I will refer because I had only just entered Parliament and the speech was made during the Address-in-Reply debate.

The reason I recollect the speech is that the television programme, "This Day Tonight" asked me to go to the ABC and debate with Mr Mensaros the comments which he made. When I arrived at the ABC it was a "no take" because although Mr Mensaros made the statements—which he was entitled to make—he stated he had only been speaking academically. I must say that I find Mr Mensaros to be quite a pleasant person, and to be someone I like to have an occasional drink with, but when statements such as he made go into print, people look at them, think about them, and begin to smell a rat. I will quote the remarks of Mr Mensaros which appear at page 329 of the 1971 *Hansard*, dated

Wednesday, the 28th July. I will not quote the whole of the speech but I would like to read to members the following—

Mr MENSAROS: The provisions which I think should be enacted are—

- (1) Prohibiting the inclusion of preference and/or compulsory unionism, closed shop or closed union clauses in industrial awards or agreements and outlawing any *de facto* situation which leads to any of these practices.

I do not know of any Federal awards—although there may be some now—which have a preference clause. There are closed shop unions on the waterfront, and the closed shop unions are there mainly at the insistence of the employers.

The Hon. R. Thompson: So that there is a continuity of employment.

The Hon. D. K. DANS: To continue the remarks made by Mr Mensaros—

- (2) Prohibiting any discrimination by employer against union or union member and *vice versa*.
- (3) Absolute protection of individuals, workers and employers against any kind of discrimination or intimidation.

I am not saying all these things are bad. He went on—

- (4) More effective assurance of democratic elections and decision makings within industrial unions by wider mandatory use of court-controlled secret ballots.

The Hon. G. C. MacKinnon: Speaking academically, it would be hard to classify any of those things.

The Hon. D. K. DANS: Despite all the assurances which have been given—and which may well be true—when people pick up this kind of stuff they are entitled to start thinking. I suppose that on the surface a court-controlled ballot sounds all right. However, if a union leader in certain areas of the industrial field wanted to cause widespread industrial chaos he would agree to a court-controlled ballot because one would assume that there would have to be a secret ballot to go on strike, and also a secret ballot to return to work.

I can well understand that in the case of the shipping industry it could take up to four months to complete the first ballot, and while the strike could be for one day, it would take another four months to return to work. Can members imagine the Australian Workers' Union in a situation such as that?

The PRESIDENT: I take it the honourable member will connect his remarks to the Bill.

The Hon. D. K. DANS: They are connected to the Bill, Mr President, and I will reach that point in a minute. The history of court-controlled secret ballots shows that they have not been very successful. It is known to members in this Chamber that ballot boxes have been found at various centres well after a ballot has been concluded. Secret ballots are anything but efficient. To continue Mr Mensaros's remarks—

- (5) Making it unlawful for unions to acquire a decisive interest in any industrial or commercial enterprise.

I can understand how the members of the Seamen's Union or the Waterside Workers' Federation feel about this Bill because under those conditions they would have to get rid of their holiday establishments. They would not be able to own them. To continue—

- (6) Reversing the farcical present practice whereby strikes—and strikes are illegal as it is—could be used to assure earlier hearings of proposed awards or submissions by the commission.
- (7) Strikes for other than industrial reasons should bear much heavier penalties and unconditional de-registration; and, finally
- (8) All breaches and offences should be subject to mandatory public prosecution and should bear heavy penalties.

We all say things in Parliament and sometimes we tend to forget that what we say is being recorded in *Hansard*. Like many other members in this place, I have been busy reading this Bill every day. However, I do not very often pick up *Hansard* but there are a great many people in the community who do and they relate what they read to the nonsense which is spoken about.

I believe that at first the Government decided it would float this Bill, do a little bit of union bashing, and observe the reaction. The Government charged in like raging stallions, but when it found it could not sustain the gallop it broke down and arrived at the Legislative Council like a mob of gelded Shetland ponies. The sting had gone out of the Government.

The Hon. Clive Griffiths: I think that is a bit rude.

The Hon. D. K. DANS: Perhaps it is. The trade union movement is only a part of the total community. I suppose one could say that at least 90 per cent of the community—and possibly more—work for a living in one way or another. Those people belong to all kinds of industrial associations, institutes, chapels, and trade unions. Whatever their politics may be those people resent this continual harping which has been going on for some time, and is not unrelated to this Bill.

If members opposite are grizzling now about the demonstrations which have occurred I can assure members on both sides, representing the three political parties, that there will be bigger and better demonstrations.

The depressed economic situation which is rolling over the western world today could cause the members of this House to go out, with arms linked, to face the angry people who will want to know about their future welfare. The present economic situation of the world is in crisis and unions are being singled out as scapegoats.

It was recently stated on TV—and this is what it is all about—that the Bill is divisive, and that it had split people in family units and in trade unions. There is no doubt about that.

The Hon. W. R. Withers: That is only from the TLC point of view; not from the point of view of the unions.

The Hon. D. K. DANS: Let us be frank. I do not get very rattled about anything, and I did not bother to read the opinion of the Law Society. I did not employ that group. Also, I did not particularly read the pamphlets put out by the unions which are affiliated with the Trades and Labor Council. However, we went along to our lawyers in Fremantle and got our own legal opinions, and we made certain decisions. Those decisions are fairly definite. When the present Government was in office previously I certainly did not make any threats. However, the Seamen's Union is not a "resolutionary" body. When we decide to do something we have every intention and the determination to carry out that intention. We decided long before the introduction of this measure, and on our own legal advice, that we may have to do something in this State to protect the rights of people if—and only if—our advice proved to be correct and the things which we feared were likely to be carried out.

Let us look at the whole question of fuel and energy and ask: Who are the people most concerned with the carriage of fuel? The answer is: the seafarers and boy, has this Bill got them hopping mad! I refer not only to the masters, the engineers, the cooks, and the shipwrights, but to that very conservative organisation, the radio operators. All of the petrol which comes into this State is carried, in the main, by Australian tankers. All of the coking coal and vast quantities of lubricating oil and heavy furnace oil which is brought into this State would be subject to the provisions of this Bill. However, I am not going to go over that again.

The Hon. W. R. Withers: Well, what is the member worried about?

The Hon. D. W. Cooley: What is the Bill being introduced for?

The Hon. W. R. Withers: What sort of thinking is that?

The Hon. R. Thompson: It means there will not be any fuel.

The Hon. D. K. DANS: No-one is likely to say that no fuel will be supplied; no-one would be that foolish and make an off-the-cuff remark such as that.

The Hon. W. R. Withers: The member's leader said it.

The Hon. D. K. DANS: I did not hear him. There has been reference to national bodies being used to enforce this Bill. Are they the Army, the Navy, and the Air Force? I could not imagine the Premier, at the flick of a finger, suddenly turning the Prime Minister into Prince Charming. The relationship seems to be more like that of the two ugly sisters.

Let me be quite clear about this: I have no doubt that if there were a genuine fuel emergency, the Commonwealth would take to itself the power that it has taken in the past. It would see that fuel, energy, resources, and indeed in a genuine emergency, the necessities of life, were sustained to the people not only of this State, but throughout the rest of the Commonwealth. That is the role of the Australian Government. I find it difficult to follow some of the statements that were made. Mr Gayfer made a statement about the Meckering earthquake, but that was 11 years ago.

The Hon. H. W. Gayfer: So what?

The Hon. D. K. DANS: That particular emergency was dealt with quite successfully. If we wait for another earthquake we will wait 11 years to get around to some kind of emergency legislation. It becomes laughable. Perhaps I may not have heard the honourable member correctly.

The Hon. R. F. Claughton: He always lives in the past.

The Hon. H. W. Gayfer: Don't be silly—I said a thing like the Meckering earthquake.

The Hon. D. K. DANS: I apologise; Mr Gayfer said a thing like the Meckering earthquake. What is like an earthquake?

The Hon. H. W. Gayfer: Another earthquake.

The Hon. D. K. DANS: That is right, and if we wait 11 years—

The Hon. G. C. MacKinnon: They have promised another one in 1998.

The Hon. D. K. DANS: That is something Gough Whitlam has not promised. If it comes the Government will blame him, and if it doesn't come they will blame him.

The Hon. V. J. Ferry: There will be a lot of rumbling before then.

The Hon. G. C. MacKinnon: I saw this in the Press the other day.

The Hon. D. K. DANS: It makes me very unhappy that people have fallen into this habit of flying kites and attempting to divide the Australian people.

I agree with one of Mr Medcalf's comments. He said it is about time we started to think of things in a unified way. The Minister for Justice will remember my remarks during the Address-in-Reply debate. I said that it is about time we stopped this confrontation type of politics because it is quite obvious some legislation cannot be introduced. The Government should come back here and admit it, and then we can forget about it. At the very least the Government should make some conscious effort to give real leadership to the people of Western Australia. The Minister for Justice was going to give me a letter about this matter, but I realise he has been very busy and obviously still has time to give it to me.

The Hon. N. McNeill: I apologise for that. I will certainly look for it.

The Hon. D. K. DANS: All right. I do not want the Minister for Justice to take that as a personal affront. We should be giving leadership to the people. We have heard some very emotive phrases such as "responsible unions", "left-wing unions", and "militant unions". As I have said before, what is the difference between a militant union and a successful business?

The Hon. G. C. MacKinnon: Reactionary members, and so on.

The Hon. D. K. DANS: The trade union movement is a reactionary organisation because it waits for something to happen before it reacts. I would not like to see it the other way around.

The Hon. G. C. MacKinnon: I think it ought to remain reactionary rather than become revolutionary.

The Hon. D. K. DANS: I do not know whether it will remain "revolutionary"—that is the term at present.

The Hon. G. C. MacKinnon: What did you mean by "the other way around"?

The Hon. D. K. DANS: I meant it may have to turn into a revolutionary body.

The Hon. G. C. MacKinnon: I hope not.

The Hon. D. K. DANS: I certainly hope not. We are talking about emergency legislation. The Minister for Fuel and Energy made a true statement when he said it would be unintelligent to believe this legislation would not be used against strikers in certain circumstances. Mr Cooley commented about what had happened in countries which had done away with the trade union movement. Germany was one of these countries.

The Hon. D. J. Wordsworth: Russia is another.

The Hon. D. K. DANS: I do not know a great deal about Russia so let us talk about Germany. In *The German Tribune*,

of the 12th September, 1974, published in Hamburg, we see that a survey taken in the Federal Republic showed that 92 per cent of the population believed in the trade union movement and felt that it should be retained.

The Hon. D. W. Cooley: And these people respect the trade unions.

The Hon. D. K. DAns: Yes, they respect the trade unions. Do not run away with the idea that because of worker participation and other matters of this type in Germany, everything in the garden is rosy. Indeed, it is not. Germany has its problems the same as do all western democracies at present. We must agree that all the emotional speeches came from the Government—

The Hon. H. W. Gayfer: Oh, turn it up.

The Hon. D. K. DAns: —in the first instance.

The Hon. N. McNeill: Be fair.

The Hon. D. K. DAns: I do not want to berate the Government, but if one studies the Press statements—and I have no doubt the Ministers have all the cuttings—one can see statement after statement put out by the Government. This will go on for a time, but when the old hip pocket nerve—as the late Ben Chifley referred to it—starts to tingle a little and the temperature starts to go up, we will see many trade union leaders and certainly a lot more members of Parliament drawing together. I do not know how we will get out of this mess. We will not get out of it, and I say this advisedly, by bringing in a Bill such as this.

I must say that I agree this is an appropriate measure to deal with fuel, energy, and resources. I would be crazy not to agree with that statement. Unfortunately, the Bill is drafted in such a way that it could be used, or abused, in a genuine industrial dispute. I do not want to go into the “trick cyclist” question about the state of mind of someone. This phrase could be interpreted in so many different ways. Perhaps when we seek to determine the state of mind of a Minister—whether he be Labor, Liberal, or Country Party—that will be the time to put a psychiatrist or a neurosurgeon on the bench. If a psychiatrist cannot find what is wrong with a Minister, the neurosurgeon could take off the top of his head to see whether he is in the right state of mind. That is a ridiculous situation, but no more ridiculous than many of the statements made in this House.

I will have a lot more to say during the Committee debate on this Bill. I was heartened tonight by the opinion expressed by Mr Medcalf. Of course, I would like to see his opinion transformed into more definite action so that we would have assurances, by way of further amendment to the Bill. Such assurances would

help the people who now fear the measure. I hope we do not have more of the “witch hunting for commos” speeches. When Mr Ferry was talking tonight, so help me, I thought it was a scene from *Dr Strangelove*. I thought he was going to say, “All you commo prevets over there.”

The Hon. V. J. Ferry: But I did not.

The Hon. D. K. DAns: That is true, but I do not know how the honourable member stopped himself. It is this type of thing that has affected people from every walk of life and from every political party. They do not know where to turn. They fear the Premier, and they have their doubts about the Minister for Fuel and Energy. I do not say their feelings are correct, but if members want to walk around the streets they will find that this opinion is expressed every day. It is up to the Government to reassure the public at large. We will not get any mileage out of statements of the type, “I can do it better than you,” or by reactivating the old Communist bogey. We will get nowhere by making speeches that are unreasoned and unconsidered.

Some members in this Chamber should have a lot more respect for a Bill as important as this. They should do their homework on it, and they should make some reasoned and considered contribution to the debate. I will not be voting against the second reading of the Bill. No doubt it will go through.

The Hon. R. Thompson: You will be voting against it.

The Hon. D. K. DAns: Yes, I will be voting against it.

The Hon. G. C. MacKinnon: That is the first time I have been speechless for a long while. I could not get my mouth shut when you made that statement.

The Hon. D. K. DAns: I will not support the second reading of this Bill. I hope it is not read a second time.

THE HON. J. C. TOZER (North) [9.55 p.m.]: I guess the old timers in this Chamber have seen a great many political greenhorns come into this place, and I could well be the greenest of them all. A few weeks ago I rose to my feet here after I had returned from the Kimberley, to discuss what I thought was a very important matter. I put my ideas over as seriously as I could. However, an honourable member immediately jumped up and took me to task for flying political kites—the actual word he used was “balloon”. Honestly, I could not have been more serious about the matter, and nothing could have been further from my mind than its political implications. However, my naivety was in for a rude shock.

When this legislation came before the House I thought it was very important and that we would hear some sensible and

well thought out arguments on it. We have not heard these, but rather we have heard intemperate diatribes on matters that are not relevant to the measure. We have heard phrases such as "jackboot Government" and things of that nature rather than a serious discussion of the issues embraced in the Bill. We have had to put up with all sorts of intemperate comments.

When I came to this place I never thought in my wildest dreams that I would take part in a debate under the shadow of a mass rally on the front steps of Parliament House. This rally quite clearly had no other function than—

The Hon. D. W. Cooley: Well, isn't that terrible!

The Hon. J. C. TOZER: —to try to browbeat the Legislature into making a decision as the people assembled thought it should.

The Hon. D. W. Cooley: Do not the people have the right of assembly?

The Hon. J. C. TOZER: I believe the ALP, plus the leaders of the trade union movement, have engaged in a deliberate attempt to lead the people by the nose along a path that has only political benefit as an end result. This makes me very sad. We have had slogans and catch cries instead of valid arguments. This wide range of people has been impressed by the slogans, and I do not understand it at all.

I am very saddened about this matter. I have read *Hansard* and the debates about this measure in another place. The Minister who introduced the Bill in the Legislative Assembly gave good, valid, and temperate arguments for its introduction. However, that was not reported in the Press at all. The only comments have been about jackboot Government and other intemperate remarks. These are the things that make headlines. I wish that the Press and the news media generally had a more responsible approach to this Bill.

I have not heard what took place in the two rallies outside Parliament House. I was in my seat in this Chamber on the first occasion, and I was busy in my office on the second. However, some students who attended the first rally have spoken to me. These fellows marched from the university to the front of Parliament House, and they were truly amazed that they learnt nothing about the Bill. They came along for that purpose but all they heard were leaders in particular fields lampooning the Premier, the Ministers, and everyone and everything else they could think of. Certainly, they heard no logical comments about the contents of the Bill before the House. The students joined in with the chanting, "If you hate Charlie Court clap your hands, clap your hands." "If you hate *The West Australian* clap your

hands." Yes, they had a great deal of fun; it was great stuff and most edifying, I must say.

It seems to me that this mob leadership thrives on keeping people ignorant of the facts. In saying this I am talking about the contents of the Bill before the House.

This, then, is the nature of the opposition that has been levelled against this Bill. Perhaps it is not too late to ask, even at this stage, if we could not make a real effort to acquaint the people of the true contents of the Bill. I believe we are bound to try and, in fact, it is encouraging to have Mr Medcalf speaking today and giving us a very lucid and worth-while account of what is implied and what is contained in the Bill before the House. I only hope that our friends in the Press Gallery take the opportunity to let the public know what is contained in this measure.

As I see it, in general terms, there are two types of emergency legislation that could be placed before this Parliament. There is the type of legislation that is enacted in reaction to an emergency. We have had instances of various Acts quoted to us during the debate on this Bill which have been enacted in other States. In New South Wales there was the Emergency Powers Act of 1941, and in Queensland there is the Industrial Law Amendment Act. The Commonwealth had the national emergency legislation dealing with coal strikes. These Statutes have been introduced following reaction to specific situations. They were introduced in haste in a state of hiatus.

If Parliament should not be in session at the time, obviously there could be grave consequences in the delay caused by enacting such laws, possibly resulting in grave consequences for the community.

Recently, in the United States of America a Senate Special Committee was established to review Emergency Powers Statutes. The report of that committee makes interesting reading. I would like to quote a small extract from page 7. It reads as follows—

Most of the statutes pertaining to emergency powers were passed in times of extreme crisis. Bills drafted in the Executive branch were sent to Congress and, in the case of the most significant laws that are on the books, were approved with only the most perfunctory committee review and virtually no consideration of their effect on civil liberties or the delicate structure of the U.S. Government of divided powers. For example, the economic measures that were passed in 1933 pursuant to the proclamation of March 5, 1933, by President Roosevelt, asserting that a state of national emergency now existed, were enacted in the most turbulent circumstances. There was a total of only 8 hours of debate in both

houses. There were not committee reports; indeed, only one copy of the bill was available on the floor.

Do we want this type of situation here? Of course we do not.

The other type of emergency legislation is that which is currently on the Statute books of the various States, and again we have had reference to them in this debate. Victoria has the Essential Services Act of 1948, and Queensland has its Traffic Act of 1961. I wish to quote again from the report of the United States Senate Special Committee report as follows—

The Special Committee is of the view that it is essential to provide the means for the Executive to act effectively in an emergency. It is reasonable to have a body of laws in readiness to delegate extraordinary powers to use in times of real emergency.

It is also interesting to consider the position in the United Kingdom where two wars were fought under what was virtually a dictatorship created by legislation. Once again I quote—

This has been called the "high-water mark in the voluntary surrender of liberty," but, as Churchill put it, "Parliament stands custodian of these surrendered liberties, and its most sacred duty will be to restore them in their fullness when victory has crowned our exertions and our perseverance."

Thus, parliamentary controls made emergency powers compatible with freedom.

Surely this is the responsible approach that should be adopted by this Parliament. Quite frankly, I am a little surprised that the Law Society does not hold a similar view.

There is one other quote I would like to make from the United States Special Senate Committee report before I put it away. It reads as follows—

In the practical working of our Government we already have evolved a technique within the framework of the Constitution by which normal executive powers may be considerably expanded to meet an emergency. Congress may and has granted extraordinary authorities which lie dormant in normal times but may be called into play by the Executive upon proclamation of a national emergency. They were invoked from time to time as need appeared. Under this procedure we retain Government by law—special, temporary law, perhaps, but law nonetheless. The

public may know the extent and limitations of the powers that can be asserted, and persons affected may be informed from the statute of their rights and duties.

As I see it, this is exactly what the Bill before us aims at doing.

I believe that this measure may be regarded as a useful legislative tool to be used if and when an emergency ever occurs in any part of the State.

It was my intention to refer to the scope of the Bill, but I believe this has been covered more than thoroughly by other speakers.

However, the regulations that can be framed under the legislation are worthy of some comment. I note that proposed new section 47 (2) has clearly spelt out the regulations which can be framed under this Bill.

That subsection covers co-ordination; stocktaking and rationing; regulating supplies; priority of use; compilation of information on stocks; delegation of powers to administer regulations; penalties; charges; procedure for claims; procedure for appeals; administration and staffing, and the marshalling of resources. Perhaps I should correct that last sub-heading so that it reads: the marshalling of fuel, energy and power resources. I do not believe that this could be spelt out more explicitly.

Responses to specific points of objection to the Bill have been brought forward in this Chamber and in another place and I do not intend to go over them again at this stage because they will come up again for discussion during the Committee stage of the Bill. However I would like to refer to the Environmental Protection Act which was introduced by the Hon. J. T. Tonkin, and assented to on the 15th December, 1971. The controversial clause 4 of this Bill can be read almost word for word in section 7 of that Act.

I think it is also worth referring to section 22A of the Interpretation Act. I refer to this section in the context of the limitation of the operations of the Bill we are discussing. Section 22A of the Interpretation Act reads as follows—

22A. Every Act shall be read and construed subject to the limits of the legislative power of the State and so as not to exceed that power to the intent that, where any enactment thereof, but for this section, would be construed as being in excess of that power, it shall nevertheless be a valid enactment to the extent to which it is not in excess of that power.

I believe we have answered the arguments put forward by people criticising certain actions that may be committed under the provisions of clause 4 of this Bill. On the same score, I wish to quote clause 594 on

page 395 of *Halsbury's Laws of England* in the part dealing with interpretation. It reads as follows—

594. Statute to be construed as a whole. For the purposes of construction, the context of words which are to be construed includes not only the particular phrase or section in which they occur, but also the other parts of the statute.

I will not read the rest of the clause.

I believe it is neither logical nor legal to interpret clause 4 other than in the context of the whole Bill. I believe it is quite mischievous of members of the Opposition to assert that this can be done.

On the question of the regulations, I think that there has to be an understanding that they are, in fact, enacted to deal with an emergency. It could also be said that it would be pointless for laws of this nature to be placed on the Statute book if they did not override other Acts, proclamations, and so on. Mr Cooley has referred to the fact that the Bill permits a change in industrial awards. Like Churchill, I consider that Parliament has control over this matter. I also find it quite easy to visualise circumstances where awards will have to be changed. I consider that the hours which men have to work under a particular award may have to be changed should an emergency arise. The award may prescribe that workers have to work certain hours, but in an emergency affecting the supply of fuel, energy, and power, those workers may be required to work outside their normal range of hours. I believe that emergency regulations should have power to require this to be done.

I do not have to describe the conditions which prevail in my own province to Mr Cooley, because he knows them very well. A large number of industrial problems relate directly to demarcation; I can readily visualise an emergency arising in the Pilbara. It is not illogical to assume that we could have a double-pronged cyclone accompanied by high tides, and coinciding with a maximum storm surge, and in this event it may be necessary for us to invoke the emergency fuel, energy, and power resources legislation.

I believe that some of our demarcations made in normal circumstances will have to be set aside in an emergency, and I hope Mr Cooley will not disagree with this point of view.

I find it incredible that the Opposition persists in questioning the safeguards that are built into this Bill. However this question has been covered by Mr Medcalf very ably. From the Bill I note that Parliament has to be assembled and that both Houses have to agree to the order declaring an

emergency. In addition either House can disallow a regulation under section 36 of the Interpretation Act.

It is quite clear that the safeguards are more explicit in this Bill than in the emergency legislation enacted in the United Kingdom, the United States of America, or in other States of the Commonwealth. But even further, after those three safeguards to which I have referred are taken into account, the normal processes of appeal are available to any aggrieved person. Mr Medcalf has already outlined that to the Chamber and so there is no need for me to go into the question of civil proceedings.

Nevertheless, I think it is desirable that I should refer to one particular aspect. I have here in my hand the *Government Gazette* for 1971 in which appears a list of the rules of the Supreme Court.

Under Order 58, rule 11 (1) we have—

11. (1) Any person claiming any legal or equitable right in a case where the determination of the question whether he is entitled to the right depends upon a question of construction of a statute, or of a regulation, rule, by-law or instrument made or purporting to be made under a statute, or of the validity of any such regulation, rule, by-law, or instrument, may apply by originating summons for the determination of such question of construction or validity, and for a declaration as to the right claimed.

Under this rule any person can initiate civil proceedings which will be heard in Chambers by a judge, by originating summons.

I make no pretence of understanding legal questions. In fact, in the past I have possibly been one of those inclined to the view that the law is something of an ass. However, I am most surprised at the legal safeguards written into legislation generally, but into this legislation in particular.

To suggest that the rights of the individual have been eroded under the provisions in the Bill is nonsense and hypocrisy.

I do not wish to proceed with other items included in the Bill. However, it is important to realise that the Town Planning Act includes the same right of appeal to a Minister and, once again, the Minister has absolute discretion in the rejection of those appeals. It is not an unusual provision to find in a Bill.

The Hon. R. Thompson: Could I draw attention to the state of the House?

The PRESIDENT: I have counted the House and a quorum is present.

The Hon. J. C. TOZER: With regard to clause 9 which deals with the validation of acts taken before the regulations have been promulgated under an order, it must

be emphasised that every Statute is subjected to rules of interpretation. As Mr Medcalf explained, every contingency cannot possibly be covered. However, it is quite clear that criminal or illegal acts cannot be validated. Of course Parliament can also disallow undesirable action should any be taken.

I can be influenced by many things, including the encroachment on civil liberties or rights of the individual. These are fundamental tenets of Liberal Party philosophy. However, I will not be influenced by threats of confrontation or civil disobedience. Mass rallies will not make me change my mind on subjects like this, when I believe that a good and appropriate piece of legislation has been introduced.

In conclusion, I would like to refer to David Hume, the 18th century essayist, historian, and philosopher, who has written about what was possibly one of the foundations of our parliamentary system as we know it. In his essay on, "The Idea of a Perfect Commonwealth", he wrote—

... in all cases, it must be advantageous to know what is the most perfect in the kind, that we may be able to bring any real constitution or form of government as near it as possible, by such gentle alterations and innovations as may not give too great a disturbance to society.

I wonder whether David Hume was seeing ahead 200 years to 1974 in Perth, Western Australia.

I wholeheartedly and without reservation support the proposition that the Bill be read a second time.

THE HON. R. THOMPSON (South Metropolitan—Leader of the Opposition) (10.20 p.m.): From the outset let me say I intend to oppose this Bill chapter and verse. The main reason for my opposition is that the Bill has not been properly drafted, researched, or communicated to those affected by it.

I am not opposed—neither is any member of my party—to emergency fuel legislation, because such legislation is vital; but it must be of the right kind.

I do not think that we should at this stage go any further with this Bill because if a fuel shortage hits Western Australia it will affect the whole of Australia and thus national legislation would have to come into being in order that the whole of Australia might be protected under the same set of laws. This is only logical, as was pointed out by Mr Bob Hawke yesterday at a rally, in Press statements, and at a meeting we had with the Ministers in this House. He indicated that Western Australia does not stop at the border because this State is part of Australia. If this legislation was invoked we would be the losers.

Let us examine the legislation in its present form. Mr Medcalf referred to the airlines and the baggage people who work for them. However, those workers would not be affected by this legislation because they belong to a Federal union, as do waterside workers, who likewise would not be affected.

The seamen who bring in the supplies belong to a Federal union, as do many other people in Western Australia. Even if action were taken against the unions it would have to be against the 28 unions which are registered in this State. A total of approximately 100 000 unionists are affiliated with the Trades and Labor Council in Western Australia and they are split between 28 State unions and 40 Federal unions.

The Hon. Clive Griffiths: But the Leader of the Opposition is still presupposing that the emergency has got to be caused by a union.

The Hon. R. THOMPSON: I will come to that.

The Hon. W. R. Withers: That is most unlikely.

The Hon. R. THOMPSON: I will cover all aspects. Therefore, if this measure is a ruse to frighten unionists it has lost its impact at this point.

The Hon. Clive Griffiths: The Leader of the Opposition is the only one who has said that.

The Hon. R. THOMPSON: I said "if".

The Hon. Clive Griffiths: Nobody has said that was the situation.

The Hon. R. THOMPSON: I wish the member opposite would listen to what I am saying. I said "if".

The Hon. Clive Griffiths: I know what the Leader of the Opposition is saying.

The Hon. D. W. Cooley: A member on the other side said he wanted the Transport Workers' Union bashed.

The Hon. G. E. Masters: Did the member say "bashed" or "banned"?

The Hon. D. W. Cooley: I said "bashed". It is in *Hansard*.

The Hon. R. THOMPSON: It can be seen that considerable heat has been engendered, and it has been engendered for one reason and one reason only: fear. When this Bill was introduced virtually nothing was said about it, either in the other place or in this House. The introduction covered some nine or 10 pages.

The Hon. Clive Griffiths: Mr Dellar said the introduction took 11 minutes.

The Hon. S. J. Dellar: That is right.

The Hon. R. THOMPSON: The Bill was not explained, and one cannot blame the public, members of Parliament, or anybody else if sufficient information is not given when the Bill is introduced. The honourable Clive Griffiths should be the

first one to raise the matter because during the three years while he sat in Opposition—fortunately I was the only Minister who was not castigated by him—on almost every Bill he would get to his feet and tell the Minister that he had not explained the legislation, and ask what it meant. I do not know why he has not taken the same attitude towards this Bill, because it was not explained when it was introduced.

The Hon. Clive Griffiths: It was explained as far as I am concerned.

The Hon. R. THOMPSON: I challenge the Minister, when he replies, to explain any clause of the Bill which he considers to be of a favourable nature. The Minister did refer to a provision which was deleted from the Bill by amendment in another place. I do not know why that was mentioned, because we deal with the Bill as it is presented to this House, and we do not deal with something which has occurred in another place.

The Hon. Clive Griffiths: Do not tell me.

The Hon. R. THOMPSON: I think it is rather hypocritical of the honourable Clive Griffiths, in view of his form in recent years, except to, the weak, lame introduction of the Bill.

The Hon. Clive Griffiths: The Leader of the Opposition knows perfectly well that his Ministers were not capable of introducing Bills. This Minister is capable, and that is the difference.

The Hon. G. C. MacKinnon: Thank you, Mr Griffiths.

The Hon. R. THOMPSON: I give the Minister full marks for the dramatics he applied when he introduced the Bill. He put on a pretty good act. However, the message is not contained in the notes which he read to us.

The Hon. G. C. MacKinnon: What sort of act did I put on?

The Hon. R. THOMPSON: The Minister put on a dramatic show, and I thought it was good.

The Hon. G. C. MacKinnon: I presented an explanation of the purpose of the Bill.

The Hon. Clive Griffiths: The Minister's performance did not stop the Leader of the Opposition from misrepresenting the Bill on the hustings.

The Hon. R. THOMPSON: I ask the member opposite to tell me when I spoke on the hustings. I ask him to back up his words, because that is another airy-fairy put-up. I did not say one word.

The Hon. D. W. Cooley: Airy-fairy fancying.

The Hon. R. THOMPSON: So it can be seen that all the opposition to this Bill has been enlisted by the Government. It is the Government's responsibility to introduce a Bill in a lucid manner so that people can understand what it is all about.

In contradistinction to what the Hon. Bill Withers and other members have said about people in the North-West and elsewhere not having up-to-date copies of the Bill, a lady who happens to be a member of the Liberal Party came to my house last Sunday morning with an old copy of the Bill which she obtained during last week from the Liberal Party headquarters in Fremantle, I take it.

The Hon. A. A. Lewis: Did you explain the amendments had not been made to it?

The Hon. R. THOMPSON: I am always honest and I told her she had the wrong Bill.

The Hon. A. A. Lewis: You said earlier you take only the Bill that comes into this House, but obviously some of the people behind you do not always take the Bills that come into this House.

The Hon. R. THOMPSON: Strange but true, I am one who very seldom reads *Hansard*. I certainly do not read my own speeches. I usually assess a Bill as I see it. Tonight, for the first time, we had an explanation of the Liberal Party's viewpoint on this legislation. I compliment Mr Medcalf on his delivery and explanation. However, I have read the opinions of two professors of law and one Queen's Counsel, and they all differ; and they certainly differ from Mr Medcalf's opinion. To be fair to Mr Medcalf, he presented his speech as an opinion; and as an opinion I will not criticise it in any way at all. He is entitled to his opinion. The Law Society is entitled to the opinion expressed in its report. The two professors of law, who are rather highly qualified, have differing opinions, and a Queen's Counsel has another different opinion. I will not quote them all because I do not want to weary the House.

Most of the opinions that could have been given from our side have been given. Our views have been put forward, and although some members might have criticised the length of time our speakers took, it shows they worked and researched every facet of the legislation. But what did we find on the Government side? It could not get a speaker last night. Members on the Government side were running around trying to get a speaker.

The Hon. Clive Griffiths: We had more speakers than you did.

The Hon. R. THOMPSON: No-one was prepared to speak.

The Hon. W. R. Withers: You said you never told lies.

The Hon. R. THOMPSON: This was well demonstrated because when speakers on the Government side rose to speak they did not know what was in the Bill. If there has been any rubbish or diatribe during the course of this debate it has come from the Government members, not from the Opposition members.

The Hon. Clive Griffiths: I thought you would say that.

The Hon. R. THOMPSON: The Opposition members have taken time to study and understand the meaning of the Bill.

The Hon. Clive Griffiths: How many Government members spoke yesterday?

The Hon. R. THOMPSON: Three.

The Hon. V. J. Ferry: Four.

The Hon. D. K. Dans: But look at your contributions and the length of them in relation to ours.

The Hon. R. THOMPSON: Last night reference was made to the Industrial Arbitration Act, the length of time it took to go through the House, the fears the Labor Party expressed about that legislation at the time, and what has happened since. I handled that Bill for the Opposition in 1963 and what I forecast then has come true. With every other piece of industrial legislation from that time onwards I have made the same forecast; that is, that the anti-Labor Governments were driving State-registered unions into Federal unions. This piece of legislation will continue that trend.

The Hon. A. A. Lewis: Do you really believe that?

The Hon. R. THOMPSON: Of course I do. I belong to a Federal union myself. We will have a greater flow into Federal unions and we will end up with four or five conciliation commissioners looking for jobs in a very short time.

This type of legislation should be on a national basis. No doubt the Government will force it through without any real examination, contrary to its own policies and the civil liberties espoused by the Premier in his policy speech. Everybody who has spoken has expressed a different viewpoint in regard to the legislation. It should be taken back and re-examined by a competent set of the best legal brains that Western Australia or Australia can produce, if the Government intends to proceed with it.

The Hon. W. R. Withers: Are you saying the Crown Law Department is incompetent? You have just implied it.

The Hon. R. THOMPSON: I think most members who have been in the Chamber for a long time would agree that particularly over the last three years Mr Medcalf has not agreed with very much of the legislation of a deep and controversial nature in the form in which it has come to this House. He did not agree with the companies legislation.

The Hon. A. A. Lewis: That is a very sweeping statement. He has agreed with a good deal of the legislation.

The Hon. R. THOMPSON: I am being honest and Mr Medcalf would not disagree with what I am saying.

The Hon. G. C. MacKinnon: I think he would say he had differences of opinion on some aspects.

The Hon. R. THOMPSON: Of course, the Crown Law Department is not always right. Mr Medcalf is not always right, nor is any lawyer always right. I can give an illustration of something that happened in 1948.

The Hon. G. C. MacKinnon: The only fellow who is always right is the judge.

The Hon. R. THOMPSON: We engaged three top Queen's Counsel in Sydney in connection with a union case. The opinions of all three Queen's Counsel differed. We engaged two of them and it cost us £12 000. The whole case cost £23 000, and we lost it. So even the best legal brains in Australia can differ. I would not say either the Crown Law Department, the professor of law at the university, or any lawyer around the town had the best legal brains.

The Hon. H. W. Gayfer: You are lucky if you can get a lawyer with only one arm. They always say, "On the one hand I say this, and on the other hand I say that." If he has only got one arm, he is a good one.

The Hon. R. THOMPSON: I have found from experience with rather complex legislation it was wise to refer it to the Law Commission for study before introduction to this House. I do not think that legislation I introduced in the House was ever amended because the Law Commission always came up with good sound ideas.

I accept the viewpoint put forward by Mr Medcalf that this was not a completely studied opinion; it was a report. However, at the least this legislation should go back to the Law Society. It should be re-examined, especially after consideration of the viewpoint of all interested parties.

All members received a letter today from the Automotive Chamber of Commerce. This organisation has never been consulted about the measure. The trade unions consider they are at risk with this Bill, but they have never been consulted, although on the 10th September they requested a meeting with the Premier. The result of that was read out last night, and I will not traverse the same ground again.

Members will see it is imperative that we should not have legislation coming here and creating a division within the community. Unfortunately this trend is creeping into our life—the community is being divided. We should be constructive. The Government should not bulldoze this legislation through. It should take it back now and look at it again. Even Mr Medcalf, on his own admission this evening, considered that this clause referring to a person's state of mind should be looked at again. Do not tell me that any judge could interpret the state of mind of someone else. It is impossible to do this in law. The eminent lawyers who have given reasoned consideration to this Bill, also consider that an impossibility.

There have been a lot of stupid comments about the preparation of this Bill by the Labor Government.

The Hon. G. C. MacKinnon: The preparation of a Bill.

The Hon. R. THOMPSON: It has never been denied that we did have a Bill prepared. Prior to Christmas, 1973, a serious fuel crisis was looming and something had to be done in a hurry. Cabinet discussed this matter and instructed the then Minister for Fuel and Energy (Mr May) to have legislation prepared. He did this, and draft legislation ultimately came back to Cabinet on the 22nd January when it was discussed. By that time the main fuel crisis had passed. The possibility of a world-wide fuel shortage no longer existed. Therefore, the legislation was not proceeded with.

The Minister in charge of the Bill presently before the House would know that the only failing of the then Minister was the lack of instruction to the Crown Law Department. A note from the Crown Law Department said, "In the absence of any specific instructions . . ." or words to that effect.

The Hon. G. C. MacKinnon: No detailed instructions.

The Hon. R. THOMPSON: That is right. The reason for this was that we had just finished a very heavy session of Parliament. If memory serves me correctly, we adjourned on the 16th December. When the Bill came back to Cabinet in January it was put aside, and one of the reasons for this was that under the Constitution the last time Parliament could have been called together to enact legislation would have been the 30th January. Parliament could have met up to that time under an emergent situation. It was considered that if necessary Parliament would act responsibly and it would again meet to enact legislation to control the supply of fuel, particularly in Western Australia. I hope that all members now have the picture loud and clear.

Probably the Labor Party works a little differently, and perhaps a little more efficiently, than the other parties. I am not castigating the other parties about this, but I would like to explain our system. A Bill is examined by Cabinet Ministers while it is still in draft form. It is then taken to our party meeting, and it can be examined by all members of our party for at least one week. The party members may then suggest amendments. I do not say that all the amendments suggested are accepted, but at least our members have the full right to discuss and examine the legislation. After that period is over, the measure is printed and introduced into Parliament.

The Hon. Clive Griffiths: Could you just explain where that system differs from the one we adopt?

The Hon. H. W. Gayfer: Do you think that your system is unique?

The Hon. D. K. Dans: We were the first with it.

The Hon. H. W. Gayfer: I am asking a simple question.

The Hon. D. K. Dans: You do not know your political history. Your party hasn't got any history.

The Hon. R. THOMPSON: I did not say we were unique. I said in all probability our system differs from that operating in other parties. I have not been in the Government's Cabinet room and I do not know how it operates. However, I am explaining what takes place in the Labor Party room.

The Hon. Clive Griffiths: You said that your system is more efficient than ours.

The Hon. R. THOMPSON: I said the Bill is not printed and introduced until all members have had a chance to discuss it. Mr Claughton gave an example of a Bill that was rejected, and more than one Bill was rejected.

The Hon. Clive Griffiths: But you said your system was more efficient than ours.

The Hon. R. THOMPSON: I know what I said.

The Hon. H. W. Gayfer: You ought to be a member of a coalition Government—then you would know how many Bills are not approved in the joint party rooms.

The Hon. R. THOMPSON: I can appreciate that too, just as I can appreciate how Mr Clive Griffiths must pull Bills apart in his party room. He is like a little tiger.

The Hon. D. K. Dans: I couldn't imagine that!

The Hon. R. THOMPSON: He is like a bookworm—he would go right through them.

The Hon. G. C. MacKinnon: The most co-operative fellow you could imagine.

The Hon. R. THOMPSON: I interjected on somebody last night and said he cannot even read—I think it was Mr Ferry.

The Hon. G. C. MacKinnon: You were telling us all that, I think.

The Hon. R. THOMPSON: But only one at a time. The Premier gave a full summary in the *Daily News* on the 4th September under the heading of, "Labor Cabinet 'had Fuel Bill' ". What I have said, without reading out the article, is what is contained in it; I did not have to refer to the article because I know what took place in Cabinet. Therefore there is no valid criticism because the Bill was never introduced. It could not have been introduced, because by the time it was received by Cabinet we were facing an election.

The Hon. W. R. Withers: But your Premier and Cabinet approved the draft Bill.

The Hon. R. THOMPSON: Yes, it was approved to go to Caucus; and it is in Caucus that Bills are knocked into shape. Is it the practice of the present Government to have a Bill approved by Cabinet and then introduced in Parliament—like a one man band—so that members opposite find out what is in the Bill when it comes to this place?

The Hon. Clive Griffiths: That is not our system; it is the same as yours.

The Hon. R. THOMPSON: Then what is the honourable member complaining about?

The Hon. Clive Griffiths: I am not complaining. You are saying we have another system.

The Hon. R. THOMPSON: Then Mr Griffiths had better explain what goes on to Mr Withers because apparently he does not know.

The Hon. Lyla Elliott: Do you mean that you discussed this Bill in your party room before it came to Parliament?

The Hon. D. K. Dans: Did they ever!

The Hon. Clive Griffiths: How do you think we got approval to introduce the Bill?

The Hon. R. THOMPSON: Even the birds in the trees were twittering that there was a dispute. I recall a remark you made on one occasion, Mr President, that you would like to be a fly on the wall in the Labor Party room.

The Hon. D. K. Dans: Don't start that again.

The Hon. R. THOMPSON: On this occasion it was not necessary for one to be a fly on the wall in the Liberal Party room, because the dispute was common knowledge.

The PRESIDENT: If the honourable member is going to make statements like that I think he should give the context in which the words were used.

The Hon. R. THOMPSON: It was common talk that a grave confrontation occurred in the Liberal Party room over this Bill as recently as a fortnight ago.

The Hon. G. C. MacKinnon: It is a serious Bill; you wouldn't expect anything else, would you?

The Hon. R. THOMPSON: It was even suggested that it was a case of the Bill or the Premier.

The Hon. W. R. Withers: That must have been at a different meeting from the one I was at.

The Hon. Clive Griffiths: I think you are thinking about the Caucus meeting.

The Hon. R. THOMPSON: Make no mistake, it was the Bill or the Premier.

The Hon. G. C. MacKinnon: That rumour went around about Mr Tonkin at times, but I have not heard it about Sir Charles.

The Hon. W. R. Withers: It is an incorrect rumour.

The Hon. R. THOMPSON: It is not a rumour.

The Hon. D. K. Dans: If this Bill is so good I do not know why members opposite credit us with having drafted it.

The Hon. R. THOMPSON: Why have members of the Government parties complained that we have not explained the Bill? Mr Withers said that, and so did Mr Griffiths.

The Hon. W. R. Withers: You only explained it to people to make them come out on strike.

The Hon. R. THOMPSON: It is the responsibility of the Government to explain the Bill; it is not the Opposition's responsibility to do that.

The Hon. W. R. Withers: You must have read a second reading speech different from the one in *Hansard*.

The Hon. R. THOMPSON: I came into contact with some people and gave away a few copies of the Bill. I did not do as Mr Gayfer did and have breakfast with two chaps and explain the Bill to them.

The Hon. H. W. Gayfer: I said I handed them a copy of it.

The Hon. R. THOMPSON: No, Mr Gayfer said he still had the Bill; he pulled it out of his pocket, and then he put it back.

The Hon. H. W. Gayfer: I handed it to them and they read it.

The Hon. R. THOMPSON: Well, Mr Gayfer should read *Hansard* to see what he said. I attempted to interject to find out what he meant by one of his statements which alluded to me. As near as I can recall, he said he was having breakfast in an establishment where workers gather, and where I would not eat.

The Hon. H. W. Gayfer: Possibly you would not be accustomed to that sort of situation.

The Hon. R. THOMPSON: I wonder what Mr Gayfer meant by that.

The Hon. H. W. Gayfer: At the time Mr Cooley and I had a row across the room to the effect that I had never done any work. Members will recall that I said I mixed with people from the country who are workers that you people would not understand.

The Hon. R. THOMPSON: Probably when the honourable member checks his speech he will come back and tell me privately that he made a mistake. In answer to him, I point out that I do not have breakfast with two men; I have breakfast with my wife.

The Hon. H. W. Gayfer: My wife was there too. *Touche!*

The Hon. Clive Griffiths: The only thing you can associate with the Bill is burnt toast.

The Hon. R. THOMPSON: The Bill was in his pocket.

The Hon. H. W. Gayfer: I have it in my pocket now.

The Hon. D. K. Dans: Do you carry it around with you?

The Hon. H. W. Gayfer: Yes.

The Hon. R. THOMPSON: When Mr Medcalf spoke this afternoon he said—as did many other people—the Bill has been grossly misrepresented, and that some people had been wrongly accused and abused for their actions in trying to explain it. I would refer members to *The West Australian* of the 4th September and the article under the heading of, "Mensaros raps Law Society on fuel Bill". The article states—

The Minister for Fuel and Energy, Mr Mensaros, said last night that the WA Law Society's comments on the State Government's emergency fuel Bill were more like a political manifesto than a legal document.

Of course, that is contrary to the expressions of Mr Medcalf when he spoke about the Law Society this afternoon.

The Hon. G. C. MacKinnon: That is another difference in the case of members who are not subject to a caucus.

The Hon. R. THOMPSON: The article continues—

He told the Legislative Assembly that the comments had not been done at a professional level.

Mr Mensaros accused the Opposition of briefing four Labor supporters in the Law Society on the Bill to obtain an adverse opinion and then using their comments to incite the public against it.

What utter rubbish and rot.

The Hon. G. C. MacKinnon: Mr Cooley admitted tonight that he had given a copy of the Bill to someone.

The Hon. D. W. Cooley: It is just as well I did.

The Hon. R. THOMPSON: Those statements were denied. However, they did Mr Mensaros no credit, and it did the Government no credit to come out and accuse the Law Society in that manner, bearing in mind its members have been good friends of all Governments. If any wrong accusations have been made they started with the Minister for Fuel and Energy. I think it is shameful and shocking that a responsible Minister of the Crown should castigate and virtually crucify people who perform a public service.

The Hon. G. C. MacKinnon: I repeat that Mr Cooley admitted tonight that he had been to the Law Society and given them a copy of the Bill.

The Hon. R. THOMPSON: That is not what Mr Mensaros said. He accused the Opposition of briefing four Labor supporters in the Law Society to obtain an adverse opinion on the Bill. He accused us of using their comments to incite the public against the Bill. I wish we did have a few more lawyers on our side. We have a fair few in the other place but we do not have any here.

The Hon. J. C. Tozer: You have the odd bush lawyer here.

The Hon. R. THOMPSON: Who is a bush lawyer? Not Mr Tozer I hope. Even Dick Harding, a professor at the university, was accused by Mr Mensaros of being one of the party to bring in this report. Of course, Mr Harding denied that he had ever been near the Law Society to study the Bill. However, it is on record that when the report of the Council of the Law Society was before the full meeting of the Law Society on the 9th September, the voting was 69 to four, or something like that, against the Bill.

The Hon. R. F. Claughton: It was 65 to four.

The Hon. R. THOMPSON: It was 65 to four against the Bill. So, members can see that this difference of opinion exists throughout the legal fraternity and the trade union movement. Divisions exist within the Liberal Party on this issue.

The Hon. W. R. Withers: What about talking to the Bill we are now considering? You are referring to another Bill.

The Hon. R. THOMPSON: There are divisions within the Country Party.

The Hon. H. W. Gayfer: Oh, come on! There are only two of us here. There is no division here.

The Hon. R. THOMPSON: I happened to hear the programme "State File" of the 10th September. I was so interested that I picked up a pencil and scribbled a few of the remarks of the person being interviewed. It was none other than Mr Norman Lockyer, Chairman of the Constitutional Committee of the Country Party.

The Hon. H. W. Gayfer: Yes, that is old Norm.

The Hon. R. THOMPSON: He said that clauses 2, 4, 9, and 15 were the objectionable clauses. He said that they invited retaliation. How true that is. He maintained that a Government elected in both Houses could use extreme powers under section 73 and could vote itself to stay in power forever.

The Hon. T. O. Perry: He had not seen the Bill, had he?

The Hon. R. THOMPSON: He is a responsible member of the Country Party. Do not tell me that Mr Gayfer did not show him a copy of the Bill he had in his pocket.

The Hon. W. R. Withers: He did not see this Bill; he saw the old Bill.

The Hon. D. W. Cooley: He did; that was on the 10th September. The amendments were moved prior to that.

The Hon. R. THOMPSON: Mr Lockyer said that he had approached Mr McPharlin and Mr Crane and asked them to oppose the Bill. However, he said, "I do not think they will. They will be going along with the advice of the Liberal Party." Mr Lockyer qualified his last statement by saying when he was questioned on strikes that, "Strikes are not all the fault of unions. They can be engineered at all times by employers." Members can see that even the constitutional spokesman for the Country Party is at variance with the elected members of the Country Party in this Parliament. There is a great division in the Liberal Party itself.

The Hon. W. R. Withers: Where?

The Hon. R. THOMPSON: I know, because I know many members of the Liberal Party. As a matter of fact, I have a relative in the Liberal Party and I hope she stays there because I would not want her in the Labor Party; she would ruin it. I would rather have her doing the good work she is doing within the Liberal Party. If she stays there they will certainly come unstuck.

The PRESIDENT: Order! I do not see what the honourable member's relatives have to do with the Bill.

The Hon. R. THOMPSON: Neither do I, Mr President, but I have heard many other things during this debate which have not been relevant to the Bill.

Mr Medcalf when referring to clause 4 of the Bill made the point that when mining agreements come before this House, they override or could be made to override all other Acts. He used the word wrongly, but I did not criticise him at the time. Perhaps I am wrong, but I do not believe that is the case. Such agreements generally define the Acts in the schedule and this is what should be done with this legislation. The Acts which this legislation can override should be defined. There is even doubt in the legal fraternity as to the legalities to which a person can be subjected and the rights of appeal he will have under this legislation. If that doubt exists in the minds of lawyers, barristers, professors and the like, do not members opposite think the Bill should be re-examined? Do members opposite think that just because members in this House think the Bill is all right, that it is all right? Mr Medcalf would not give a sworn declaration that this Bill is in true and proper form because he would be too

responsible to do so. If we are to listen to the old song that has been sung many times here that this is a House of Review, why should we pass legislation such as this? Why should it not be sent for review? We are not qualified to review it.

The Hon. W. R. Withers: What you suggest is impractical.

The Hon. R. THOMPSON: What, to send it back? Is there any dire need for this legislation in three months, six months or 12 months? One would need to be a crystal ball gazer to say that.

The Hon. W. R. Withers: You suggest that we should send the Bill back and re-examine it. Are you suggesting that we should nominate the Acts which will be affected by this Bill? If you are, that is impractical. If it were not impractical, we would have done that.

The Hon. R. THOMPSON: If Mr Withers was listening earlier, he would know that I said the Bill should have gone to the Law Society so that it could make a thorough examination of the legislation.

The Hon. W. R. Withers: But you mentioned nominating all Acts which will be affected by this Bill; that is quite impractical.

The Hon. R. THOMPSON: I feel that the Law Society would oppose, in particular, clause 4 of this Bill. To the best of my knowledge, the Law Society has not altered its opinion that clause 4 will override all other Acts, agreements and awards. These are the things that should be spelt out and specified because the dangers of this legislation are very real; this is what members opposite cannot get into their heads. It is not so much what we are reading into the Bill as the regulations that can be enforced a fortnight before Parliament is called together.

The Hon. W. R. Withers: But if you did that, you would have to amend this Act every time you presented a new Bill to Parliament; that is totally impractical.

The Hon. R. THOMPSON: I know that Mr Withers does not have a lot of legal knowledge; he does not know what the Crown Law Department can come up with. If he is ever in a position where he wants a Bill drafted, he will know what he wants and he will tell the draftsman what he wants and the draftsman will put the legislation into legal terms for him. The draftsmen do the best they can. Is that not right?

The Hon. G. C. MacKinnon: You are doing very well.

The Hon. R. THOMPSON: They do the best they can, but we might have to send it back five or six times.

The Hon. W. R. Withers: Nobody disputed that.

The Hon. R. THOMPSON: Therefore, if it were referred to the Law Society at least we would get a Bill that is in true form and acceptable to the people because their civil rights would be protected. If we look at the Liberal Party's booklet, *Mein Kampf*—

The Hon. W. R. Withers: It is not titled "*Mein Kampf*"!

The PRESIDENT: Order! Mr Withers has made his speech.

The Hon. R. THOMPSON: It will be found in that booklet that members opposite place great emphasis on civil liberties, but the first Bill of any consequence that has been introduced to the Parliament this session seems to destroy civil liberties. Let us have a look at what the Liberal Party says in this booklet. It says that the party will deal with industrial unrest. I will quote this paragraph taken from the booklet, as follows—

We will encourage regular, meaningful consultation between unions, employers and Government in an effort to ensure that Government economic, financial, social and development objectives are better understood. From this we hope all parties will come to a better realisation of interdependence and community responsibilities.

What a sham!

The Hon. G. C. MacKinnon: It is no sham.

The Hon. R. THOMPSON: I would point out that the Trades and Labor Council wrote to the Premier asking if a representative of the Council could meet him. The Liberal Party says that it stands for better understanding with the unions, but the TLC did not receive a reply from the Premier. Yesterday the Government met the unions. Mr Cooley, Bob Hawke, and Mr Jim Coleman, the Secretary of the TLC, met the Premier, but was he prepared to talk to the unions? No! He said, "The legislation is going through." Further, in company with those three gentlemen I met the Ministers of this House.

The Hon. G. C. MacKinnon: I saw a picture in the newspaper of the Premier with Mr Hawke. They talked.

The Hon. R. THOMPSON: I did not say they did not talk. They met and spoke for an hour and a half, but nothing was agreed upon. The Premier would not give way on this legislation. It was not a meaningful discussion or an example of the Liberal Party showing better understanding with the unions. All the Premier said was, "The legislation is going through."

What happened when we met the three Ministers of this House yesterday? We encountered exactly the same rebuff. We were told, "The legislation is going through." Is this supposed to be meaning-

ful discussion with representatives of the unions? The only bodies which have supported the Government in this legislation are the Civic Affairs Bureau—which is an offshoot of the Liberal Party—and the Employers Federation.

The Hon. G. C. MacKinnon: That is news to me.

The Hon. R. THOMPSON: They are the only two groups of people who have supported the Liberal Party on this Bill. Of course we have heard all the speeches Sir Charles Court has made on TV. His speeches are almost like a record now. He says, "We are going to look after decent people and protect them." He rants on as he always does and people are just about at the stage where they are ready to turn off their TV sets as soon as he appears.

Point of Order

The Hon. G. C. MacKinnon: On a point of order, Mr President, I find this reference to the Premier objectionable. He is not here to defend himself. I cannot recall that we have made the same sort of allegations in relation to Mr Thompson, and I think the statement by the Leader of the Opposition should be withdrawn.

The PRESIDENT: The Minister has asked Mr Thompson to withdraw his comments regarding the Premier.

The Hon. R. THOMPSON: May I say, Mr President—

The PRESIDENT: You are asked to withdraw the comments you made.

The Hon. R. THOMPSON: Certainly I will withdraw my comments. I will also ask that *Hansard* be instructed to have all the statements made in this House—including the abuse that has been levelled at the former Premier (the Hon. J. T. Tonkin)—struck out of *Hansard*.

The PRESIDENT: I do not think that is the function of *Hansard*.

Debate Resumed

The Hon. R. THOMPSON: Such statements have been made on many occasions in this House. If we are to talk about withdrawing comments that are made in this House, let members look at the comments made on the motion that was moved last session by Mr Withers against a Minister who could not defend himself.

The Hon. S. J. Dellar: That was different.

The Hon. R. THOMPSON: It is fortunate that we have long memories.

The Hon. G. C. MacKinnon: There is a Standing Order dealing with it.

The Hon. R. THOMPSON: A Standing Order may deal with it, but I hope that in the future—

The Hon. G. C. MacKinnon: Such comments are quite unnecessary. I refer you to the speech made by Mr Dans; it was quite sound.

The Hon. R. THOMPSON: I could stand up and ask for the same indulgence to be shown in order that a withdrawal may be made of the statements that have been levelled against Federal Ministers, including the Prime Minister. Mr Whitlam is not present in this Chamber to defend himself. Such statements are made in this Chamber quite readily.

The Hon. N. McNeill: Or against Mr McMahon.

The Hon. R. THOMPSON: Usually I do not indulge in castigating Federal politicians no matter what their political colour may be. Reference is made in this booklet issued by the Liberal Party to civil liberties and other laws that protect the people. In order to get into Parliament the Premier fooled the public, because the policies that are printed in this Liberal Party booklet have not been put into operation.

The Hon. G. C. MacKinnon: When you sit down, read Standing Order 86 and then you will know what you can say and what you cannot say.

The Hon. R. THOMPSON: One point was made by one of the speakers to the debate, but I cannot recall who the honourable member was. He had something to say about students marching, and that every other person who marched would not know what the legislation was all about. He said that they had their arms twisted and were coerced into marching.

Let me remind members that of the 14 000 or 18 000 people—I do not know the exact number—who marched and attended the meeting held in the Supreme Court Gardens yesterday, all of them attended of their own free will and accord. No public transport was available for their use. Those attending the meeting at the Supreme Court gardens found their own way there and found their own way back to their destinations. Further, many hundreds of university students marched from the university. Who twisted their arms and coerced them to march from the university? I saw them. They marched along Riverside Drive and then into the Supreme Court gardens.

Of course, the reason that the university students came to this decision is that following the rally held on the 19th September in Parliament House grounds they held a meeting at the university at which the entire contents of the Bill were read to the students. I repeat: The complete content of the Bill was read to them.

These people made up their own minds. They had 2 000 leaflets printed, and these contained the clauses of the Bill word for word. It was these young people who, as a body, decided to march from the university. These are thinking people, and no-one has coerced them, twisted their arms, or misinformed them.

The Hon. S. J. Dellar: That is different from what Mr Tozer has said.

The Hon. R. THOMPSON: Of course, Mr Tozer would not know. He merely listens to what is said in the corridors. He said he was sitting in his room when the two rallies took place in front of Parliament House. He said he was busy at work and did not know what took place, but then he criticised the rallies. If he had listened to what was said at both rallies he would have learnt something about the opposition to the legislation. Unfortunately he did not listen to what those people, including the university students, were saying, yet he criticised them.

This is not a Bill which I can support under any circumstances. If it is re-drafted, and brought back before us after a thorough investigation and consultation with various groups which the Liberal Party says it is prepared to consult—I refer to the Employers Federation, the trade unions, the Automobile Chamber of Commerce, and oil companies, etc.—I might give it my support. If the long title of the Bill means what it says, why is there no consultation?

Over the years Mr Clive Griffiths has criticised members of the present Opposition for what they did as the Government in not referring a measure to the Local Government Association or some other minor group which, he claimed, should be given some say. I contend that the Government should consult the parties that are affected by any piece of important legislation, and I hope it will follow this policy although I doubt whether it will be introducing any more serious legislation this session. There is no reason that the Bill before us should not be re-drafted and investigated thoroughly, because there is no hurry for its passage.

I intend to vote against the second reading of the Bill, and in the Committee stage against every clause, for the reason that the Bill is ill-founded and will not do the Government any credit if it is passed. Even if it is passed it will never be proclaimed; it will merely be used as a threat. I think that is the intention of the Bill.

THE HON. G. C. MacKINNON (South-West—Minister for Education) [11.23 p.m.]: Good or bad as a Bill is, the one before us has certainly received a reasonable airing. First of all I would like to make a few comments on the airing it has received. This is my nineteenth year as a member of this House. I share with Mr Dans the feeling of sorrow about the direction in which this Chamber seems to be heading. The sort of debate that ensued last night certainly did not do the reputation of the Chamber any credit, and in saying that I am not picking out members on one side or the other.

There seems to be an attitude abroad that in this Chamber members are hell-bent on eliminating every sort of difference between the Legislative Council and the Legislative Assembly. I deplore that attitude.

In the whole of my experience in this House I do not remember an occasion when due to the sort of instance that arose on this occasion members asked for time limits to be placed on debates.

The Hon. R. Thompson: It would be a bad thing if time limits were imposed in this House.

The Hon. G. C. MacKINNON: It will be, but should that eventuate it would be our own fault. It was only in the last year or two that we have seen the sort of trick being played where a member takes political advantage of another member who is not in his seat. It has always been the view of members of this House that we are here as members for six years until the next election, and advantage should not be taken in this manner.

The Hon. R. Thompson: Our position has always been held sacrosanct.

The Hon. G. C. MacKINNON: I am glad the honourable member agrees.

The Hon. R. Thompson: I agree entirely that members should not indulge in that sort of thing.

The Hon. G. C. MacKINNON: This Chamber deserves the high reputation it holds; but that reputation is in the process of being ruined. I deplore that trend. The debate on the Bill before us has done little to enhance this Chamber. Some good examples of debate have taken place on the measure before us, but other contributions leave much to be desired.

The Hon. R. Thompson: Something happened last night, and there was no co-operation between the leaders of the parties.

The Hon. G. C. MacKINNON: Let me pin down that point. I understand that a request was made at 10.00 p.m. for some indication—

The Hon. R. Thompson: That is correct.

The Hon. G. C. MacKINNON: The speaker who commenced at 10.00 p.m. concluded his speech at 3.00 a.m. the following morning.

The Hon. R. F. Claughton: If you are referring to me I commenced my speech at 10.15 p.m.

The Hon. G. C. MacKINNON: It is very difficult at 10.15 p.m. to give an indication on that sort of co-operation. At the moment I do not wish to enter that field of controversy. I think there ought to be some hard thinking on the part of members of this House. I know some members have said, "Listen to him preaching." Not only do I hold the reputation of this

House in very high regard, but Mr Thompson also shares that view. I am sure that members would wish to retain the reputation of the Chamber as it was when Mr Thompson and I first became members. We are now in danger of losing that high reputation. I make no pretence in saying that faults are to be found on both sides. I leave it at that.

The Hon. R. Thompson: It is fair enough to say that the worst feature which has crept into the procedures of this Chamber is the debate on subjects, during the adjournment of the House motion, which have no relevance to the motion.

The Hon. G. C. MacKINNON: While this procedure has tremendous merit if it is used for a special purpose, it leaves much to be desired if it is not so used. The point I make is that we must maintain this House as a dignified and important Chamber. It is up to all of us to do that. I am afraid that we are in the process of losing that reputation. In this regard Mr Thompson has made his position clear, and so I do not mind naming him. I could also name other members who agree with me.

The Hon. R. Thompson: I agree with you entirely.

The Hon. R. F. Claughton: I have a good memory of the remarks that were passed when I first became a member.

The Hon. D. W. Cooley: Since I have been a member I have been insulted by the Minister several times.

The Hon. G. C. MacKINNON: I now wish to deal with the debate which has ensued on the Bill. I suppose the first criticism was directed at me and my introduction of the measure. I made reference to certain clauses; but I certainly did not cover the Bill clause by clause to counter the serious arguments that have been put at the hustings, and by the Law Society and other groups.

I explained the purpose of the Bill as the Government saw it, which was to assist the community in general on the occasion of an emergency in fuel and energy resources in this State. In that regard it is an essential piece of legislation.

It might sound strange, but I agree with a number of speakers who said they do not like this sort of legislation. I do not consider it is good and it is the type which none of us would like to be used. For members to say that we could produce good legislation of this type is a complete contradiction. We could produce acceptable legislation, which I consider this Bill to be. It is also essential legislation. The proof of this is that every other State has it and it is designed for essentials. The only State which does not have this type of legislation on its Statute book is South Australia, and it would like to have it. It has tried to get it on several occasions.

The greatest red herring drawn across the trail was thrown into the pool by Mr Bob Hawke who yesterday, at a conference with the three Ministers from this House, talked about Western Australia not stopping at the border. He asked what the good was of legislation of this nature just in Western Australia. My answer to that is that it is absolutely essential because the Commonwealth Government has no power in its Constitution to enact legislation for an emergency within Western Australia. It can enact complementary legislation to deal with an emergency covering Australia, but it cannot pass a law which will enable the State to take immediate action if a major explosion occurs at Kwinana. Of course it cannot.

The Hon. D. W. Cooley: I do not think that Mr Hawke was referring to it in that sense.

The Hon. G. C. MacKINNON: Mr Hawke used this particular analogy and I have carried his argument on precisely. It was a red herring; and Mr Hawke is no kid goat. He knew it was a red herring at the precise time I knew, which was the moment he uttered the words. There is no doubt about that at all.

Anyone who takes Mr Hawke, President of the ACTU, for a fool wants his own head read. Of course, Mr Hawke must know. He deals with Federal unions and with the States and he knows the Constitution. He is also a Rhodes Scholar. Consequently, he must know.

What alarms me is that his entourage there believed him; but Mr Hawke did not believe it. I am also alarmed because Mr Cooley, Mr Coleman, and these other fellows believe this nonsense.

The Hon. D. W. Cooley: You are misrepresenting the situation altogether. He was referring to the application of Federal awards in this State and the ineffectiveness of the legislation in respect of them.

The Hon. G. C. MacKINNON: Mr Hawke knows better than that; I know he does.

The Hon. D. W. Cooley: He would know as well as you do—

The Hon. G. C. MacKINNON: Of course he would. He knows jolly well that if the Federal Government tomorrow wanted to pass emergency legislation to deal with fuel and energy resources across the length and breadth of Australia, it would have to ask each State to introduce complementary legislation because it does not have the power to do so under its Constitution. That is a plain statement of fact.

The Hon. D. K. Dans: I do not think that is correct.

The Hon. G. C. MacKINNON: It is correct.

The Hon. D. K. Dans: If it were found that the emergency was interfering with the transport of commerce by plane, or anything else, between the States, it has complete power to do it.

The Hon. G. C. MacKINNON: Of course it has. That is a totally different matter and Mr Dans knows that. I do not take him for a goat either.

The Hon. D. K. Dans: That is one reason it could do it in some instances.

The Hon. G. C. MacKINNON: Talking about aircraft brings me to a point onto which members of the Opposition fastened after they heard Mr Medcalf's speech. To show the inconvenience which could be caused, he recited, by way of an anecdote, an experience he had in regard to an aircraft. Subsequently, two or three speakers fastened onto that aspect and said that this State legislation could not apply to an airport because airports were Commonwealth controlled. Of course we all know that. Do members really believe that Mr Medcalf does not know that, considering he was here when we passed legislation to assist the Commonwealth in its policing of Commonwealth properties? Mr Medcalf is fully aware of that fact.

The Hon. D. K. Dans: I did not suggest that.

The Hon. G. C. MacKINNON: Of course the law would not apply on Commonwealth property unless the Commonwealth asked for it to apply and complementary legislation was passed. However, our legislation could apply at Kwinana if there were an emergency, whereas a Commonwealth Act could not.

The Hon. D. K. Dans: Do you know that it has been found that dredging in bays or roadsteads and rivers where it contributes to commerce and industry between the States, is a Federal matter. So if a tug were held up at Kwinana this would be a perfect example of how the Commonwealth could move in. That is a statement of fact because I was on the receiving end on one occasion.

The Hon. J. C. Tozer: That is relevant to the Bill we are discussing.

The Hon. D. K. Dans: Yes, at Kwinana particularly.

The Hon. G. C. MacKINNON: It could well be. It could affect the position just outside Kwinana. However, several members—I think Mr Dans was one—said that no-one had denied that emergency legislation was required. I have no intention of checking *Hansard*, but I do not think that statement was quite correct. The sensible ones will admit that emergency legislation has a place on the Statute book because it is necessary.

The question of meaningful consultations was raised, but in some areas such consultations cannot possibly occur. They would be quite impossible with two opposing philosophies.

The only fear which has been raised is that either a union of industrial workers or a union of employers could, in fact,

cause a crisis or emergency, and some powers must exist somewhere to deal with such a situation if emergency legislation is to be meaningful in any sense of the word. That is quite realistic.

Mr Cooley made a great deal of play for a period of about three hours mainly on this one point. Hopefully, given enough time, Mr Cooley will become a first-rate member of the Legislative Council, when he ceases to be President of the TLC. I am not saying that he is not a first-rate president, but I think he would make a first-rate member of the Legislative Council. At the present moment he is not; he is President of the TLC, and it was in that capacity he was speaking for three hours.

I think it was the first occasion when I have not heard the lead speaker for the Opposition give an important Bill such as this one a reasonable sort of analysis. To say that there was no emotion on the Opposition side of the House was really begging the question, because there was an awful lot of emotion in that particular speech.

The Hon. D. W. Cooley: In my speech?

The Hon. G. C. MacKINNON: Yes.

The Hon. D. W. Cooley: You will have to read *Hansard* very hard to find any emotion in it.

The Hon. J. Heitman: Any sense, either.

The Hon. G. C. MacKINNON: Mr Gayfer's speech was delightful, but I do not think he would expect me to reply to it. He dealt with the broad principles of the Bill because, as he quite rightly pointed out in the early stage of his debate, this is really a Committee Bill. I certainly do not expect the Committee stage to be as short as has been the second reading debate.

This is a Committee Bill and needs to be examined, during Committee, in some detail. I think that all of Miss Elliott's queries were dealt with in the excellent speech made by Mr Medcalf, so I will not go over those comments again.

I really do not know whether Mr Cloughton expects me to answer his comments but there is one matter I would like to deal with. I refer to the sort of veiled reference which I find a little repugnant. Mr Cloughton, as members will recall, referred to the fact that a letter had been received and the implication was that the letter had been given to him by a member of the Liberal Party. I asked him, by interjection, if it was a parliamentary member and he said it was not, but the person concerned was a member of the party. That particular letter was written to a Mr Sutton.

The Hon. R. F. Cloughton: I gave his name and address.

The Hon. G. C. MacKINNON: I took my copy out of my file and followed it as the honourable member opposite read his copy. Mr Sutton lives at 16 Exbury Road, Armadale, and he wrote to Mr Mensaros because he had been to a union meeting at which a pamphlet was discussed. The pamphlet was circulated by the trade union urging opposition to the Bill. Mr Sutton doubted the truth of the document so he wrote to Mr Mensaros. Mr Mensaros replied and Mr Sutton was completely satisfied. He made three photocopies of the reply he received and he took one to his union meeting at which the proposed 24-hour strike was to be discussed. He kept the original copy. The document referred to would have to be one of the three photocopies which he took to the meeting.

The Hon. R. F. Cloughton: Is the Minister implying that I did not get it from a member of the Liberal Party?

The Hon. G. C. MacKINNON: I am explaining the way the member got the copy of the letter; it had to be one of the three copies.

The Hon. R. F. Cloughton: It was not from a member of any union.

The Hon. G. C. MacKINNON: The union later invited the Minister and Mr B. T. Burke to discuss the Bill, and then decided not to take part in the strike. That is how the letter came to be in Mr Cloughton's possession.

The Hon. R. F. Cloughton: That is the Minister's explanation.

The Hon. G. C. MacKINNON: The member opposite gave the impression that he got the letter by some sneaky means from a member of the Liberal Party who did not like the fuel and energy Bill. It was made to appear that by some means Mr Cloughton was able to get a photocopy of the letter rushed to him during the dark of the night. However, there were three copies.

The Hon. R. F. Cloughton: It was not given to me by a member of a union, and I doubt whether the person concerned would have been at the meeting.

The Hon. G. C. MacKINNON: We heard all sorts of stories last night about the lack of co-operation and an attempt being made to destroy the union movement in Western Australia. I do not believe there is any group of people who have any desire to destroy the union movement in Western Australia. There are a few people in this Chamber I can think of whose families would be split if such a move was attempted. I was a member of a trade union although I have not been a member for a considerable number of years now. Both my sons have been members of unions, and one still is. We do not intend to break up families. What is this talk about smashing homes?

The Hon. D. W. Cooley: It was said last night that an honourable member wanted to smash a union.

The Hon. G. E. Masters: That is not so.

The Hon. N. McNeill: You, Mr Cooley, are the only one who says those words.

The Hon. G. C. MacKINNON: One thing which does stick in my mind about Mr Claughton's speech is that for some obscure reason he wanted to top the president of the TLC by speaking for a longer time. So he spoke for five tedious hours of repetition and reading.

The Hon. R. Thompson: That was the result of the very thorough examination he made of all aspects of the Bill. He should be complimented for the manner in which he did his preparation, and for his speech.

The Hon. G. C. MacKINNON: We have been around here for some time and Mr Thompson is fully aware that probably the most complicated piece of legislation ever introduced in this House was the Companies Bill. If my memory serves me correctly you, Mr President, introduced the measure and I believe it took you about an hour to read the very detailed introduction. Mr Thompson is capable—and on many occasions he has done so—of very thoroughly analysing legislation in this Chamber. I would almost be prepared to bet money that he has never gone longer than two hours on such an exercise. The Leader of the Opposition knows, and I know, that Mr Claughton's speech last night was an exercise in tedium and an exercise in exhaustion.

The Hon. R. F. Claughton: Is this the new spirit the Minister was talking about when he prefaced his remarks?

The G. C. MacKINNON: It is the sort of thing which will lead to restrictions on speeches in this Chamber, and all of us will deplore such restrictions in time to come.

The Hon. R. F. Claughton interjected.

The PRESIDENT: Order!

The Hon. G. C. MacKINNON: The younger members in this Chamber will be able to recall that restrictions were brought about on the 1st October, 1974, as a result of a speech made by Mr Claughton.

The Hon. R. F. Claughton: I hope the Minister will be able to justify that comment because he will not be able to justify it from the contents of my speech.

The Hon. G. C. MacKINNON: I will not have to justify it. I am saying that if ever restrictions come about that will be the reason.

The Hon. R. F. Claughton: The Minister does not like criticism.

The PRESIDENT: Order!

The Hon. G. C. MacKINNON: Last night two speakers spoke for a total of eight hours.

The Hon. R. F. Claughton: I spoke for four hours and 14 minutes.

The PRESIDENT: Order!

The Hon. G. C. MacKINNON: Mr Lewis stuck to the Bill.

The Hon. R. F. Claughton interjected.

The PRESIDENT: Order! Order! I would ask Mr Claughton, when order is called for, to maintain order and not continue to interject.

The Hon. R. F. Claughton: I simply answered the Minister.

The PRESIDENT: Order! I have asked the honourable member to refrain from interjecting and he will please do so.

The Hon. R. F. Claughton: I rise to say—

The PRESIDENT: Order!

The Hon. R. F. Claughton: I rise because the Minister is being extremely provocative.

The PRESIDENT: Order, please.

The Hon. R. F. Claughton: If the Minister does not want to respect—

The PRESIDENT: Order!

The Hon. R. F. Claughton: —the House—

The PRESIDENT: Order! Is the honourable member rising on a point of order? If he is, say so, otherwise please maintain order.

Point of Order

The Hon. R. F. CLAUGHTON: On a point of order, Mr President, are the rules and procedures of this House to be used to stifle appropriate criticism of Government policy? Is that to happen?

The PRESIDENT: What is the point of order which the honourable member wishes to raise?

The Hon. R. F. CLAUGHTON: I ask whether the rules and procedures of this House are to be used to stifle appropriate criticism of debate and Government policy. That seems to be the situation we are arriving at.

The PRESIDENT: I do not see how an honourable member who spoke for a period of five hours while addressing himself to a Bill, and who will not respond to a request from the Chair to maintain order, can place an interpretation of that nature on the rules of this House.

Debate Resumed

The Hon. R. F. Claughton: I spoke for four hours and 14 minutes.

The PRESIDENT: I call on the Minister for Education.

The Hon. G. C. MacKINNON: Thank you, Mr President. Mr Lewis stuck to the Bill in very general terms last night and I do not think he would expect me to make any comment.

The Hon. R. Thompson: He did not say anything.

The Hon. A. A. Lewis: There were four points of order.

The Hon. G. C. MacKINNON: I made some brief notes regarding Mr Dellar's speech, and there was some talk about warfare on unions. That has been the line of debate from the Opposition, with the exception of Mr Dan's and the bulk of Mr Thompson's remarks.

Mrs Vaughan's was an interesting speech. She has impressed us all, I think, with her wide reading on philosophy; and that is about all. I am afraid that in the general context I finished up being fairly confused, like my colleague who became rather angry last night. Perhaps it was the time of night. Normally I enjoy a talk on philosophy. I am not a great admirer of Rousseau, but that is beside the point. I must admit it might have been the time of day that blunted my appreciation of Mrs Vaughan's general philosophic comments.

I do not think Mr Leeson, in his experience and knowledge of government, could really have been serious in his accusation of lack of guts. I think over the previous 12 years we were in office, and I am sure again on this occasion, our Government has shown it has all the guts needed to do what it feels it must do. Although he spoke briefly, Mr Leeson stressed the need for emergency legislation.

The Hon. S. J. Dellar: So did I.

The Hon. R. Thompson: Every member on our side has done that; but not this legislation.

The Hon. G. C. MacKINNON: Mr Medcalf was quite right when he stated factually and without histrionics that this particular piece of emergency legislation contained a far greater body of protective clauses and safety factors for the care of the individual in the general community—whether he be a member of a union of workers, a member of a union of employers, or just an ordinary employee—than any other similar piece of legislation across Australia, and certainly many more protective devices than the draft legislation prepared for the previous Labor Administration. It may well have been that after discussion in Caucus the Labor Government's draft legislation would have been modified.

The Hon. R. Thompson: It certainly would have been.

The Hon. G. C. MacKINNON: Not certainly. Let us take the situation which Mr Thompson suggested was likely to happen. An emergency could have occurred at that

particular time. We were facing a situation fraught with dangers around the world. Let us imagine we had been called together in the days of such an emergency, on the 30th January. There is little doubt that everybody would have had the feeling that emergency legislation was necessary, that this was a matter of great emergency and we must face it and have the legislation on the Statute book. If that draft legislation had been brought here it would have been passed, with all its lack of restraints and protections. It is no good saying it certainly would not have got past Caucus. That is what would have happened in an emergency situation because bad cases make bad laws, and the only way to consider emergency legislation is the way we are considering it now—not confronting an emergency.

The Hon. R. Thompson: Tell me this; will you proclaim this legislation?

The Hon. G. C. MacKINNON: Hopefully, never. Of course, it is not my Bill. I am not the Minister for Fuel and Energy, but I still say: hopefully, never. Whether it will be proclaimed in preparation for an emergency, I do not know. I do not know whether it would be considered necessary to do that. I think it might be adequate to have it passed and hold it for the Governor's signature, or have it signed by the Governor without proclaiming it. I suppose it could be done that way, and if an emergency arose it would be proclaimed. It is to come into operation on a date to be fixed by proclamation, so that course is possible.

Mr Ferry also spoke in general terms. I noticed one or two of the members opposite became a little upset.

The Hon. S. J. Dellar: Who would not with the garbage he brought in?

The Hon. R. F. Claughton: Nothing to do with the Bill.

The Hon. G. C. MacKINNON: I looked out the windows and my memory went back to the days of the rumpus in Victoria over unity tickets when I saw those well-painted Marxist signs outside Parliament House.

The Hon. D. K. Dans: Which Communist Party are we talking about? There are four in Australia at the present time.

The Hon. G. C. MacKINNON: Yes. They are mixed-up people.

The PRESIDENT: Order! We are talking about the Fuel, Energy and Power Resources Act Amendment Bill.

The Hon. G. C. MacKINNON: In fact, they are socialists. There are no Communist Governments in the world at the present time, I understand. It is the United Soviet Socialist Republic.

The Hon. R. Thompson: What clause of the Bill is that in?

The Hon. S. J. Dellar: I asked Mr Ferry to repeat outside what he said.

The Hon. G. C. MacKINNON: That is a silly comment to make. The protective device is built into Parliament so that people may speak here and not be actionable. If one wants to make statements outside one does not come into Parliament.

The Hon. S. J. Dellar: He can make it to me privately.

The Hon. G. C. MacKINNON: All I can say about Mr Medcalf's speech is that thanks are due to him not only from this House—

The Hon. R. Thompson: Thank him for rescuing you.

The Hon. G. C. MacKINNON: —but also from the trade union movement and the State in general.

The Hon. R. Thompson: You owe him a great debt, I think.

The Hon. G. C. MacKINNON: Yes I have already thanked him. If members opposite believe Mr Medcalf saved me, well and good. I thought Mr Medcalf played a role as a member of a team—

The Hon. D. K. Dans: As the full back, I would say.

The Hon. G. C. MacKINNON: —as did Mr Gayfer; and Mr Clive Griffiths made a magnificent effort at something like 5.45 this morning.

The Hon. R. Thompson: Do you remember what he said?

The Hon. G. C. MacKINNON: Yes, and it was spot on. It was a jolly good speech, given at a time when I doubt I could have got up and made the sensible comments he made.

The Hon. R. Thompson: Did not anybody over this side say anything sensible? Nobody on your side knew anything about the Bill until Mr Medcalf spoke.

The Hon. G. C. MacKINNON: Yes we did. I introduced the Bill.

The Hon. R. Thompson: None of your members knew what it was about.

The Hon. G. C. MacKINNON: Yes, they made a very good job of their second reading speeches. They knew what the Bill was for and they knew it was essential.

The Hon. D. K. Dans: Until Mr Medcalf came in, the ball was nearly over the touch-line.

The Hon. G. C. MacKINNON: Mr Withers brought up the matter of the Pilbara. We have seen the same sort of thing on radio and television sessions. I agree with Mr Dans on this point. I expressed exactly the same sentiments on both the programmes I happened to be on. I appeared on "This Day Tonight" with Mr Cooley and Mr Burke, and then on the other programme at Channel 7 with Mr Burke. While I do not deny the ordinary citizens the right to protest, I still believe the

proper way to protest in a democracy is every three years at election time. I deplore this growing practice of fomenting protest and disruption. I join with Mr Dans in my regret about that.

As I said on the Channel 9 show, the time will come when these protests lead to tragedy. While I was at Channel 7 a report came in about a bomb threat. A few minutes later we had another bomb threat to some cars and we discussed these on the show. A spontaneous protest is one thing, but this sort of organised hatred—

The Hon. Lyla Elliott: The bomb threats must have come from people supporting your side.

The Hon. G. C. MacKINNON: They could have.

The Hon. Lyla Elliott: Obviously they do.

The Hon. G. C. MacKINNON: I do not deplore the threats any the less. As I said, we should all crawl into a little corner and cry for humanity when this sort of thing happens. I believe the day will come when this type of agitation will lead to tragedy, as it has led to tragedy in other parts of the world.

The Hon. D. W. Cooley: Don't you accept some sort of responsibility for this sort of thing happening? Although I do not mean you personally.

The Hon. G. C. MacKINNON: No.

The Hon. D. W. Cooley: Cannot the Government accept some sort of responsibility?

The Hon. G. C. MacKINNON: I have never taken part in any sort of agitation. Opposition members have asked us today to agitate and to get people on our side to march on Parliament House. I have never and I will never take part in that sort of thing. At Channel 7 Leslie Anderson said, "How could anyone be killed?" I said that a child could be killed. She replied, "Nobody takes children to a protest." Two of the people who marched yesterday were in the gallery last night and they had a baby with them. This baby looked to be less than six months old. In a crowd of the size we saw yesterday, a child could be knocked over and killed. What a tragedy that would be.

The Hon. D. W. Cooley: You misunderstood my interjection. I asked you: does not your Government accept some responsibility for the demonstration that took place?

The Hon. G. C. MacKINNON: No. There are other ways to seek an explanation without this type of thing. Let us face the fact that the bulk of the agitation took place for one reason. Politically the Labor Party has been losing the unionists. This is a fact, and I think today's Press carried the report that Mr Hawke believed the Labor Party would lose a ballot if it were taken now. The ALP realises it is losing the unionists. This legislation was a

heaven-sent opportunity to rally them to the cause. It was used almost like a banner to rally the flagging troops. With an issue such as this a responsibility also devolves on the people running the television and radio programmes.

The Hon. Lyla Elliott: Were you opposed to the march on the Trades Hall?

The Hon. G. C. MacKINNON: Yes.

The Hon. Lyla Elliott: You were?

The Hon. G. C. MacKINNON: Yes, I do not think marches are ever good. I am quite consistent about that. When I sat in the seat currently occupied by Mr Dellar I made the same sort of condemnation about the protest march led by Mr Tonkin. I am quite consistent about this. I have done my share of protesting in my time and I have been accused by the TLC of wearing a badge—although not this one, it is a scout badge—which indicated I had done my share of protesting.

Members may remember the rag of a paper put out by the TLC last year. I know that Mr Dolan was most upset about it. It was a pretty scurrilous paper and I was accused in it of hiding behind an RSL badge. I have done my share of protesting, but I did not do it by marching in rallies of this type. I deplore them. This Bill has been used for that purpose. As often happens with something like this, the whole thing has backfired and it has been a failure. Time will prove that. The rally cost the unionists a lot of money, but nevertheless it was a failure.

I enjoyed Mr Dans' speech. He has a deep knowledge of union activity and psychology and he has a very good understanding of working men. However, I was disappointed that he had been so misled and that he had accepted the sort of comments made by Mr Hawke. He made a very deep statement that the Bill before us would not do anything to help a ship carting petrol here from overseas. Well, it also would not help if an oil pipeline burst in Iran or anywhere else. That was a silly sort of statement to make. In a State-Federal system such as ours, we have to have legislation of this type.

Mr Thompson left us in no doubt; he does not like the Bill. However, I point out again to him that fuel and energy crises can be local and that we need State legislation as distinct from Federal legislation. We all know that Western Australia does not stop at the border. We have Federal and State unions and similar organisations. However, Mr Thompson endeavoured also to fasten onto Mr Medcalf's anecdote. I do not blame him for that because it gave the Opposition a chance to pin a little bit of criticism on Mr Medcalf. As I have said, the Commonwealth can legislate for crises which affect the whole of Australia, but it cannot legislate for a specific crisis within an individual State. And so we need this Bill.

The Hon. R. Thompson: We have uniform matrimonial and company laws, and many other uniform laws. We should have uniform fuel and energy legislation.

The Hon. G. C. MacKINNON: To some extent that is a matter of political belief and it does not answer my point that we do not have this legislation. If we needed rationing tomorrow or legislation to control black marketing, there is nothing we could do about it. Indeed, there is some doubt that the SEC really has the power to ration its supplies as it does whenever there is a crisis. Of course, this Bill will make the action of the SEC perfectly legal.

The Hon. Lyla Elliott: Do you not think section 8 (c) of the parent Act would give the commission certain powers?

The Hon. G. C. MacKINNON: It may do. I will look at that when we get to the Committee stage, and I suggest we do that as quickly as possible. I commend the Bill to the House.

Question put and a division taken with the following result—

Ayes—19

Hon. C. R. Abbey	Hon. N. McNeill
Hon. G. W. Berry	Hon. I. G. Medcalf
Hon. H. W. Gayfer	Hon. T. O. Perry
Hon. Clive Griffiths	Hon. I. G. Pratt
Hon. J. Heitman	Hon. J. C. Tozer
Hon. T. Knight	Hon. R. J. L. Williams
Hon. A. A. Lewis	Hon. W. R. Withers
Hon. G. C. MacKinnon	Hon. D. J. Wordsworth
Hon. G. E. Masters	Hon. V. J. Ferry
Hon. M. McAleer	(Teller)

Noes—8

Hon. R. F. Cloughton	Hon. R. H. C. Stubbs
Hon. D. W. Cooley	Hon. R. Thompson
Hon. S. J. Dellar	Hon. Grace Vaughan
Hon. Lyla Elliott	Hon. D. K. Dans
	(Teller)

Pair

Aye	No
Hon. N. E. Baxter	Hon. R. T. Leeson

Question thus passed.

Bill read a second time.

In Committee

The Chairman of Committees (the Hon. J. Heitman) in the Chair; the Hon. G. C. MacKinnon (Minister for Education) in charge of the Bill.

Clause 1: Short title and citation—

The Hon. R. THOMPSON: I have indicated that I will oppose every clause in the Bill, and getting rid of the short title will be my first exercise in dividing the Committee. I need say no more.

Clause put and a division taken with the following result—

Ayes—18

Hon. C. R. Abbey	Hon. N. McNeill
Hon. G. W. Berry	Hon. I. G. Medcalf
Hon. H. W. Gayfer	Hon. T. O. Perry
Hon. Clive Griffiths	Hon. I. G. Pratt
Hon. T. Knight	Hon. J. C. Tozer
Hon. A. A. Lewis	Hon. R. J. L. Williams
Hon. G. C. MacKinnon	Hon. W. R. Withers
Hon. G. E. Masters	Hon. D. J. Wordsworth
Hon. M. McAleer	Hon. V. J. Ferry
	(Teller)

Noes—3

Hon. R. F. Claughton	Hon. R. H. C. Stubbs
Hon. D. W. Cooley	Hon. R. Thompson
Hon. D. K. Dans	Hon. Grace Vaughan
Hon. S. J. Dellar	Hon. Lyla Elliott

(Teller)

Pair**Aye****No.**

Hon. N. E. Baxter	Hon. R. T. Leeson
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Clause thus passed.

Progress

Progress reported and leave given to sit again, on motion by the Hon. G. C. MacKinnon (Minister for Education).

BILLS (6): RECEIPT AND FIRST READING

1. Police Act Amendment Bill.
2. Main Roads Act Amendment Bill.
3. Marketing of Potatoes Act Amendment Bill.
4. Dongara-Eneabba Railway Bill.
5. Ministers of the Crown (Statutory Designations) and Acts Amendment Bill.
6. Railways Discontinuance and Land Revestment Bill.

Bills received from the Assembly; and, on motions by the Hon. N. McNeill (Minister for Justice), read a first time.

REGISTRATION OF DEEDS ORDINANCE AMENDMENT BILL**Returned**

Bill returned from the Assembly without amendment.

House adjourned at 12.25 a.m. (Thursday)

Legislative Assembly

Wednesday, the 2nd October, 1974

The SPEAKER (Mr Hutchinson) took the Chair at 4.30 p.m., and read prayers.

QUESTIONS (32): ON NOTICE**1. COMMUNITY RECREATION COUNCIL****Perry Lakes Pavilion: Lease**

Mr T. D. EVANS, to the Minister representing the Minister for Recreation:

Would he advise the present position re the proposal by the Community Recreation Council to acquire a long-term lease of the Perry Lakes pavilion and complex?

Mr STEPHENS replied:

The leasing of portion of Perry Lakes pavilion and complex by the the Community Recreation Council has been agreed to, in principle, by the parties concerned.

The detailed draft lease has been drawn up and should be finalised in the near future.

It is anticipated that the Community Recreation Council will be operating from Perry Lakes early in 1974.

2.**HOUSING****Mortgage Relief**

Mr FLETCHER, to the Minister for Housing:

Relevant to his letter of 27th September, 1974 to all Parliamentary Members regarding assistance available to the public on application to the Mortgage Relief Committee where monthly repayments rise as a consequence of a rise in interest rates on home loans, will this assistance be given additionally to those mortgagors who are expected to receive the recently published assistance of \$9 to \$11 per week income tax relief promised by the Australian Government to those with home loans at high interest rates?

Mr O'NEIL replied:

Yes. The proposed scheme of tax deductibility in respect of interest payments was not a factor taken into account by the Mortgage Relief Committee when it prepared the guide-lines criteria for the building societies, etc.

However, it is pointed out that the proposed income tax rebate on account of interest paid on a home mortgage will vary according to the income and the mortgage interest paid by the claimant.

The Commonwealth has indicated that the rebate will be paid annually unless the claimant could convince the Taxation Department that he has a justifiable claim for the rebate to be allowed weekly. Allowance on a pay-as-you-earn basis was strongly advocated by this Government, the building societies, the unions and representative organisations of home buyers.

Relief under the Commonwealth scheme is considered to be closer to \$3 or \$4 per week and not the \$9 to \$11 as stated by the Member.