

Deputy Speaker; Ms Sue Walker; Mr Jim McGinty; Dr Janet Woollard; Mrs Cheryl Edwardes; Acting Speaker;
Mr Mike Board

**STATE ADMINISTRATIVE TRIBUNAL (CONFERRAL OF JURISDICTION) AMENDMENT AND
REPEAL BILL 2003**

Statement by Deputy Speaker

THE DEPUTY SPEAKER (Mrs D.J. Guise): Due to an error on yesterday's Notice Paper listing the State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Bill 2003 as being at the consideration in detail stage, the question for the second reading of the cognate Bill was not put to the House before it proceeded to the consideration of that Bill in detail. One of the aspects of parliamentary privilege is that this House has the right to exclusive cognisance of its own proceedings; or, in other words, in the absence of a specific constitutional requirement, the Assembly alone determines how it will handle matters. When a procedural error occurs it does not invalidate subsequent proceedings unless the Assembly decides that is the case. In order to regularise the proceedings before the House to the extent possible, I propose to put the question formally for the second reading of this Bill before recommencing consideration in detail at clause 760.

Second Reading

Resumed from 14 August.

Question put and a division taken with the following result -

Ayes (30)

Mr P.W. Andrews	Mr S.R. Hill	Ms S.M. McHale	Mr E.S. Ripper
Mr J.J.M. Bowler	Mr J.N. Hyde	Mr A.D. McRae	Mrs M.H. Roberts
Mr C.M. Brown	Mr J.C. Kobelke	Mr N.R. Marlborough	Mr D.A. Templeman
Mr A.J. Carpenter	Mr R.C. Kucera	Mrs C.A. Martin	Mr P.B. Watson
Mr A.J. Dean	Mr F.M. Logan	Mr M.P. Murray	Mr M.P. Whitely
Mr J.B. D'Orazio	Ms A.J. MacTiernan	Mr A.P. O'Gorman	Ms M.M. Quirk (<i>Teller</i>)
Dr J.M. Edwards	Mr J.A. McGinty	Mr J.R. Quigley	
Mr L. Graham	Mr M. McGowan	Ms J.A. Radisich	

Noes (17)

Mr R.A. Ainsworth	Mr J.H.D. Day	Mr R.F. Johnson	Dr J.M. Woollard
Mr C.J. Barnett	Mrs C.L. Edwardes	Mr B.K. Masters	Mr J.L. Bradshaw (<i>Teller</i>)
Mr D.F. Barron-Sullivan	Mr J.P.D. Edwards	Mr P.D. Omodei	
Mr M.J. Birney	Ms K. Hodson-Thomas	Mr P.G. Pendal	
Mr M.F. Board	Mr M.G. House	Ms S.E. Walker	

Pair

Dr G.I. Gallop

Mr T.K. Waldron

Question thus passed.

Bill read a second time.

Consideration in Detail

Resumed from 20 August.

Debate was interrupted after clause 759, as amended, had been agreed to.

Clauses 760 to 763 put and passed.

Clause 764: Section 136 repealed -

Ms S.E. WALKER: For the purposes of *Hansard* I would like to record that the Attorney General and his advisers have five boxes of records. The boxes for this Bill seem to be getting bigger every day. That shows there is no comprehensive overview of this legislation in one document. We parliamentarians are meant to come to grips with this Bill without one single document that tells us what this legislation means. It is lucky that there are a few bright people on this side of the House!

Mr R.F. Johnson: The Attorney General does not really know.

Ms S.E. WALKER: He never knows anything!

Deputy Speaker; Ms Sue Walker; Mr Jim McGinty; Dr Janet Woollard; Mrs Cheryl Edwardes; Acting Speaker;
Mr Mike Board

Why is section 136 of the Mental Health Act - Public access to Board's records - being repealed? The section states -

The Registrar is to prepare and make available for public scrutiny a copy of the Board's records that has been edited so as to remove anything that might identify a person who comes within paragraph (e), (f) or (g) of clause 13 (1) of Schedule 2.

What is this procedure for and what will happen to it under this Bill?

Mr J.A. McGINTY: I refer members to clause 153 of the State Administrative Tribunal Bill 2003. It contains a provision for the executive officer to keep a register of proceedings containing the details specified in the regulations. That is designed to pick up the provisions, among others, of section 136 of the Mental Health Act, which provides that -

The Registrar is to prepare and make available for public scrutiny a copy of the Board's records that has been edited so as to remove anything that might identify a person who comes within -

It then refers to the preceding paragraphs.

The next step in that process is that rules will be made and those rules will be subject to schedule 2, section 13 of the Mental Health Act, which deals with the suppression of publication, and that will remain in force. It contains confidentiality provisions - if I can loosely describe them in that way - and any rules that are made will be subject to that. Quite clearly, what is intended, and what is enabled by this legislation, is to maintain the current confidentiality provisions as they apply to the Mental Health Review Board.

Ms S.E. WALKER: Why was section 136 of the Mental Health Act repealed and not amended? Currently the board has to make a copy of its records available for public scrutiny. There is nothing to reflect that in the State Administrative Tribunal. I am interested in the Mental Health Act because of the situation of one of my constituents and that has made me aware of the power that it can have over people. Under section 136 of the Mental Health Act, anyone can publicly scrutinise what the board does so that what it does becomes transparent. However, what is edited, of course, is identification of a person. Will the public be able to scrutinise what the State Administrative Tribunal does in relation to Mental Health Act matters? Nothing in the State Administrative Tribunal Bill specifically deals with this issue.

Mr J.A. McGINTY: Under the State Administrative Tribunal Bill there is a requirement to keep a register of proceedings. There is also the right for the public to inspect that register.

Ms S.E. Walker: Where?

Mr J.A. McGINTY: Clause 153(3) of the State Administrative Tribunal Bill provides the right to gain access. Is the member raising the issue of confidentiality provisions, because the public will have access to the register and the executive officer is required to keep a register? The confidentiality provisions are provided for and rules that are made will be subject to section 13 of schedule 2 of the Mental Health Act, which contains the suppression requirements. The rules that are made will reflect current practice, which, in turn, will be subject to section 13 of schedule 2. It is intended to replicate current practice. It was not thought necessary or desirable to retain section 136 of the Mental Health Act because it would be a repetition of what is contained in the principal Bill, the State Administrative Tribunal Bill. We have sought to make this common to all dealings of the State Administrative Tribunal across the board, subject to the confidentiality requirements in respect of mental health matters.

Ms S.E. WALKER: Clause 153 of the State Administrative Tribunal Bill states that the details of what can be seen will be specified in the regulations. That means that some matters will not be available for public scrutiny as they currently are under section 136 of the Mental Health Act. That is what I am concerned about. I would like it put on the record that although section 136 of the Mental Health Act will be repealed, the Government does not intend to limit in any way the publication of the proceedings that are conducted under the Mental Health Act by the new State Administrative Tribunal.

Mr J.A. McGINTY: I am happy to confirm that that is clearly the intent carried forward. The intent is that the regulations that are ultimately made under clause 153 will reflect the current practice so far as the Mental Health Review Board is concerned. There is a right for public access to the register. The countervailing issue is that when we deal with mental health issues there is a right to a certain privacy of individuals' names. That will also be protected.

Clause put and passed.

Clause 765 put and passed.

Clause 766: Section 138 amended -

Deputy Speaker; Ms Sue Walker; Mr Jim McGinty; Dr Janet Woollard; Mrs Cheryl Edwardes; Acting Speaker;
Mr Mike Board

Ms S.E. WALKER: I have gone through the legislation and I note that amendments will be made to change how the Chief Psychiatrist will operate. Why will the Chief Psychiatrist have to apply to the State Administrative Tribunal? How will that work in the context of the Mental Health Act and how is it different from the current procedure? Currently, the chief psychiatrist does not apply to the board to carry out a review. How will that work?

Mr J.A. McGINTY: One of the amendments that the Government will seek to make following the matters being raised by Professor D'Arcy Holman and the Mental Health Review Board is to take that function away from the chief psychiatrist. We are talking about clause 766, but the notion is carried forward in clauses 766, 767 and 769. Amendments will be moved to each of those clauses. The amendments provide for a system of review of involuntary patient orders which maintains the independence of the chief psychiatrist and ensures that the treating psychiatrist brings matters before SAT for mandatory review and that SAT deals with those matters within a specified time frame.

Mr J.A. McGINTY: I move -

Page 335, line 23 - To delete "Chief Psychiatrist" and substitute "psychiatrist who made the order".

Page 336, line 4 - To delete "Chief Psychiatrist" and substitute "psychiatrist".

Page 336, after line 6 - To insert the following -

(3) After section 138(2) the following subsection is inserted -

“

(2a) The State Administrative Tribunal is to ensure that a review under an application under this section is carried out as soon as is practicable after the initial order is made, and in any event not later than 8 weeks after that time.

”.

Amendments put and passed.

Clause, as amended, put and passed.

Clause 767: Section 139 amended -

Mr J.A. McGINTY: I move -

Page 336, line 14 - To delete "Chief Psychiatrist" and substitute "treating psychiatrist".

Page 336, line 19 - To delete "Chief Psychiatrist" and substitute "treating psychiatrist".

Page 336, after line 23 - To insert the following -

(1b) The State Administrative Tribunal is to ensure that a review of a person under an application under this section is carried out not later than 6 months after the last review of that person has been carried out under section 138 or this section.

The same issues we just addressed in clause 766 apply to this amendment. The amendments have the same effect.

Ms S.E. WALKER: Section 139 of the Mental Health Act refers to the periodic review of a person who is the subject of a community treatment order or who has been admitted to a hospital as a voluntary patient. The Act states that a periodic review should be conducted not later than six months after a previous review. That provision has been deleted. The amended Act would read "after a review". Why is there no time frame for a periodic review of a person who is the subject of a community treatment order or who has been admitted as a patient?

Mr J.A. McGINTY: The member is quite right. The third part of the amendment I just moved states -

The State Administrative Tribunal is to ensure that a review of a person under an application under this section is carried out not later than 6 months after the last review of that person has been carried out under section 138 or this section.

Ms S.E. Walker: Is that amendment on today's Notice Paper?

Mr J.A. McGINTY: Yes, it is. The member is quite right. That was a deficiency in the way the Bill was drafted. This amendment picks up the very issue the member raised.

Ms S.E. WALKER: I am very pleased with that.

Deputy Speaker; Ms Sue Walker; Mr Jim McGinty; Dr Janet Woollard; Mrs Cheryl Edwardes; Acting Speaker;
Mr Mike Board

Amendments put and passed.

Clause, as amended, put and passed.

Clause 768 put and passed.

Clause 769: Section 142 amended -

Mr J.A. McGINTY: I move -

Page 337, lines 13 to 15 - To delete the lines and substitute the following -

- (2) Section 142(2) is amended as follows -
 - (a) by inserting after “may be made” -
“ under section 106 or 112 or ”.
 - (b) by deleting “Board” and inserting instead -
“ State Administrative Tribunal ”.

This amendment relates to any general orders being dealt with by State Administrative Tribunal rather than the board.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 770 to 772 put and passed.

Clause 773: Section 146 replaced -

Mr J.A. McGINTY: I move -

Page 338, lines 18 to 21 - To delete the lines and substitute the following -

- (1) Any person may make a complaint to the Director of the Office of Health Review under the *Health Services (Conciliation and Review) Act 1995* alleging failure to recognise the rights given by this Act to an involuntary patient.
- (2) The complaint is to be dealt with under the *Health Services (Conciliation and Review) Act 1995* as if it were a complaint alleging a matter referred to in section 25 of that Act.

This amendment removes the complaint procedure from SAT to the Office of Health Review, which is a more appropriate forum.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 774 to 787 put and passed.

Clause 788: Schedule 2 amended -

Mr J.A. McGINTY: I move -

Page 343, lines 15 and 16 - To delete “, 11 and 12” and substitute “and 11”.

Page 343, after line 16 - To insert the following -

- (8) Clause 12(1) and (2) are amended by deleting “the Board” in each place where it occurs and inserting instead -
“ the State Administrative Tribunal ”.

These amendments are typographical in nature.

Amendments put and passed.

Clause, as amended, put and passed.

Clauses 789 to 816 put and passed.

Clause 817: Section 22 replaced -

Mr J.A. McGINTY: I move -

Deputy Speaker; Ms Sue Walker; Mr Jim McGinty; Dr Janet Woollard; Mrs Cheryl Edwardes; Acting Speaker;
Mr Mike Board

Page 363, lines 11 and 12 - To delete "whose authorisation is affected by a reviewable decision or".

Page 364, after line 7 - To insert the following -

(c) in exercise of its powers under section 20(2) or (3);

Amendments put and passed.

Clause, as amended, put and passed.

Clauses 818 and 819 put and passed.

Clause 820: Section 37B amended -

Mr J.A. McGINTY: I move -

Page 364, line 25 - To delete "(3)" and substitute "(2)".

Again, this amendment is typographical.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 821 to 825 put and passed.

Clause 826: The Act amended -

Dr J.M. WOOLLARD: With regard to the amendments to the Nurses Act, did the Government consult with the Nurses Board, the Royal College of Nursing Australia, the Royal Australian Nursing Federation, the Chief Nursing Officer or the university schools of nursing?

Mr J.A. McGINTY: Consultation took place with the Nurses Board of Western Australia in the lead-up to this matter and not with the other bodies that have been mentioned.

Dr J.M. WOOLLARD: When I spoke last week in the second reading debate I was not aware of the Victorian Civil and Administrative Tribunal legislation. Since becoming familiar with it, it is clear that this Bill is a modification of that legislation, which has been around for four years. Why has the Government not consulted with industry when this legislation will make major changes to the way in which issues are dealt with by the Nurses Board and the State Administrative Tribunal for the various levels of nurses?

Mr J.A. McGinty: The member is making more of a point than asking a question.

Clause put and passed.

Clause 827 put and passed.

Clause 828: Section 20 amended -

Mr J.A. McGINTY: I move -

Page 367, lines 14 and 15 - To delete "a committee established by the Board" and substitute the following -

the professional standards committee and the registration review committee

This clarifies that detailed reports are required from only those committees of the Nurses Board that deal with disciplinary matters.

Dr J.M. WOOLLARD: I have considered the annual reports that the minister has said will now come from the professional standards committee and the registration review committee. Those reports must include the number of investigations, trends, workloads and proposals for improving the operation of the board. However, where is there any provision for the evaluation of the inquiries undertaken by the board? At the moment, the report will be like the budget papers that are presented here once a year - facts without substance.

Mr J.A. McGINTY: I have great difficulty in understanding the question. This amendment simply ensures that the board will include those matters in its annual report.

Dr J.M. WOOLLARD: This provision includes the number and nature of investigations - a statistic that will be put on the table; any trends or problems - again, that could be in the form of more statistics, such as 0.1, 0.2 or 0.3; forecasts of the workload - well, perhaps the board will need another full-time equivalent person to assist with the work; and proposals for improving the operation of the committee - again, that could be merely that the committee has decided to meet on a more frequent basis. I was under the impression from the minimal briefing that I was given - the minister asked me if I wanted another briefing, to which I said yes, and I am still waiting -

Deputy Speaker; Ms Sue Walker; Mr Jim McGinty; Dr Janet Woollard; Mrs Cheryl Edwardes; Acting Speaker;
Mr Mike Board

that major matters were to be passed on to the State Administrative Tribunal. I understood that a report would be tabled in Parliament of the matters that would not be referred to the tribunal. If a board such as the Nurses Board or one of the other boards coming under this Act does not refer the appropriate issues to the State Administrative Tribunal, when its report is tabled we can ask for changes to be made. The wording in this provision describes a committee report to be tabled in Parliament that will not allow us to assess whether the Nurses Board is dealing with minor or major issues. Will the minister clarify how a member can determine from this report what matters are being referred to the State Administrative Tribunal?

Mr J.A. McGINTY: Section 16 of the Nurses Act provides for the registration and review committee and establishes its functions, which remain unamended. Section 17 provides for the professional standards and its functions, which also remain unamended. Those bodies will continue to operate in the way they have in the past. The provision dealing with the parliamentary report, the annual report of the Nurses Board, is spelt out in this clause, which amends section 20 of the Nurses Act to require that information be provided in future in respect of lesser disciplinary matters -

Dr J.M. Woollard: But section 20 deals with provisions relating to committees -

Mr J.A. McGINTY: Proposed section 20(7) deals with the annual report of the board. Section 148 of the State Administrative Tribunal Bill will deal with the annual report of the tribunal. Therefore, all disciplinary matters dealt with either summarily or substantively will be reported to Parliament through either the annual report of the Nurses Board or the annual report of the State Administrative Tribunal.

Dr J.M. WOOLLARD: Where is proposed section 20(7) included? It is not in the Nurses Act, so I am unable to follow -

Mr J.A. McGinty: It is found under this clause.

Dr J.M. WOOLLARD: I see. The feedback I have had is that disciplinary matters that go to the board are not detailed in a manner that will enable the nursing community to establish where, under this new tribunal, the differentiation is to occur between minor and the major matters. Is the minister saying that this provision requires the committees to provide additional information, but that they will also be required to submit a full report? The way the clause reads, a full report will not be asked for; only statistics will be asked for. However, is the Attorney General's understanding of proposed subsection (7) that a committee will give a full report, including the details contained in paragraphs (a) to (e)?

Mr J.A. McGINTY: I think the member will find the answer to the question she posed in section 63 of the Nurses Act.

Dr J.M. WOOLLARD: The Attorney General has referred to section 63 of the Nurses Act, which states that the presiding member of the board can refer the matter to a committee. The Attorney General is the one who will allow some groups and professional bodies to have procedural committees and others not. Fair enough. The Attorney General has made that decision, and I hope it comes back to bite him.

Other nurses and I want to know which issues will stay with the Nurses Board of WA and which issues will be referred to SAT. Section 63 does not explain that; it merely states that the presiding member may refer something to the committee. Nothing in the amendments that the Attorney has brought before the Parliament shows which issues will be dealt with by the board and which issues will go to the State Administrative Tribunal; and for those issues that will be dealt with by the board, how they will be evaluated and presented in the report.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 829 put and passed.

Clause 830: Section 43 amended -

Dr J.M. WOOLLARD: This clause states that the board will not be able to strike someone off the register until it has taken the decision to do so to the State Administrative Tribunal. I want clarification from the Attorney General that that is the intent of this clause; that is, any decisions to strike someone off the register will no longer be made by the Nurses Board without it sending the details to the State Administrative Tribunal and the tribunal reviewing the case.

Mr J.A. McGINTY: This clause does not deal with the issue that has been raised by the member for Alfred Cove. The amendment before the House deals with reinstatement to the register, not striking off. To put it simply, it states that if the State Administrative Tribunal has struck off a person, the approval of the tribunal must be gained before that person is reinstated to the register.

Deputy Speaker; Ms Sue Walker; Mr Jim McGinty; Dr Janet Woollard; Mrs Cheryl Edwardes; Acting Speaker;
Mr Mike Board

Dr J.M. WOOLLARD: I am sorry. In that case, I will ask that question when we deal with the appropriate clause. Under this clause, if someone is taken off the register, must that decision go back to the State Administrative Tribunal before that person is reinstated?

Mrs C.L. EDWARDES: I really think that an answer should be provided to the member for Alfred Cove.

Mr J.A. McGinty: An answer was provided to the last question the member posed. I gave exactly the same answer that I would give on this occasion. Repetition is substantially boring.

Mrs C.L. EDWARDES: Although I understand that, I must admit that this question was much more succinct.

Mr J.A. McGinty: It was indeed. The answer is yes.

Clause put and passed.

Clause 831 put and passed.

Clause 832: Section 54 amended -

Dr J.M. WOOLLARD: For clarification, what are the pecuniary penalties which are currently able to be obtained by the Nurses Board but which will not be able to be obtained following this amendment to the Act?

Mr J.A. McGINTY: Essentially, this clause provides that if SAT imposes a penalty, it will go to consolidated revenue. If the board or one of its committees does that, it will be retained by the board.

Dr J.M. WOOLLARD: I am sorry; did the Attorney General say that if SAT obtains any finance as a result of a court case, that will be returned to the board? The Attorney General spoke a bit too quickly for me. I could not hear what he was saying.

Mr J.A. McGinty: I said the opposite to that.

Dr J.M. WOOLLARD: Will the Attorney repeat it, because I was unable to follow him at that point?

Mr J.A. McGINTY: I hope this will be the last time I have to repeat myself. If SAT imposes a pecuniary penalty, it will go to consolidated revenue. If the board does, it will go to the board's revenue.

Clause put and passed.

Clause 833: Section 57 amended -

Dr J.M. WOOLLARD: I put it on record again that this new amendment does not show any evaluation of the operation. It will be facts and figures without an evaluation. It would have been more appropriate had the various nursing groups been consulted on these amendments.

Clause put and passed.

Clause 834 put and passed.

Clause 835: Sections 59A to 59C inserted -

Dr J.M. WOOLLARD: Proposed section 59A(b) states -

a complaint about the same matter, or a complaint elements of which include the same matter, has been made under the *Health Services (Conciliation and Review) Act 1995* or is being treated as a complaint that was made under that Act.

Under this proposed section, will it mean that the new board will be able to deal with issues that not only previously went to the board but also in the past came under the jurisdiction of the Health Services (Conciliation and Review) Act?

Mr J.A. McGinty: Not at all.

Dr J.M. WOOLLARD: In that case, this amendment will mean that some issues, such as the problems that exist in aged care, will still be outside the scope of the Nurses Board of Western Australia. Is the minister aware of that; and, if so, is he willing to consider reviewing that situation before these amendments go to the upper House?

Mr J.A. McGINTY: The board deals with specific complaints against specific people. This proposed subsection relates to interim orders of the board and clearly spells out in its terms that the board may deal with a matter notwithstanding that similar or partly overlapping complaints might also be in the process of being considered elsewhere.

Dr J.M. WOOLLARD: About two years ago a review was conducted by the Nurses Board of standards in aged care. Public money was expended on that review. The outcome of that review was basically that the standards

Deputy Speaker; Ms Sue Walker; Mr Jim McGinty; Dr Janet Woollard; Mrs Cheryl Edwardes; Acting Speaker;
Mr Mike Board

were inadequate. Although the minister has stated that the powers of the board relate to individuals, a study was funded which showed that poor standards of nursing care were being applied, yet nothing has happened. It comes down to what people are paying for and what is being evaluated. The minister has the opportunity to address some of the issues involved in various health settings. I would have thought that with his dual role as Minister for Health and Attorney General he might have considered whether issues such as that could be covered by these amendments.

Clause put and passed.

Clause 836 put and passed.

Clause 837: Section 63 amended -

Dr J.M. WOOLLARD: Section 63(1) of the Nurses Act states -

Upon receipt of a report under section 62 the presiding member of the Board may -

The minister has not sought to remove the word “may” from that subsection. Again, I draw to the minister’s attention concerns of the nursing industry that there is no differentiation at the moment between the issues that will be dealt with by the board and those that will go to the State Administrative Tribunal.

Mr J.A. McGinty: That is more a point of view than a question about the clause.

The ACTING SPEAKER (Mr A.J. Dean): The question is that clause 837 stand as printed.

Dr J.M. Woollard: Mr Acting Speaker -

The ACTING SPEAKER: I cannot acknowledge the member for Alfred Cove, as she has just spoken.

Dr J.M. Woollard: But the minister responded.

The ACTING SPEAKER: No, he did not. He was in his seat.

Mr M.F. BOARD: I would be happy to allow the member to speak.

Mr J.A. McGinty: Why?

Mr M.F. BOARD: It is called a democratic right.

Dr J.M. WOOLLARD: This clause proposes an amendment to section 63 of the Nurses Act. Section 63(2) currently states -

The presiding member shall not refer a matter to the committee . . . unless the affected person has been given the option . . .

How will affected people be given the option? This point may have been covered during the debate yesterday. Will a form be given to all boards or whatever the names are of the various groups, which people will sign to acknowledge that they have been made aware of the avenues they can pursue? How do we know that those people will be given a full explanation of whether they would like the matter to be dealt with by the committee or by the State Administrative Tribunal?

Mr J.A. McGINTY: I will do nothing more than say that the wording of the legislation before the House at the moment is crystal clear as to the duties and obligations that it imposes.

Dr J.M. WOOLLARD: I would have thought that with the minister’s legal background, he would consider it important to ensure sure that people are fully informed about the issues. However, this subsection states that they will be given the option.

Mr J.A. McGinty: The situation remains unchanged from the current provision.

Dr J.M. WOOLLARD: However, a big change is being made. A new tribunal will be set up, for which we will all pay. I agree that it is good in principle. However, it is not good in principle if the nurses will not be given the full facts to enable them to state whether they would like their matter to go to the committee or to the State Administrative Tribunal. My comment is not derogatory of the Nurses Board. Will this happen with all the groups that are affected?

Mr J.A. McGinty: Yes.

Dr J.M. WOOLLARD: Will it be a case of the professional bodies choosing to tell them? The minister has again made a very poor attempt at rehashing the Victorian Act.

Clause put and passed.

Clause 838: Section 64 amended -

Deputy Speaker; Ms Sue Walker; Mr Jim McGinty; Dr Janet Woollard; Mrs Cheryl Edwardes; Acting Speaker;
Mr Mike Board

Dr J.M. WOOLLARD: Why has the title of section 64 been left as “Powers where no formal inquiry held” when the word “inquiry” is being removed wherever else it occurs in that Act? Was this an oversight, or does the minister intend to leave the title as “Powers where no formal inquiry held”?

Mr J.A. McGINTY: The headings will be adjusted when the Bill is printed.

Clause put and passed.

Clauses 839 to 927 put and passed.

Clause 928: Section 22 amended -

Mr J.A. McGINTY: I move -

Page 422, line 17 - To delete “(4)” and substitute “(3)”.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 929 to 943 put and passed.

Clause 944: Section 93 amended -

Mr J.A. McGINTY: I move -

Page 428, line 13 - To delete “92” and substitute “93”.

Page 428, line 19 - To delete “92” and substitute “93”.

Amendments put and passed.

Clause, as amended, put and passed.

Clauses 945 to 1052 put and passed.

Clause 1053: Section 24 amended -

Mr J.A. McGINTY: I move -

Page 491, line 22 - To delete “Minister” and substitute “approval”.

Page 491, lines 24 and 25 - To delete the lines and substitute the following -

after consultation with the Minister responsible for the administration of the *State Administrative Tribunal Act 2003*

Amendments put and passed.

Clause, as amended, put and passed.

Clauses 1054 to 1089 put and passed.

Clause 1090: Various references to “Board” amended -

Page 505, in the table after line 20 - To delete “s.103(1)(d)(e)” and substitute “s.103(1)(e)”.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 1091 to 1154 put and passed.

Clause 1155: Section 23 replaced -

Mr J.A. McGINTY: I move -

Page 528, lines 22 to 24 - To delete the lines and substitute the following -

(a) a decision under Part III other than -

(i) a decision under section 35; or

(ii) a determination of the form in which an application or objection is made;

Page 528, line 25 - To delete “VI” and substitute “IV”.

Amendments put and passed.

Clause, as amended, put and passed.

Clause 1156 to 1159 put and passed.

New clause 1160 -

Mr J.A. McGINTY: I move -

Page 529, after line 13 - To insert the following new clause -

1160. Section 34 amended

Section 34(4) is repealed.

New clause put and passed.

Clauses 1160 to 1166 put and passed.

Clause 1167: Various references to “District Court” amended -

Mr J.A. McGINTY: I move -

Page 533, in the table after line 21 - To delete “s.34(4) (both places)”.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 1168 to 1190 put and passed.

Clause 1191: Section 25B amended -

Mr J.A. McGINTY: I move -

Page 540, line 17 - To delete “Commissioner’s” and substitute “Commission’s”.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 1192 to 1205 put and passed.

Clause 1206: Section 81 amended -

Mr J.A. McGINTY: I move -

Page 545, line 27 - To delete “(2)” and substitute “(2a)”.

Page 546, line 5 - To delete “an order” and substitute “the full stop at the end of the subsection”.

Amendments put and passed.

Clause, as amended, put and passed.

Clauses 1207 to 1219 put and passed.

Clause 1220: Sections 105 and 106 repealed -

Mr J.A. McGINTY: I move -

Page 549, line 25 - To delete “and 106” and substitute “, 106 and 107”.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 1221 to 1230 put and passed.

Clause 1231: Various references to “referee” amended -

Mr J.A. McGINTY: I move -

Page 554, line 7 of the first table - To delete “and 12(11)”.

Page 554, in the table after line 7 - To delete “, (3)(a)”.

Amendments put and passed.

Clause, as amended, put and passed.

Clause 1232 put and passed.

Clause 1233: Various references to “he is” deleted -

Mr J.A. McGINTY: I move -

Page 556, at the end of the table after line 7 - To delete "s.103Q(3)".

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 1234 to 1281 put and passed.

Clause 1282: Sections 47 to 57 repealed -

Mr J.A. McGINTY: I move -

Page 577, line 17 - To insert after "54," the passage "55,".

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 1283 to 1302 put and passed.

New clause 1303 -

Mr J.A. McGINTY: I move -

Page 587, after line 15 - To insert the following new clause -

1303. Entitlements

(1) In this section —

"former President" means the person who was the President of the Town Planning Appeal Tribunal immediately before the commencement of section 1277;

"unexpired term" means that portion of the term of office of the former President that had not expired before the commencement of section 1277.

(2) Despite section 117(2) of the *State Administrative Tribunal Act 2003*, the rate of remuneration and allowances to which the former President is entitled in respect of any service as a member of the State Administrative Tribunal during the unexpired term are not to be less than the rate of remuneration and allowances to which he or she would have been entitled in respect of the performance of his or her functions as the President of the Town Planning Appeal Tribunal during the unexpired term if this Act had not been enacted.

This new clause deals with continuity of the former president of the Town Planning Appeal Tribunal and provides for him to continue with the tribunal for the balance of his contractual period.

New clause put and passed.

Clauses 1303 to 1341 put and passed.

Clause 1342: Section 34A amended -

Mr J.A. McGINTY: I move -

Page 604, line 2 - To delete "(e)".

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 1343 to 1348 put and passed.

Clause 1349: The Act amended -

Mrs C.L. EDWARDES: The Australian Veterinary Association, Western Australian Division, has written to the Attorney General about its concerns about the proposed amendments to the Veterinary Surgeons Act. The letter states that the association believes that the intent of the amendments is to direct that serious offences likely to involve suspension or deregistration will go to the State Administrative Tribunal, and that the amendments will, as we have already discussed, effectively remove all of the disciplinary powers of the Veterinary Surgeons Board as well as its ability to recover costs. The letter goes on to say that consequently any complaint requiring disciplinary action, including minor misdemeanours likely to incur little more than a reprimand, will need to be referred to SAT. That raises the issue that the cost to the Veterinary Surgeons Board will be considerable, because the State Administrative Tribunal will be utilising full-time staff, legal fees are likely to be significantly

Deputy Speaker; Ms Sue Walker; Mr Jim McGinty; Dr Janet Woollard; Mrs Cheryl Edwardes; Acting Speaker;
Mr Mike Board

higher, and offences must be dealt with through prosecution, and those costs will be passed on to veterinarians in the form of significantly increased registration fees that in turn will be passed on to the public with absolutely no demonstrable benefit. We have raised this issue previously. I ask the Attorney General to please send to his ministerial colleague the Minister for Agriculture, Forestry and Fisheries, who I understand is responsible for the Veterinary Surgeons Act, a copy of the letter from the association and work with him to get amendments through at the first possible opportunity, if not even in the other place.

Mr J.A. McGINTY: We will not be removing the power for the State Administrative Tribunal to award legal costs to the Veterinary Surgeons Board if it prosecutes a recalcitrant vet before SAT. That may offer some comfort to the Veterinary Surgeons Association. I did receive a letter on 28 July 2003 from Mr David Marshall, president of the Australian Veterinary Association, Western Australian Division. The Minister for Agriculture met yesterday with the veterinary association and the instructing officer for the SAT legislation. I am told that consideration is being given to the drafting of an amendment to the Veterinary Surgeons Act to ensure that the summary jurisdiction is maintained along the lines that we have discussed over the past two days in respect of SAT. I will certainly raise the matter again with the Minister for Agriculture, Forestry and Fisheries. The Australian Veterinary Association has been very effective in putting forward its case. I compliment it for that. It may be, with some expedition of this matter, that the amendment to the Veterinary Surgeons Act may catch up with the passage of this Bill when it is dealt with in the upper House. I assume that an appropriate amendment could be dealt with fairly expeditiously through this House in a non-controversial way. That may well be, given that the intended start date for SAT is 1 January next year. There is no reason that this matter cannot be dealt with in line with the policy I have spoken about. Hopefully, that will give to the veterinary surgeons what they are seeking. I am told that, unlike other areas, only two veterinary surgeons have been struck off in the past five years. I do not know whether the disciplinary function of the association is a major one compared with other professions. Some boards and tribunals are very busy dealing with recalcitrant members who have misbehaved. Nonetheless, we will treat all the boards seriously and give them the priority sought by the respective associations.

Clause put and passed.

Clauses 1350 to 1402 put and passed.

Title put and passed.