Legislative Council

Tuesday, 22 October 1985

THE PRESIDENT (Hon. Clive Griffiths) took the Chair at 4.30 p.m., and read prayers.

TOTALISATOR AGENCY BOARD BETTING AMENDMENT BILL

Assent

Message from the Governor received and read notifying assent to the Bill.

MINING AMENDMENT BILL

Select Committee Report

HON. I. G. MEDCALF (Metropolitan) [4.36 p.m.]: I have the honour to present the report of the Select Committee appointed to inquire into the Mining Amendment Bill.

I move—

That the report do lie upon the Table and be printed.

Question put and passed.

(*See paper No. 231.*)

ACTS AMENDMENT (SEXUAL ASSAULTS) BILL

Third Reading

HON. J. M. BERINSON (North Central Metropolitan—Attorney General) [4.37 p.m.]: I move—

That the Bill be now read a third time.

HON. ROBERT HETHERINGTON (South-East Metropolitan) [4.38 p.m.]: I put on record the fact that since I have been in Parliament nothing has given me greater satisfaction than the passage of this Bill. It is a great step forward in looking after women's interests in this State.

I put on record the great debt I owe to Mrs Nancy Rehfeldt, of Australian Women Against Rape; the Women's Health Care House; and particularly the doctors and counsellors of the Sexual Assault Referral Centre, who have helped to educate me in this whole matter.

I would like also to say to Hon. Phillip Pendal that my attitude was very much like his five years ago, but I have gradually changed my attitude, and I have come around to supporting this Bill wholeheartedly.

Hon. P. G. Pendal: Rape is still rape.

Hon. ROBERT HETHERINGTON: I hope the member will do the same.

This is a Bill which raises many problems and its progress must be watched carefully.

When one looks at the legislation introduced into this House by the Attorney General, Hon. Joe Berinson, although he makes less noise about it than some Attorneys in other States, he will go down in history as one of the great reforming Attorney Generals of this State. We are duly grateful to have him as Attorney General.

Hon. P. G. Pendal: It abolishes rape!

Question put and passed.

Bill read a third time and returned to the Assembly with amendments.

REGISTRATION OF BIRTHS, DEATHS AND MARRIAGES AMENDMENT BILL

In Committee

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

Clauses 1 to 3 put and passed.

Clause 4: Section 21A inserted—

Hon. J. M. BERINSON: I have on the Notice Paper the following amendments—

Page 2, line 30—To delete the word "particular".

Page 2, line 34—To insert after "Registrar" the following—

"General".

Page 3, line 16—To delete the word "particular".

Members will note that in two cases it is proposed to delete the word "particular", and that is suggested because the word in the positions where it now appears serves no purpose. The proposed insertion of the word "General" after the word "Registrar" simply reflects the proper title of the relevant officer.

Hon. I. G. MEDCALF: During the course of the second reading debate I raised questions in relation to the registration of names of children in the name of a mother or a father or in joint names, which is the purport of proposed section 21A(1). The justification given for this was a few lines in the second reading speech to the effect that it was on the ground of non-discrimination. I asked the Attorney whether he could explain in more detail the circumstances which required that we should make such a substantial change in the traditional method of registering children in the surname of their father.

This clause purports to enable children to be registered in the surname of the mother or the father, in certain circumstances. My amendment seeks to change this and to adopt the traditional practice. I would be grateful if the Attorney could explain the reason for the amendment.

Hon. J. M. BERINSON: I did address this question at some length during my second reading reply, but because Mr Medcalf's duties to the Constitutional Convention took him from the Chamber on Thursday, I appreciate that he was deprived of the further detail he required. I do not know that I can add much to what I said and I briefly recapitulate as follows.

Firstly, this amendment does not go simply to questions of equality of status as between the parties but, more than that, it goes also to a recognition of the changed times and circumstances which now apply to such questions. In my second reading reply I referred to Mr Medcalf's comments which suggested that an amendment to those provisions relating to a parent's occupation would introduce for the first time a reference to the mother's occupation because of the very changed circumstances in respect of the participation of women in the work force. It is a similar set of circumstances going to our changed social conditions which, all put together, justify this part of the Bill.

I again repeat myself to some extent by indicating that, in any event, there is no requirement for a woman to take her husband's surname on marriage. It has been open for a very long time for women to retain their former name or to adopt their husband's surname at their discretion. Given that background, the question calling for a justification of the present amendment can really be turned around. It can just as well be asked why, in these circumstances, a choice as to the father's or the mother's surname should not be open in circumstances where the parents agree.

I emphasise again that, to the extent that this Bill seeks to change the naming practices with respect to children born in this State, it changes them only on the initiative of the parents and with the agreement of both parents. Further, it restricts the surname to that of the mother or of the father, or to a name which combines and hyphenates both.

The result is that we have here quite a modest measure, one which stands to reason, given the existing practice in respect of the right of a wife to retain her former surname on marriage and not going, for example, to the extent suggested by other speakers in the second reading debate. Those further questions are for future consideration.

For the moment we are faced with this limited proposition. As things now stand, a married family can include a husband and wife, each with a different surname. There is no reason, in principle, why that practice should not be carried forward into the naming practices affecting the children in the limited circumstances provided by this Bill.

I make only one further comment, as there seemed to be some misunderstanding of this issue in the second reading debate. This Bill specifically requires that all siblings have the same surname, whichever that is.

Hon. I. G. MEDCALF: I regret I did not have the opportunity of being aware that the Attorney had made those comments during the second reading debate on Thursday when I was away. That is probably my own fault. I am sorry I have not had the opportunity of reading his comments because I indicated to one or two people that I was not absolutely committed to these particular amendments until such time as I had received answers to various questions that have occurred in the course of consideration of these proposals.

I have some doubt as to whether a person can legally on marriage adopt another surname without the formality of a licence or deed poll. It may be that that is so, but although the Change of Names Regulation Act was amended in 1980 I would like to be assured that the registrar will permit persons on marriage to have a different surname without a deed poll or licence. I appreciate that we changed the Act to enable married women to use their maiden name if they wished to, but I am not sure that that gives them a new legal surname. In other words, while it is not unlawful to use a maiden name in the case of a married woman, it does not necessarily mean she has changed her surname. That concerns me because this clause applies where people have changed their surnames. It seems to me that a woman may not have changed her surname unless she has done so by deed poll or licence.

If it is the Registrar General's practice to regard a woman as having a different name simply because she uses it I would stand corrected, and she would clearly as a matter of practice be in a position of having a different surname from her huband. I would have thought it was necessary for some formality to

occur under the Change of Names Regulation Act; that is, that a licence or deed poll should confirm the fact that if she wished to have a new surname she should acquire it in that manner.

Another problem which arises is the Attorney's comment that the various children of the marriage would all have to have the same name. While I appreciate that this is so—they might all take their mother's or father's name, and they must all have the same name—this would not necessarily apply to the children of a *de facto* marriage who could all have different names. If it were a *de facto* marriage presumably that would mean one child could have the mother's name and another could have the father's name. That is another question I have, and it is one which should be answered, otherwise we may think we are doing something when in fact we are not doing it.

Hon. J. M. BERINSON: My understanding of the position in respect of a wife's right to retain her former name is as I previously expressed it. I do not want to take that too far because what I have said reflects my understanding of advice I have received previously, and I have not had the particular question put to me which Mr Medcalf has now raised. In principle, though, I think nothing has changed. Whatever the formal situation, the fact remains that there is a widespread, and as I understand it an increasing, tendency by women to retain their former name on marriage. So far as I am aware there is no community objection to that. Certainly I have never heard such an objection, nor has Mr Medcalf carried his argument to the point of suggesting he believes there is any community objection to it.

Hon. I. G. Medcalf: I was the one who suggested the amendment to the Change of Names Regulation Act in 1980, with the assistance of Hon. Lyla Elliott.

Hon. J. M. BERINSON: I take it from that that Mr Medcalf has no objection to it. I welcome that because it provides another of those frequent occasions on which we are agreed on matters of perfectly good sense.

Having reached that point I invite honourable members to take proper account of what flows from it—it is the further question I have previously put as to why it should be acceptable to have separate surnames between a husband and wife but to statutorily restrict the choice of surname as applying to a child of that marriage. That is the real question, and so far I have to say with all respect that I have not heard an argument against it. I believe there is no argument against it; certainly it is the Government's view that there is none.

It is also fact that experience elsewhere suggests there is nothing in practice—putting the question of principle aside for a moment—to suggest any detriment from this modest sort of change. I previously advised the Chamber in this respect that the provisions sought to be implemented by this Bill are already enacted in New South Wales, South Australia, Tasmania, the Australian Capital Territory, and the Northern Territory, and that it is understood that Victoria is about to move in a similar direction.

So there we are. We have a proposition which makes sense on its own merits, and one for which we can turn for any questions of practical difficulty to experience elsewhere. No such difficulties have emerged; none has been suggested in this Chamber, and again at the risk of repeating myself I am bound to say no question involving the principle has been raised either.

As to the second point, I accept what Mr Medcalf says; that the principle requiring siblings to have the same surname is restricted to the child of a marriage and would not necessarily apply to *de facto* marriages. The nature of *de facto* marriages, taken together with the principles for registration of birth, makes that difference unavoidable. The reason is that in a *de facto* marriage a father's name can appear on the birth certificate only with his consent, and there is nothing to suggest that that consent will always be forthcoming. That situation does not arise in the case of a marriage where the father's name is required to be on the certificate. That creates the factual difference which in turn leads to the further possibility to which Mr Medcalf has alluded.

[Questions taken.]

Hon. I. G. MEDCALF: The Attorney General suggested that it was not logical that, if a woman were allowed to change her name, parents should not be allowed to change their children's name as well. That comes back to the first question. I gladly accept responsibility for the amendments which I introduced and which were made by the Parliament in 1980. They enabled women, who for some reason best known to themselves wanted to revert to their maiden names, to use their maiden names legally. Under the old Change of Names Regulation Act that was not possible. The amend-

ment, however, only affected the use of the name. Whether it had the effect of giving her a new legal surname is another question.

I asked the Attorney what was the Registrar General's practice in this regard because the Registrar General now handles this area. It seemed to me that the Change of Names Regulation Act, on its own, may not have provided sufficient authority to be able to say that a person has acquired a new surname without a deed poll or licence, while on the other hand it was perfectly legal for that person to use a name that previously she was forbidden to use by law.

Under the amendment to the old Act, a person could use a registered birth name, a reputed name, or a name acquired by marriage. However, whether or not in using such other name a person acquired a new surname in the place of a former one is very much open to question. That was the point. That is the answer I would give to the Attorney General if he asked why there should be a difference in changing the names of parents and their children. I doubt whether we have done this by amending the Change of Names Regulation Act. If I am wrong, I will stand corrected.

I am sorry I have not had the opportunity to put this question before so that the Attorney could ask the Registrar General exactly how he gets over this problem. If I am right, it takes away half the argument that the Attorney has put, because the person in question has not acquired a new surname.

One reason for my asking this question is that I had a phone call yesterday from a woman who asked why the Liberals were preventing people from changing their children's names. She told me her case and gave me permission to use the facts. I promised that I would not mention her name. She had been married for five years when she became pregnant. Before the baby was born her husband walked out on her. The child was born in June this year. She does not know where her husband went and has not heard of him since he left. She assured me of this. She proposes to sue for divorce after 12 months have elapsed since the date her husband left her. She has reverted to her maiden name and was of the opinion that if the Opposition agreed to these amendments she would be able to change her child's name to her maiden name. When I considered the amendments, I formed the impression that she could not change the child's name in that way. She has to get her husband's permission, so this legislation will not help her as she thought it would. I told her that she should go back to whomever told her these amendments would resolve her problem and tell them that they will not do so at all.

I suggested that she should wait until she was divorced and then change the child's name by deed poll or licence. She then said that the Registrar General would not accept that. The Registrar General had said that because she was married her husband had to join in the deed poll or licence. I said that if she explained the position to the Registrar General she might well find that in view of the special circumstances that might not be the case. The situation in which a husband has disappeared is similar to that in which the husband is deceased. The Registrar General would probably adopt a more reasonable view. I do not know what the registrar's practice would be, but these amendments would not help that woman.

One or two other women rang me up over the weekend. Somebody was obviously sooling them onto me for some reason. I know it was not Hon. Kay Hallahan, but it was certainly someone. I had some very interesting conversations with them and they were very frank about their marital and extra-marital relationships. One woman said that the legislation would help her because she had had a number of *de facto* arrangements and wished to make sure that all her children had her maiden name. I realise that there are these cases and I am not saying that they are not genuine, but I just wonder whether the legislation has been sufficiently carefully thought out. In saying that, I am not reflecting on the Attorney General because I know he has many other things to do. On the assumption that the amendments are passed, there will be some disappointed women who think that the amendments will help them but who will find that they will not.

I am sorry I did not have the opportunity of raising these questions earlier. I raise again the question with respect to children of a *de facto* relationship. A variety of names can be adopted for those children, whereas that variety cannot be adopted for the children of a legal marriage. That situation could be considered a little curious in some cases. In this legislation we propose to place some of these children vitually on the same basis as illegitimate children. An illegitimate child, one whose father is not named on the birth certificate, takes the name of the mother. With this legislation we are saying that a child of a *de facto* marriage—or even a child of a legal mar-

riage—may take the name of the mother, which amounts virtually to the same thing, but in the case of a *de facto* marriage where the child is in fact illegitimate the child will now be registered as if it were illegitmate instead of being registered as if it were legitimate by taking the father's surname. I refer to the child as "illegitimate" without casting any stigma of any sort; that would be the last thing I would want to do.

With this legislation we are purporting to change the names of children. These are not adults changing their own names. These are adults changing other people's names. The names of young children are being changed to suit the convenience of adults. I think all these matters merit the consideration of the Chamber.

Hon. TOM STEPHENS: I have listened with interest to Mr Medcalf's comments. I hope to draw his attention to the operation of the current Act. Under section 21 of the Act, with respect to children born out of wedlock, if the mother has the agreement of the father of the child to register the name of the father on the birth certificate, automatically that name appears as the surname of that child. If for any reason the father does not agree to being named on that birth certificate the mother must automatically afford her surname to the child. Thus the naming of children in circumstances of unmarried women under the operations of the Act depends simply upon the willingness or otherwise of the father to be registered as the father on the birth certificate. Thus not much will change by virtue of our proposed amendments, except that in cases where the father's name is registered on the birth certificate, no longer will the child automatically be given the father's name.

If my outline of the Act is accepted by Hon. Ian Medcalf and if he also accepts that our amendments will not effect drastic changes to the Act, he should at least amend his amendment by removing the reference to section 21 of the parent Act. We do not propose to require the naming of a child born out of wedlock to proceed on the basis of the Act, but rather to provide the option whereby the mother, having secured the agreement of the father of a child, could register that father's name on the birth certificate but allow for a choice of surname of that child. The child would be able to take the mother's name, the father's name, or a combination of both, if that is sought. I propose that the Opposition desist from the amendments referring to section 21.

Hon. J. M. BERINSON: With respect, I have to say that Mr Medcalf's most recent comments are mainly in the nature of distractions rather than issues going directly to the Bill. For example, he has reverted to the question of whether women have an automatic right to retain their former surnames after marriage. I have already said that I would not wish to attempt to reply to that in any definitive way before getting further advice. However, I put it to the Committee that there is no need to wait for that advice before proceeding further.

Mr Medcalf says that if the position is as he puts it in respect of wives' automatic rights, or non-automatic rights as the case might be, half of my case is demolished. I do not believe that my case is affected at all because it depends fundamentally not on the statutory position but on the community acceptance of the view that wives should be permitted, and that it is acceptable practice for them, to retain their former surnames after marriage. That is the basis of my argument. That does not involve the question as to whether a deed is required, or some other special application is required, or whether that position can simply be created automatically at the wife's option. That is the fundamental situation from which we are moving.

I still have not heard anyone argue that there is any community view that it is not acceptable for a wife to retain her former surname. I move on again from that point to extend it by suggesting that there should not be any objection either to a choice being available in respect of children's surnames as well.

In much the same way, Mr Medcalf's concern about connotations of illegitimacy arising from the adoption of a mother's surname is really misplaced. On the contrary, in the future where it is known that the children of a marriage may well have the mother's surname as well as the father's, then nothing can attach in terms of illegitimacy to the name of a child reflecting the mother's surname. That connotation goes by the board.

In summary, I have to argue again that these issues, while interesting and not unimportant, are nonetheless not really relevant to the argument which this Bill represents. The Bill, and this clause in particular, represent the argument that parents who agree that their children should be named after the father's name, or the mother's name, or a hyphenated combination of both, should be at liberty to exercise that option. That is at the heart of this part of the

Bill. So far as I can discern nothing that has so far been said operates in any persuasive way against that.

Hon. A. A. LEWIS: I would hate to argue with the legal strong men in this Chamber and I do not intend to enter into legal arguments at all. It seems to me that the Attorney General is attacking this Bill with his usual deftness and scalpel-like efficiency but is totally forgetting the practicalities. We can all understand what he is trying to do. However, I will give two or three examples of cases in which I think the Bill will fall foul.

The first relates to a marriage that was lovey-dovey but has broken down. I am referring to a case where agreement has been reached that the father's surname be taken as the surname of the children. I understand from the Attorney General that each successive sibling must therefore take that surname. Mr Medcalf referred to an example of a dispute taking place and I remind the Attorney General that it is not only in the Family Court that arguments between couples occur.

Hon. J. M. Berinson interjected.

Hon. A. A. LEWIS: My concern is that the Attorney General, with his purity of thought and the manner in which he is going through this legislation, may be straying from the realms of practicality.

If a separation or divorce takes place in a marriage and a subsequent sibling is born before or after the divorce, what is the situation with regard to names? If the child is born after the divorce the mother can give the child her maiden name as a surname, even if it is a child of the marriage.

Hon. J. M. Berinson: Given that there must be a year's separation before divorce, it is difficult to conceive of a child of the marriage being born after the divorce.

Hon. A. A. LEWIS: That is where we may run into some slightly practical problems. I am talking about intensely practical situations that do occur—social situations that happen.

Hon. J. M. Berinson: They will happen anyway.

Hon. Tom Stephens: This amendment will have nothing to do with that situation.

Hon. A. A. LEWIS: The Attorney General is basing his argument on a fairly wide view of community acceptance and the fact that the community does not appear to be very worried about this one way or the other. Is that correct?

Hon. J. M. Berinson: In respect of wives' surnames, yes.

Hon. A. A. LEWIS: In respect of wives' surnames and wives choosing which surname to give their children.

Hon. J. M. Berinson: That is my belief.

Hon. A. A. LEWIS: The Attorney General is saying that there is not much community concern about this matter at all.

Hon. Kay Hallahan interjected.

Hon. A. A. LEWIS: I am arguing with the Attorney General and if Hon. Kay Hallahan wishes to say something she can get to her feet shortly. This is an extremely serious subject and the member is taking a very superficial view of it. I am trying to get to the bottom of this matter and I would like some sense to come from it. I am trying to get into a situation where the members of this Chamber reach a sensible solution, even if it is necessary for the Attorney General to go away and present us with a new Bill. I am concerned that we should all be making a concentrated effort and should do the right thing on this occasion.

We tend to think at times that if any problems arise they can be fixed up in a month or two. We have adopted that attitude in this Chamber for far too long in regard to this sort of thing. We should try to make Bills as accurate as possible in the beginning. We should not let Bills leave this Chamber until their effect is as we desire, and I do not think many members disagree with me. Ministers also want to push Bills through this Chamber, but I know the Attorney would never want to do that. The Attorney would want to argue them out and have them thoroughly examined before they are passed by this Chamber. Lately there has been a tendency towards just a trifle bit of pushing by the Attorney and a trifle bit of reluctance on his part to take further legal advice.

I suppose I should return to the clause.

Hon. E. J. Charlton: That would be good.

Hon. J. M. Berinson: He said it, not me.

Hon. E. J. Charlton: I was very interested to hear what the next bit was going to be.

Hon. A. A. LEWIS: It would be interesting to have that interjection recorded because it might help me at a later time.

Returning to the community, I really do not think the community cares two hoots about what we do here. A section of the community wishes certain things to happen, and I am not denying it that right. Perhaps it is a good right,

but what happens in all these odd situations? What happens in a *de facto* situation if there is more than one *de facto* and the lovey-dovey period has passed, with an agreement in some cases and no agreement in other cases?

Hon. Tom Stephens: What will happen is what happens now anyway.

Hon. A. A. LEWIS: Does Hon. Tom Stephens follow what I am trying to get at? Currently the father's name is used on the birth certificate, with his agreement, in a *de facto* relationship. It could be the situation that in a lovey-dovey relationship the father's name is used, a split-up occurs, and with no agreement from the father, the mother's name is used. Another *de facto*, lovey-dovey relationship begins, so the father's name is used; another split-up occurs, so the woman returns to her maiden name.

Hon. J. M. Berinson: You are not arguing against Hon. Tom Stephens in that that is precisely the existing position?

Hon. A. A. LEWIS: That is exactly the current position. If it is the situation now, the only thing I can say to the Attorney—and I am not going to argue the legal ramifications; I am not happy with the way the Bill reads—is that he may be tending to let himself into the same situation. Is that what the Attorney wants? In a feeling situation that is undoubtedly what should happen under proposed section 21A, if the Attorney is really dinkum about it and if he wants to press this question to the nth degree. If the Attorney presses for that—

Hon. Kay Hallahan: Presses for what?

Hon. A. A. LEWIS: If the Attorney presses for the same sort of thing as happened under section 21 to happen under new section 21A, he will achieve what he wants and what the people who are pushing for this move want, if they could look into their crystal ball and see the ideal situation. The Bill will cause much confusion in the public mind. Even listening to the Attorney, Hon. Ian Medcalf, and Hon. Tom Stephens, and looking at the amendments, I am afraid that as a legislator, I was becoming more and more confused, as I was getting more confused with the Attorney's answers, which seemed to contradict themselves every time he got to his feet to speak. This worries me in respect of the general public.

Hon. J. M. Berinson: Could you name two answers of mine which contradicted themselves?

Hon. A. A. LEWIS: The Attorney can explain it all properly to us again, but I will not waste the Committee's time.

Hon. J. M. Berinson: Unless you tell me where I have been confusing in argument—

Hon. A. A. LEWIS: Hon. Ian Medcalf told the Attorney on about three occasions where he was going wrong, where his arguments seemed to conflict. I read *Hansard* of last Thursday, and really, it was not one of the Attorney's better efforts or better explanations, was it?

Hon. J. M. Berinson: It wasn't bad.

Hon. A. A. LEWIS: It was not good either. If Hon. Ian Medcalf had been here even he would not have been able to understand it.

Hon. P. H. Wells: His adviser should have given the speech.

Hon. A. A. LEWIS: I do not think it has anything to do with his adviser. The Attorney is quite capable of handling it himself. Probably the less he sees of the adviser in respect of this matter, the better, because she cannot interject from where she is, or if she tries to she will be disregarded by the Chamber.

I would like the Attorney to have a really good look at this clause in the light of what Hon. Ian Medcalf said and what he thinks the public want.

Hon. J. M. Berinson: I said what the public accepts, there is a difference. I am talking about community acceptance.

Hon. A. A. LEWIS: There is a difference. Okay, let us talk about community acceptance. When a Bill passes through this Chamber with little debate—and Lord knows that occurs in respect of 85 or 90 per cent of Bills—it is then said there is community acceptance, because there has been little debate and little public argument. But I believe the community at large is becoming extremely sick of all these pettifogging new little things that are put upon them bit by bit.

Honestly, I can understand the feelings behind the Bill, but it is another straw which will break the camel's back. In my 13 or 14 years in this place we have dealt with many matters, but only one person has approached me in regard to this subject. I bet a person with the experience of Hon. Graham MacKinnon has not had more than four or five approaches on this business of community need in 25 years.

Until the committee can find an explanation it can understand either from the Attorney General, his advisers, Hon. I. G. Medcalf, or

Hon. Tom Stephens of where we are going we should hold the Bill in abeyance. The situation could be discussed by setting up an *ad hoc* committee which could set guidelines about what it wishes to do and the effect this Bill will have in certain situations. Until we find those answers, I do not think we should pass this Bill. I will not stick my neck out so far as to say that I will oppose the Bill for the sake of opposing it, but I am taking an interest, even though some people might say I have not had the experience. I am worried about this Chamber passing little bits and pieces of legislation only to find a bigger mess exists by their passing.

I think Government members would agree with what I am saying, which is the greatest compliment to me; but I would like the Attorney General to explain where we are heading with this Bill and why we need it.

Hon. J. M. BERINSON: I refer to Mr Lewis' point that the community is becoming wary of pettifogging little things being put upon them. I cannot emphasise too much that the community, by this Bill, is having nothing put on it. Nobody is obliged to change the naming practices in his family from the traditional system which previously applied in this State.

What this Bill seeks to do is to expand the discretion of parents to exercise a choice of their own making. That is all this Bill does. I seem to be having difficulty in making that point clearly enough for Mr Lewis' satisfaction but that is, in fact, the case. It is not possible to go beyond an explanation which says what this Bill itself says; namely, that there should in future be a choice available to parents which would allow them, by mutual agreement, to use the father's surname, the mother's surname, or a combination of those surnames in respect of their children. That has been said many times, with due respect, and I do not know how it can be said any differently or any clearer. This is what this part of the Bill is designed to do, and that is what it does in fact do.

It is always possible in such cases to postulate situations where one may get something less than satisfactory emerging in practice. Hon. P. G. Pendal gave an example the other day where, in every third generation, one could have a child ending up with a surname involving something like 12 or 16 combinations. He indicated himself that it was an unrealistic possibility.

Hon. A. A. Lewis: It is a combination that is possible.

Hon. J. M. BERINSON: But it is unrealistic. It will never happen and we all know that, and even Mr Pendal would acknowledge it would never happen.

Hon. G. C. MacKinnon: One of the laws of life is that whatever is possible will ultimately happen.

Hon. J. M. BERINSON: That may be one of the laws of life but we will have to wait for three generations to test its application here. It is surprising to Mr Lewis that in other States to which I have referred, legislation of this nature has been in force for years without any complaint or difficulty. I have not given any overseas precedents, but I have not the faintest doubt that Australia was not a trailblazer in this area. More precedents could be found if we searched.

Hon. A. A. Lewis: Are you sure your precedents are correct, because that is not the information I have received?

Hon. J. M. BERINSON: Yes.

Hon. A. A. Lewis: You said it so definitely.

Hon. J. M. BERINSON: I can be quite definite on this point. Mr Lewis postulates two sets of possible difficulties. One relates to the children of married couples, and there I can only refer him to the example I gave a moment ago; namely the situation of other States which, long before us, have provided such a naming facility to parents. The question of possible differences in the names of children of *de facto* partnerships is not a problem which can be solved by a short adjournment or consultation with Parliamentary Counsel. It is a problem that cannot be solved because of the nature of *de facto* relationships, and the way those *de facto* relationships can change.

Hon. A. A. Lewis: So they take the mother's name off.

Hon. Tom Stephens: That is not the case now.

Hon. J. M. BERINSON: That would be inconsistent with the choices we are offering in other circumstances, and there is no reason for that.

In respect of possible combinations relating to the children of married couples, we can be comforted by the experience of jurisdictions with similar legislation which has not thrown up any practical difficulties. With respect to complications which might arise out of *de facto* relationships we cannot be in any worse a position than we are now. It is not possible, by

this legislation to change the nature of *de facto* relationships. In that respect the Bill cannot take the position any further.

Hon. I. G. MEDCALF: I refer the Attorney General to the new section 21A(1)(b) which refers, in all other cases, to the surname of the mother of the child. I ask the Attorney General to explain what that refers to and why it is in the Bill.

Hon. J. M. Berinson: Can you please repeat the question?

Hon. I. G. MEDCALF: I would like the Attorney General to explain this matter. I do not wish to embarrass him and I am quite happy to proffer my explanation, which I think is probably the same as Mr Stephens'. No doubt if it is not, I will be told.

It seems to me that the registrar may be on thin ice in registering children under section 21 in the name of the mother without having any formal authority. I put that forward as a surmise and I do not know whether it is right or wrong. Perhaps the Attorney General could find that out, but it seems to me that this must have been put in by the Parliamentary Counsel for a reason, which I assume is to ensure that in all other cases the child takes the name of the mother, because there is some doubt about some of those other cases in which the registrar may have allowed the surname of the mother to be taken.

I refer particularly to section 21 and to the case of the illegitimate child whose father does not want to have his name put on the certificate, or who perhaps denies paternity. I suggest that is there because of the circumstance I mentioned, but I am curious and I would like to know the real reason. It may be that the Attorney General could supply that reason.

I propose in my amendment to delete it, but if it is there for a good reason, I would like some explanation which I hope might be made available along with answers to other questions I asked. Mr Stephens suggested that perhaps if I move my amendment, I should take out the words "or 21" so as to enable the father to be recognised by being named on the birth certificate. That is the point of concern to one or two women who rang me up because they would like to have the father registered on the certificate but also the ability to name the child using their own surname. That may well be a valid suggestion, but there may be a case for saying that a woman should be able to put the father's name on the certificate with his consent and, if it is a *de facto* marriage or an illegitimate birth, the child should bear the mother's name. At the moment the child cannot bear the mother's name, it must bear the father's. That is the point I would like to make and I assume that the reason for new section 21A(1)(b) is to give the registrar authority which I think he is actually exercising at the moment. The registrar may say that he has authority somewhere else—which I do not know about, but if it exists I would like to find out about it.

Hon. J. M. BERINSON: I asked Mr Medcalf to repeat the question because I was not at all sure that I saw the problem that he was raising. Perhaps when I give him my suggested answer, he will either be satisfied or be in a position to clarify his position further. Looking at proposed section 21A, we find that it starts with a preamble making what follows subject to subsection (2) and (3). Subsection (2) provides a discretion to the mother and father with different surnames to name the child with either of their surnames or a hyphenated combination of them.

Subsection (3) deals with religious and ethnic traditional naming practices which are not part of the current exercise. Section 21A(1)(a) goes on to make clear that subject to those two subsections, the name to be entered into the register of births as the surname of a child shall be the surname of the father where particulars as to paternity of a child are entered. On my understanding of the position, where section 21A(1)(b) says that in all other cases the surname of the mother of the child shall be applied, it is a reference to cases where the paternity of the child is not entered in the register. As in other respects, the Bill therefore preserves the current position because that is the position in respect of *de facto* marriages, or in the case of any birth not arising out of marriage; that where the father's name is not indicated on the birth certificate, the mother's surname applies. I can see nothing more in section 21A(1)(b) than a preservation of the status quo in that respect.

Hon. I. G. MEDCALF: My problem is that I do not know what all the other cases are.

Hon. J. M. Berinson: In all other cases than where the paternity of the child is shown, and where subsections (2) and (3) apply.

Hon. I. G. MEDCALF: I do not know how many other cases apply. I would have thought there was only one and that was under section 21 of the Act, which deals with illegitimate births. If there are other cases, I wonder what they are and where the registrar has been given

the authority in section 21 to register the surname of that child in the register of births. I do not know that he has the authority under that section; he may have, and if he has, that is fine. Otherwise, I do not know why this is in the Bill. Section 21 covers the registration of birth of an illegitimate child and it says that in this respect the father of such a child is not required to give the information referred to in that section. The registrar shall not enter the name of any person as the father unless the particulars are given by the mother and a declaration is made by the father.

Subsection (3) stipulates that where at any time after registration of birth the registrar is satisfied by statutory declaration that both the mother and father require the name and other particulars relating to the father to be entered in the register, the registrar may authorise that entry. Subsection (4) says where the mother is dead or cannot be found, the registrar may, upon request of the father of the child, authorise the entry of the name of the child and other particulars. I have had only a rough glance at this section but I cannot see any authority for the registrar to give the mother's name.

Hon. J. M. Berinson: He does give the child its mother's name. There is no other name he can give. Do you see that any more than that can be preserved by 21A(1)?

Hon. I. G. MEDCALF: Perhaps during the tea suspension the Attorney General could clarify the earlier question I asked; that is, why this has been put in and whether it is to protect the registrar when using the mother's name under section 21, and to give him the appropriate authority.

Sitting suspended from 6.00 to 7.30 p.m.

Hon. J. M. BERINSON: I have taken advantage of the recess to obtain some further advice on a couple of matters raised at an earlier stage of the debate. On the advice now available to me, I can confirm that I was correct in indicating during the second reading that a woman, upon marriage, does have the ability to retain her existing surname. I am told that that arises from the fact that neither the Commonwealth Marriage Act nor any other Act has the effect that a woman is obliged upon marriage to adopt her husband's surname.

A second question was raised as to the effect of proposed section 21A(1)(b). In this respect, I can confirm that that proposed subsection would put into statutory form the existing practice in relation to the naming of children whose paternity is not indicated on the birth certificate. I can also confirm that there is no provision in the present Act on which the current practice is based. That is not really a weakness of the present Act, since in the circumstances that we are dealing with there really is no other surname on the birth certificate which could attach to the child.

Hon. I. G. MEDCALF: I thank the Attorney General for obtaining answers to those questions. It does appear in relation to the second question that the only purpose of new section 21A(1)(b) is to give the registrar some formal authority for doing what he is already doing, which he now does because there is no other course open to him.

In the case of the answer to the first-mentioned question, it appears that a woman, on marriage, does not take her husband's surname unless she explicitly says so or, alternatively, if she wishes to retain her maiden name she presumably explicitly says that. I am not quite clear about that, and perhaps the Attorney General could elaborate on it and explain exactly what does happen. I had assumed that on marriage the surname of the husband was automatically taken unless the wife took some step to indicate that she was not changing her surname. I appreciate that in practice she can use her maiden name, but it appears that the registrar does not require any formal action whatever, judging from the answer that has been given, and that she is allowed to assume both names and is, according to the registrar, to be the possessor of two surnames. Would the Attorney General please advise whether that is the position?

Hon. J. M. BERINSON: The advice I have indicates that there is no formality involved in the wife retaining her earlier surname, but that she retains the right to adopt her husband's surname in addition to that.

Hon. I. G. MEDCALF: I take that to mean that a woman, on marriage, therefore has two surnames—the surname of her husband, or her maiden surname which she can use at will—and the registrar would recognise either as her legal surname.

Hon. J. M. Berinson: That is my understanding.

Hon. I. G. MEDCALF: That strikes me as being a very curious situation and one which may well be open to some question or challenge. Nevertheless, that is the answer which the registrar has provided to the question I asked. That means, therefore, that the mother and father of a child always have different sur-

names; that is, all married parents have different surnames all the time, if they choose to do so. It would surprise my wife to know she has a different surname from me.

Hon. J. M. Berinson: I do not think it is necessarily correct to say she has a different surname, but that the use of another surname is open to her. Her surname is what she says her surname is.

Hon. I. G. MEDCALF: We are talking here about whether the mother and father of a child have different surnames, which means that any married couple at all would come within this category, at the flick of a finger or the drop of a hat.

Hon. J. M. Berinson: The potential is there.

Hon. I. G. MEDCALF: This therefore applies to any married couple at all, at any time.

We are not talking about the woman who might have deliberately adopted a different surname; we are talking about a normal married couple who, because of the permission afforded by this Bill and without bothering to notify the registrar, decide to have different surnames. I gather the answer is yes.

Hon. J. M. Berinson: I did not say yes because I am not sure that is really putting the question correctly.

Hon. I. G. MEDCALF: Shall I put it in another way?

Hon. J. M. Berinson: Preferably not.

Hon. I. G. MEDCALF: I take that to be affirmative action on the part of the Attorney General.

Hon. Robert Hetherington: Miss Elliott has not taken her husband's name.

Hon. I. G. MEDCALF: I am well aware of Miss Elliott's position. Before the Change of Names Regulation Act of 1980 she raised the question with me because she was a little concerned that her political name might have occasioned some breach of the law. I do not think it did but to make sure the matter was corrected by the 1980 amendment.

We are now dealing with normal married couples who will be in a position to have different surnames at the drop of a hat. They can therefore register their children by either the mother's or the father's name at any time, with the proviso that if they are married they must have all their children by the one name—either the mother's, the father's or a hyphenated form of their names. They must use that for all their children throughout the marriage. But that does not apply to *de factos,* who can use a variety of names.

I must now decide whether to adopt Mr Stephens' suggestion. I see he is shaking his head, even though he made the suggestion.

Hon. TOM STEPHENS: As Mr Medcalf rightly points out, I suggested to the Chamber earlier that he might look at the prospect of deleting reference to section 21 in his proposed amendment and at least desist from that part.

The reason I invited him to consider that course was to highlight what would then flow from that consideration; that is the compounding of the inconsistency that would flow from any amendment of this Bill.

The Bill is basically, as the Attorney has very capably argued, providing increased flexibility and liberty for people in the naming of their children. If Mr Medcalf were to take up my suggestion and delete the reference to section 21, he would be homing in on the question of nuptial births. That would be an improvement from persevering with the amendment as it stands, but we would still be left with the situation where people have arrived at different surnames from the process which is available to them at marriage.

I am well aware of that, because I am perhaps the most recently married member of this Chamber. Twelve months ago, when my wife and I registered our marriage, we were well aware of the option available to Ann of maintaining her maiden name. If she adopted the course, or even if she now chooses to, of retaining the name Davidson, when it comes to the birth of a child she might like to discuss what the name of that child should be. It might be Stephens, Davidson, Stephens-Davidson or Davidson-Stephens.

Once one focuses on section 21, having accepted the proposal put forward by the Attorney General in regard to that section, an additional inconsistency arises which perhaps Mr Medcalf has not considered in regard to the ethnic community. The naming system which could flow from this Bill will not simply be the introduction of names such as Mahommed. The choices available for a child in an ethnic or religious community will not necessarily be the surname of the father or the mother, but rather the surname adopted under the provisions prescribed by custom. If it is permissible for that religious or ethnic custom to be acceptable under the law proposed by the Attorney General, which Mr Medcalf has indicated he ac-

cepts, then in today's community we are faced with new choices in regard to surnames. It is an acceptance of what amounts to the status quo.

Mr Medcalf might like to look at the process whereby it is not merely a question of sometimes maintaining maiden names as surnames for the children. Even under the current Statute it is possible for a woman, by deed poll, to change her name to something different from her husband's and look at the prospect of utilising that surname for her child.

That perhaps compounds the problem, but I commend the amendment currently proposed by the Attorney General and encourage Mr Medcalf not to take up my suggestion. We accept there are modern circumstances in which people will want to choose the naming process for their children. The introduction of the hyphenated or double-barrelled name should be an attraction to members on the opposite side of the Chamber.

Hon. H. W. Gayfer: The only one in this Chamber is McMillan Brown, who sits over there.

Hon. I. G. MEDCALF: It is very interesting to see what really lies behind this Bill. This hyphenated business was apparently a carrot held out to the Liberals.

Hon. Tom Stephens: That was only a throwaway.

Hon. C. J. Bell: It sounded like sour grapes.

Hon. I. G. MEDCALF: It involves the problem of hyphenated names perhaps indicating a *de facto* marriage rather than a legal one.

I did think that Mr Stephans had made a serious suggestion, because if the words "or 21" were deleted, it would mean that in the case of a *de facto* marriage a woman could put the name of the father on the birth certificate, subject to his declaring that he was the father, and at the same time could name the child with her maiden name.

That seems to be a reasonable compromise, because a few women who spoke to me seemed to have that ambition; they wanted to name the father; in other words, they did not want the father to be unknown, and that is very reasonable. They did not want the birth certificate of the child to state "father unknown" because that carries a certain connotation, but if the name of the father could be inserted with his consent, which he would give, it would not mean the child must be named after him and that would be a satisfactory outcome. I believe that to be the effect of the proposal of Hon. Tom Stephens to delete the words "or 21". His suggestion has something to commend it and I might well be prepared to modify my amendment along those lines.

Hon. Tom Stephens did suggest that that was only the first instalment of further proposals he wished to make—I would draw the bottom line somewhere—but it would at least enable the situation to which I have referred to be overcome. It would mean that a woman in that position could name the father, with his consent, and the child could bear her name, and this could be achieved simply by deleting the words "or 21" in this proposed section. It would not really require a complicated amendment in that case. I wonder whether that amendment might commend itself slightly more to the Attorney than the previous one.

Hon. J. M. BERINSON: The reason it does not commend itself more to me is that it would leave in place Hon. I. G. Medcalf's proposal that lines 8 to 28 be deleted. That would be the effect of removing the discretion of parents as is proposed in proposed section 21A. It is therefore not acceptable, although I might say that the further proposition that attention might be given to extended naming rights of mothers in a *de facto* relationship, could be considered at a later stage.

Hon. H. W. GAYFER: I have listened to the debate. The objections that I raised during the second reading in regard to the desires of the populace generally in my area to leave things as is, would be covered by this proposed amendment of the Attorney.

Section 21 of the Act is well known by the Attorney and need not be read by me, but the suggestion of Hon. I. G. Medcalf to delete the words "or 21" in his amendment means that even the mother of an illegitimate child will be able to call the child by her surname. I am not too sure, but I think in the case of a *de facto* relationship the same thing could apply. I am sure of one thing: The provision of the Attorney General to allow parents to call the child by whichever name they choose—or both is the provision that has been steadily put *ad nauseum* tonight—is a provision that my electors generally would not approve of, and I stated this the other day because I believe my electors would prefer the status quo to remain. I will vote accordingly and if I am wrong the electors can tell me. I have never had a letter on my desk in all the years I have been in the

Parliament suggesting anything contrary to the situation that now exists. This is what I think my electors would expect me to do.

Accordingly, Hon. I. G. Medcalf's amendment should be carried and I intend to support him.

Hon. I. G. MEDCALF: I am prepared to modify my amendment by deleting the reference to section 21 which appears in new section 21A. That means I will not move the amendment standing on the Notice Paper in my name, but I propose to move to delete the reference to "subsections (2) and (3)" on lines 8 and 9 and insert in lieu thereof "subsection (2)". In line 13 I wish to delete the passage "or 21" which would take out the requirement that because the father of an illigitimate child is named, having declared his consent to be named on the register of births, then the child must take his surname. It would then take the mother's surname. I am prepared to move those two amendments. Paragraph (b) would remain and if those amendments were successful I would propose to delete subsection (2). Subsection (3) would then become subsection (2) automatically. I do not propose to amend subsection (3). I have already indicated that I am not opposing the question in regard to people within religious or ethnic groups.

I move an amendment—

> Page 2, lines 8 and 9—To delete the words "subsections (2) and (3)" and substitute the words "subsection (2)".

Hon. J. M. BERINSON: Although this amendment is of very limited scope and would not make sense without the further amendments which have been foreshadowed, I think we understand well enough the intention of the package. I will therefore address my comments on this limited amendment to the package as it has been explained to us.

The effect of the new package is to eliminate an essential feature of proposed section 21A; namely, the provision allowing a choice of surname to married partners. In the course of doing that it also eliminates a choice which would otherwise be available to *de facto* partners. This amendment goes to the heart of one of the major features of this Bill and is not acceptable in that form. If Hon. I. G. Medcalf were to say that as well as these provisions he wished to have considered the position of *de facto* mothers, that could be an argument for separate consideration. Personally, I would be inclined to ask that that further consideration be given at some future date and on another Bill. I would caution the House against the acceptance of propositions of this sort which can significantly affect certain family situations without proper consultation with people experienced in this field.

The point I wish to stress is that this amendment would eliminate the choice which the Bill seeks to give to both married and unmarried parents. The Government finds that position unacceptable.

Hon. KAY HALLAHAN: I support the position taken by the Attorney General. The fundamental part of the Bill relates to choice and I think we ought to preserve that. I have not heard anything—and I have listened most attentively—to convince me that there is any problem about preserving that choice and having it available to parents. I remind Hon. H. W. Gayfer, for whom I have quite a regard, of his speech, which I read last night, on the Equal Opportunity Bill where the honourable member referred to the fact that no-one in his electorate had asked for that Bill. On consideration of this Bill, we are looking at something that has been asked for from members of the wider community. If certain members of this Committee have not been approached, I am afraid that does not mean that there have not been significant approaches to members of Parliament generally. It is on that basis that this amendment in the current Bill is proposed. It is not proposed on the whim of a few people or on that of small lobby groups. It is seen as a reasonable offer to make this legislation available to the community. Certain members in our community feel more comfortable approaching certain members of Parliament. I do not know what happens in rural areas but it concerns me that perhaps people are not approaching their members of Parliament. The requests have not necessarily come from the metropolitan area, they have come from a wide cross-section of the State.

I would like members to consider the Bill before the Committee in its current form and give it support. I therefore propose to vote against the amendment.

Hon. TOM STEPHENS: I feel embarrassed that I have led Hon. I. G. Medcalf down a particular line of thought with a view to assisting in the process of demolishing his argument in defending a particular amendment he was considering. I was not hoping that the outcome of my entering into this line of argument would lead him to persisting with that aspect of the amendment. However, after having accepted my point, that he could just as easily delete any

reference to section 21, I was hoping that he would be then led on to appreciate the value and perhaps desist from the amendment altogether. I hope I will not be ascribed the paternity of this amendment to the Bill. I was rather looking forward to the Bill being passed in its current form and I am still hopeful of this. I know the situation that applies in other States is not the most popular argument to put before this Chamber. I do not want to state that argument again with a view to inflaming the situation, but I wish to quietly look at the current position in respect of the registration of nuptial births as it applies in New South Wales. Registration can be in the father's or mother's surname if a joint request is made by the parents. In South Australia it depends also on the choice of the parents, where the child can be registered under the surname of the father or mother, or a combination of both. In Tasmania legislation is currently planned to bring it into line with New South Wales in permitting nuptial children to have either surname. In Victoria new births, deaths and marriages legislation is currently being drafted which will contain provisions to include choice of surnames. In the ACT the child may be registered under the wife's maiden name and in the Northern Territory a nuptial child can be registered under the father's or mother's name, or, if requested, a combination of both. If parents are unable to agree, registration is in the name of the father.

I refer Hon. I. G. Medcalf to that point to restate the situation in other States where it is working successfully. Those States are obviously turning in that direction because of the expressed wishes of the community.

The other point I wish to refer to is my youth. I am the youngest member in this Chamber and the second youngest member ever to be elected to the Chamber. To that extent I can argue this point. There are changing viewpoints on these questions among the younger members of the Western Australian community. The amendment proposed by our Attorney General accurately reflects the changing mood of the community and in particular the younger community in regard to the naming process, not only of children, but also of married couples. I hope that the honourable member might see in my invitation to look at that amendment justification for desisting from his amendment altogether.

I support the Bill in its current form and hope I can encourage other members to support it.

Hon. I. G. MEDCALF: My basic concern is for those people who are unable to do anything to alleviate their position. Such a person is a women in a *de facto* relationship who wants to record the name of the father for the sake of the child for the future, but if she does that she is then unable to do anything about the name because the child must take the father's name. This amendment will secure her position and alleviate the position she is in now.

Hon. J. M. Berinson: What about where she might wish the child to take the father's name?

Hon. I. G. MEDCALF: At least we are giving her the option that she does not have at present.

Hon. J. M. Berinson: You are precluding that option; you are not giving her an option.

Hon. I. G. MEDCALF: We are giving her an option that she does not now have. The Attorney is saying that we are not giving her two options. However, we are giving her one.

Other people are not catered for in this Bill. What about the married woman I spoke about previously? She can do nothing at all about her position. There is nothing in the legislation about a divorced woman. I have told her that the best thing she can do, when she gets a divorce in a few months' time, is to appeal to the Registrar General to see what he can do. I do not know whether he is able to do anything for her, but I hope he can.

That woman is not catered for in this legislation. Many defects have not been taken care of. The Attorney General has been talking about the case of married people and asking why we are attempting to prevent them from choosing the surname. They can change their names by deed poll or licence if they wish. This is not a tragedy for them. They can change their names and their children's names. However, this woman cannot do anything about her situation. I believe we should be concerned about this. At least I am going part of the way in catering for the problem. Admittedly, my amendment does not please everybody and it does not give a woman the option of adopting the father's surname as well if she wants. The basic problem is that at present they have no options at all.

I suggest that the Attorney's advisers might have given some thought to other cases which have not been included in the Bill and which should have been included, and which I would not oppose.

I do not know whether the Committee supports my amendments, but I ask it to do so.

Hon. J. M. BERINSON: I agree that this Bill leaves gaps which are not adequately catered for. I am quite prepared to undertake to have attention given to the sort of question just raised with a view to further amendment. However, that is no reason to bite into the heart of this part of the Bill and to preclude the naming of children by agreement of parents, whether married or unmarried.

Some questions of the kind raised by Mr Medcalf were considered in the course of preparing the Bill. A deliberate decision was taken to not interfere with the status quo except where the agreement of parents to a change in current practice was demonstrated. Admittedly, this Bill has a limited scope. That does not preclude our going into other areas at a later stage. Indeed, I have already, both formally here and informally out of this Chamber, given assurances to the effect that these questions will be pursued. I have given that assurance to Hon. Kay Hallahan, Hon. Lyla Elliott, and others. Nothing can be said against our pursuing them, but they ought to be pursued in an orderly manner, taking into account the advice and experience of people who have some knowledge of the matter and of issues which are not necessarily apparent on a first consideration on the floor of this Chamber. In particular, we should not be prevented from moving ahead in the modest way which this Bill provides.

I repeat: This Bill is deliberately limited to amendments to the current naming practices which are agreed upon by the parents of the child. There is no question of imposing one parent's view over another. That is not to deny that there may be some cases where that is justified. However, we are not dealing with that now. We do not need to face it now and there is no need to delay or to substantially amend the Bill on the basis that not all gaps will be filled by this Bill, whichever form it takes.

Hon. ROBERT HETHERINGTON: I take Hon. Ian Medcalf's point that the Bill does not go far enough. I think that is important and valuable. However, I find it odd that he used the argument that the Bill does not go far enough in order to restrict the Bill. I wish he would reconsider his position because, if Hon. Tom Stephens spoke as one of the young members of this Chamber, then I am one of the handful who are over 60. I think we have to consider what is happening with my children's generation. They have a different view from ours.

It is true—I have known this ever since I was married, and that was 34 years ago—that a woman is allowed to keep her father's name after marriage, and many have done so; actresses have done it for years, as have many professional women. I mentioned in debate that my wife said that, were she to marry today, she would keep her name and not take mine. However, she will not revert to that situation after 34 years because that is a habit she does not want to get out of. Certainly, my daughter-in-law is retaining her maiden name. In our children's generation, therefore, there is a whole new attitude.

Mr Medcalf and members of the Liberal Party have spoken about freedom of choice. I agree with those principles. I think, however, that this is a case where we should offer freedom of choice. We are not making it compulsory for people to change their ways. If, in Mr Gayfer's electorate, nobody wants to change, that is fine. The Bill does not make it mandatory—it is permitted; it allows a choice. I believe in a free country which allows a choice.

I remind the gentleman that, when he and I were married, the custom was that a wife took her husband's christian name and surname. In other words, when one comes to think about what the Royal Family does, Diana is Diana, Princess of Wales, not just Diana. My wife was Penelope Loveday, Mrs Robert Hetherington. We have now got rid of that. I am still trying to get some people in protocol to understand that I am Mr Robert Hetherington married to Ms Penelope Hetherington, but these changes come about slowly.

The retaining of the husband's surname by a wife is a hangover from the days when a woman became his property, such as what one reads in books such as *The Forsyte Saga.* I think we should face the fact that the present generation has different views and different values. It wants options that I would not want, although if my wife wants to be Ms Loveday that is her right. I would not hop out of the connubial bed because she wanted that. I would remain married to her.

Some young people who marry, today keep their respective names. If they desire to name the children after the mother, why should they not have that choice? I would have thought that this was in accordance with the principles of liberalism. I am not trying to score points here; I am making the point quite seriously because I take very seriously the principles of liberalism and individual freedoms. I always have.

Although some people may find that to be not consistent with being a member of the Labor Party, it is just a matter of our chasing the principle in different ways. It does not mean that we do not share the principle.

On this occasion, I think that liberal principles should provide the acceptance of this Bill because it does not make anybody depart from the patterns of the past other than those people who, in their values, have already departed from those patterns and want to do something else. Of course, some people think that descent should be through the mother. I am reminded of the story—if I may tell it before this august gathering—of two people who were married for many years, who had no children, and who finally quarrelled and divorced. They each remarried and nine months later the husband wrote to his ex-wife and said: "Father of a bonny bouncing boy." She responded with a telegram which said "Mother of a bonny, bouncing girl and, what's more, I know it's mine." But there is no doubt about maternity and some people would prefer that naming procedures follow the maternal line. I can assure the honourable gentleman that it would not be my choice; I am old-fashioned. I grew up in the pre-war world and I do not want to make that choice, but I feel that those who wish to make the choice should be allowed to do so. I do not think our society will collapse, or that the family unit will collapse, because of it.

Those people who feel a bond of oneness that transcends the name changing may have that bond strengthened if they do not feel constrained to name their child in a particular way and are able to choose what name the child will have. I ask the honourable gentleman to consider seriously whether he will not accept the Bill and withdraw his amendments because I think that the legislation is a step in the right direction. Certainly I would agree that next year, whichever party is in Government, we should take the next step and take notice of what the honourable gentleman has said. Certainly I will trot out his speech next year and wave it in front of whoever is the Attorney.

Hon. I. G. Medcalf: It won't be me.

Hon. ROBERT HETHERINGTON: I know that.

Hon. J. M. Berinson: You wouldn't need to wave it in front of me.

Hon. ROBERT HETHERINGTON: I will not say that I am sorry it will not be Hon. Ian Medcalf, because I know it will be Hon. Joe Berinson.

Hon. I. G. Medcalf: Well, I won't be in the House.

Hon. ROBERT HETHERINGTON: I know the honourable gentleman will not be in the House and I am sorry about that because we could benefit from what he has to say. I would like to see further amending legislation go through next year with complete agreement. I would be happy if this Bill went through as the first step because, as the honourable gentleman would know, having done it himself in a number of areas, reform comes in little bits and pieces. One takes tentative steps and goes as far as one thinks one can go at any given time. I hope we pass the Bill put forward by Hon. Joe Berinson and use it as the basis for a further extension of freedoms next year.

Hon. I. G. MEDCALF: I do not propose to speak at any length. I think I have said all I need to say on this matter, except to answer Hon. Robert Hetherington. I think he has exemplified the point of difference in this. He spoke about the younger generation, and so on, and so forth. Perhaps opinions differ as to the views of the younger generation, but I suppose it boils down to the matter of one's attitude to marriage. At my advanced age it could not be expected that I would have an attitude very different from that which I have, but I have endeavoured to show that I believe we should cater for those cases that cannot help themselves. The cases referred to by Hon. Robert Hetherington can help themselves. They can change their names by deed poll or licence, but the *de facto* and the divorced woman to whom I referred and others like them ought to be the prime concern of Parliament. I ask the Committee to support the amendments.

Hon. ROBERT HETHERINGTON: I applaud what the honourable gentleman has said about the people who cannot help themselves, but although in law other people can help themselves, in fact, many have neither the knowledge nor the erudition of the honourable gentleman. They may not have even as much knowledge as I have. So in fact those married people who want to do something are not really in a position to help themselves because they do not know how to take the first step.

Amendment put and a division taken with the following result—

Ayes 17

Hon. C. J. Bell	Hon. Tom McNeil
Hon. E. J. Charlton	Hon. I. G. Medcalf
Hon. V. J. Ferry	Hon. N. F. Moore
Hon. H. W. Gayfer	Hon. Neil Oliver
Hon. Tom Knight	Hon. I. G. Pratt
Hon. A. A. Lewis	Hon. W. N. Stretch
Hon. P. H. Lockyer	Hon. P. H. Wells
Hon. G. C. MacKinnon	Hon. Margaret McAleer *(Teller)*
Hon. G. E. Masters	

Noes 11

Hon. J. M. Berinson	Hon. Robert Hetherington
Hon. J. M. Brown	Hon. Mark Nevill
Hon. D. K. Dans	Hon. S. M. Piantadosi
Hon. Graham Edwards	Hon. Tom Stephens
Hon. Lyla Elliott	Hon. Fred McKenzie *(Teller)*
Hon. Kay Hallahan	

Pairs

Ayes	Noes
Hon. P. G. Pendal	Hon. Garry Kelly
Hon. John Williams	Hon. Peter Dowding

Amendment thus passed.

Hon. I. G. MEDCALF: I move an amendment—

Page 2, line 13—To delete the words "or 21".

Hon. J. M. BERINSON: In a sense the amendments with which we are now dealing are consequential to the decisions which the Chamber made in regard to the amendment on which we divided. Therefore, there is not much point in pursuing all aspects of the amendments at length. However, I want to make it quite clear that in spite of the fact that I shall not be proposing that we divide on all these amendments, it is not an indication of any agreement to them.

With regard to the amendment now before the Chamber I hope members understand what they are about to do; they are about to deprive the child of a *de facto* marriage from the possibility of carrying a father's name.

Hon. I. G. MEDCALF: What the Chamber is about to do also is to allow the mother in the case of a *de facto* marriage to put the father's name on the birth certificate with his consent and allow the child to carry her name.

Amendment put and passed.

Hon. I. G. MEDCALF: I move an amendment—

Page 2, lines 19 to 28—To delete subsection (2).

Hon. J. M. BERINSON: Again, I shall not speak at length but simply indicate my opposition and the opposition of the Government to the amendment. Again, I should stress that if it was indeed Mr Medcalf's intention to do no more than to allow the mother of a *de facto* child to have that child named in her own surname, despite the fact that the father's name was on the birth certificate, that could well have been achieved without precluding the other possibilities which have now been precluded.

The amendment we are now about to move, not only deprives *de facto* parents of a choice in this matter, but also has the wider effect of eliminating altogether the choice of married parents. This strikes me as an extraordinary position for the Opposition to adopt. It is quite out of keeping with current community attitudes and standards. More than that, it is out of keeping with current community practice to the extent that the law permits a practice giving rise to more than one surname in a family. It is out of keeping with a pattern already adopted in a number of other States, some of them years ago. Without rehashing old arguments, I want to restate that not only am I unaware of difficulties of any kind arising from the legislation in other States but also the Opposition itself, throughout a very lengthy, not to say exhausting debate, has never suggested that it is aware of any detriment either.

This is a most undesirable course on which we are now embarking and I reject the amendment now before the Chamber absolutely.

Hon. I. G. MEDCALF: I will be brief and say that this clause in a sense is deceptive in that it refers to situations in which the mother and father of a child have different surnames when the Attorney General has already explained that it is the current practice of the registrar to regard all mothers and fathers in marriage situations as having different surnames without any formalities and, therefore, it was hardly necessary for that phrase to appear.

We are talking about all marriage situations and these can be taken care of at present in other ways. We are not depriving anyone of anything. We are pointing out that there are other cases, far more deserving, not included in the legislation where the parties concerned cannot do anything about their situation. Here is a situation where they can take their own action.

The point made by Hon. Robert Hetherington is the crux of this matter; I suppose there is a difference of view in relation to what the obligations are in a normal marriage as distinct from one that has broken up.

Amendment put and a division taken with the following result—

Ayes 17

Hon. C. J. Bell	Hon. Tom McNeil
Hon. E. J. Charlton	Hon. I. G. Medcalf
Hon. V. J. Ferry	Hon. N. F. Moore
Hon. H. W. Gayfer	Hon. Neil Oliver
Hon. Tom Knight	Hon. I. G. Pratt
Hon. A. A. Lewis	Hon. W. N. Stretch
Hon. P. H. Lockyer	Hon. P. H. Wells
Hon. G. C. MacKinnon	Hon. Margaret McAleer *(Teller)*
Hon. G. E. Masters	

Noes 11

Hon. J. M. Berinson	Hon. Robert Hetherington
Hon. J. M. Brown	Hon. Mark Nevill
Hon. D. K. Dans	Hon. S. M. Piantadosi
Hon. Graham Edwards	Hon. Tom Stephens
Hon. Lyla Elliott	Hon. Fred McKenzie *(Teller)*
Hon. Kay Hallahan	

Pairs

Ayes	Noes
Hon. P. G. Pendal	Hon. Garry Kelly
Hon. John Williams	Hon. Peter Dowding

Amendment thus passed.

The clause was further amended, on motions by Hon. J. M. Berinson (Attorney General), as follows—

Page 2, line 30—To delete the word "particular".

Page 2, line 34—To insert after "Registrar" the following—

General.

Page 3, line 16—To delete the word "particular".

Clause, as amended, put and passed.

Clause 5: Section 57 amended—

Hon. I. G. MEDCALF: I ask the Committee to vote against the clause.

Hon. J. M. BERINSON: I rise only to make it clear that this move is consequential on previous amendments and so this clause would not make sense if carried.

Clause put and negatived.

Clauses 6 to 8 put and passed.

Clause 9: Third Schedule deleted and substituted—

Hon. I. G. MEDCALF: I have an amendment on the Notice Paper to reinsert an item which appears at present in death certificates, and that is the usual occupation of the father of the deceased. This has always been in death certificates, but it is to be taken out on the ground that it is no longer considered necessary. This may be so; it may be that in certain respects it is unnecessary in proving the death of the deceased. Indeed, the only relevance of a death certificate, for legal or court purposes, is that it proves the date, the place, and the fact of a particular person's death. All the other items on it are not taken as being particularly relevant for court and legal purposes.

The other items have a great deal of relevance in relation to tracing persons who have the same name or persons from parts of the country where there may otherwise be difficulties. This information has been used on many occasions to trace people.

Whilst it may not be of any great moment to the registrar to have the father's occupation appearing, I believe it is desirable that it remain. I am asking the Chamber to reinsert the provision on the death certificate for the usual occupation of the father, something which is there at present.

Hon. J. M. BERINSON: Hon. I. G. Medcalf is of course right in saying that the father's occupation does appear at present. Unfortunately that is all that can be said for his proposed amendment—that it seeks to preserve an existing item of information. On the advice I have, and more than that, on personal observation, the utility of this particular piece of information is not only questionable but virtually non-existent.

In the great majority of cases a person's death will follow the death of his father. What occupation are we talking about? It cannot be the father's occupation at the time of the death of his child, since he is most often deceased himself at that time. Is it his occupation at the time of his own death? We know very well that occupations change many times. In the course of another debate some graphic examples were given of occupations changing over a long time to the point where the reference to an occupation was not only useless but, to the extent that it could be referred to at all, probably misleading. That is the status of this piece of information.

Hon. I. G. Medcalf: Why not take it out of that part referring to the deceased, because you have his occupation as well?

Hon. J. M. BERINSON: At least it can be clearly known what the deceased's occupation was at the time of his death. That argument does not apply here. The listing of the occupation of the deceased person himself is admittedly of very limited use; but it is not as limited as the use which might be gained from an entry giving the occupation of the father of the deceased.

Mr Chairman, this is of course not a big ideological dispute, but a matter of applying some commonsense to a situation where we know that the practice has been of one sort for very many years, but since the area is up for review, we might as well improve it now that the opportunity offers.

There is nothing in the amendment now before the Chamber, either for people tracing family trees or for any other purpose and I invite the Chamber to reject it.

Hon. TOM STEPHENS: I hate to come forward with another idea, but in order to point out the silliness and inconsistency of persevering with an amendment such as this I ask Mr Medcalf to consider putting the occupation of the mother on this particular form. At least then there would be a consistent silliness about the death certificate. It would be irrelevant in both cases. I put that to Mr Medcalf and perhaps in considering that proposition he might desist altogether from this amendment.

Hon. I. G. MEDCALF: I thank Mr Stephens for his very bright idea. I have accepted one tonight, and I do not think the Attorney would thank me for accepting a second since he has such an aversion to what he regards as useless information. I do not think it is useless information at all. I can concede that it may be useless to the registrar, but it is of great use to people trying to trace family trees—and there has been a lot of that in recent years—and tracing people for inheritance purposes.

Hon. J. M. Berinson: What evidence do you have for that statement? We have heard it several times; what evidence is there of this having proved useful in practice?

Hon. I. G. MEDCALF: There is plenty of evidence.

Hon. J. M. Berinson: Where?

Hon. I. G. MEDCALF: The Attorney will have to take my word. I am used to taking his word, and he can take mine for a change. I have used this information myself on many occasions, and it is used for various public purposes. It is also useful for social reasons.

Hon. J. M. Berinson: You can have parties and discuss it.

Hon. I. G. MEDCALF: If the Attorney has ever had anything to do with sociology he will know that these are very useful pieces of historical information which one can often only get from official certificates. I cannot see any reason for cutting it out. The information has been there for a long time. I know the Attorney will say there is no good reason for keeping it. I have given a reason and he has not given one for cutting the information out. Perhaps we can differ on that.

I urge the Chamber to support this minor amendment. I do not think it is tremendously important, but it is one piece of information that we should retain. I move an amendment—

> Page 6—To insert in column 3 immediately following the words "(1) Father's name" the words "(2) Usual Occupation".

Amendment put and passed.

Clause, as amended, put and passed.

Title put and passed.

Bill reported with amendments.

ACTS AMENDMENT (POTATO INDUSTRY) BILL

Receipt and First Reading

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

Second Reading

HON. D. K. DANS (South Metropolitan—Leader of the House) [8.56 p.m.]: I move—

> That the Bill be now read a second time.

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

The new authority set up to replace the board will continue to have six members. The Minister will have discretion to nominate one of the members who may be either a grower or another person he considers desirable. This flexibility will enable the Minister to appoint to the authority a person with specialised commercial and marketing skills, if this is deemed desirable. The amendments do not change the requirement that the Minister consult with the Potato Growers Association of WA (Inc) on the filling of the position.

The existing marketing system has been criticised in that Western Australian consumers have had little choice in the quality or variety of potatoes that are sold in this State. Similarly,

growers have had no incentive to improve the quality of their potatoes on offer to the public. The amendments require the new authority to respond to the preferences of consumers and to encourage growers to supply better quality potatoes. The authority would also undertake market research and promotion to enable it to increase sales of the types of potatoes preferred by consumers.

Growers are aware that the availability of additional varieties and grades to producers will enable them to compete on more favourable terms with fresh potatoes imported from other States.

The importation of processed and fresh potatoes has resulted in a number of consequences for growers in Western Australia. These include the use of growers' reserve funds, the reduction of production licence areas, a plough-in programme, and a reduction of returns to producers.

The Government does not expect that these changes in quality and presentation or in market research and promotion will take place overnight, but the Bill provides the mechanism and the incentives for the new authority and growers to meet the requirements of consumers and expand their market by offering a range of qualities of potatoes at differing prices.

During the last 10 years there has been a steady increase in consumption of processed potato products in Australia. About one-third of the potatoes consumed in this State are in processed form, of which most is imported as frozen chips from the Eastern States. Western Australian potato growers are keen to attract a potato frozen chip processing enterprise to this State. Processors have exacting requirements for solids content and size grading of potatoes, but are less concerned with the external or cosmetic appearance. They usually buy potatoes under contracts which specify not only the price, but also the tolerances for grade and quality defects. The amendments would enable growers to contract to supply potatoes to processors' requirements and for the authority to undertake processing. The amendments provide an opportunity for a potato processing facility to be established to produce frozen chips for the Western Australian and other markets.

Because freight adds substantially to the cost of imports from interstate, the local product, once established, should be well placed to win an increasing share of local consumption. Similarly, there may be opportunities for Western Australian processed potatoes to be marketed in South-East Asia, where convenience foods are increasing in popularity.

The amendments also provide opportunities for growers to contract with exporters. There are good prospects to expand our exports of fresh potatoes to South-East Asia, particularly if we supply small to medium-sized yellow-fleshed kinds. Traditionally, this type of potato has been supplied in quantity from the Netherlands, mainland China, and Taiwan. Western Australian exporters should be able to capture a market share of up to 20 000 tonnes per year, or three times more than the average tonnages exported in recent years. This would be a specialist trade to supply the kinds of potatoes preferred in South-East Asia and would be additional to the trade that has been developed by the marketing board in the past. The changes proposed may not directly affect the marketing board's traditional outlets. It will enable export merchants to add substantially to the existing trade in WA-grown vegetables for which they have established an excellent reputation.

Provision is made for the authority to register contracts relating to production of potatoes for processing or export. The authority would register contracts provided that the contracting parties bound themselves to process or export their potatoes. The authority would charge fees to register contracts sufficient to cover its costs to supervise the production of potatoes grown under contract and to administer the registration system.

Contracting growers, processors, and exporters would undertake to dispose of any surplus to their requirements in a manner approved by the authority. These provisions are to ensure that the authority retains overall control of the quantity of potatoes produced and marketed on the local Western Australian market.

Provision is also made to increase the penalties for planting potatoes without a licence or for selling or delivering potatoes for the local fresh market, other than through the authority. Penalties for breaches of regulations are also increased.

The existing penalties have become less effective due to the influence of inflation since the last amendments were made in 1974. The increases do not exceed the inflation component. The penalties for breaches of regulations were inadvertently omitted when the

Act was last amended and a more substantial increase is now necessary to correct both that omission and the inflationary effects.

Amendments are proposed to the accountability, consultation, and reporting obligations of the authority and to the provisions for appeal to the Minister. The Bill provides that the Minister may give written direction to the authority concerning the performance of its functions and the authority may be obliged to comply. The authority may set up consultative groups to advise it on the performance of its functions. The Minister for Agriculture would expect to seek advice from such a consultative group in cases of appeal against decisions of the authority on matters of licensing and contracting of production.

The authority is also required to consult the Potato Industry Council. This council was originally set up in 1967 as an advisory body to the Minister on matters of interest to all sectors of the industry. The Government believes that the council can provide a useful forum for the industry, particularly during times of change in technology, consumer demand, and wholesale and retail marketing. The Minister for Agriculture would provide formal direction to the council, should that be necessary.

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

The amendments to the Potato Growing Industry Trust Fund Act require all growers to contribute, including those who produce for processing and export under contract under the amended Marketing of Potatoes Act. These latter growers will have equal obligations to contribute to the fund and to benefit from allocations made from it. The purpose for which the fund may be used is not changed. These are to support measures to combat outbreaks of pests and diseases which seriously threaten the potato industry, to support scientific research, to support the Potato Growers Association, and other purposes which the Minister considers will assist the potato growing industry. As an example, funds were allocated in the late 1960s in support of a quarantine programme against the devastating bacterial wilt disease. The quarantine was successful and clearly this sort of use for the trust fund will retain priority.

I commend the Bill to the House.

Debate adjourned, on motion by Hon. C. J. Bell.

LOCAL GOVERNMENT AMENDMENT BILL (No. 2)

Receipt and First Reading

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

Second Reading

HON. J. M. BERINSON (North Central Metropolitan—Attorney General) [9.06 p.m.]: I move—

That the Bill be now read a second time.

The purpose of this Bill is to amend and improve a number of areas of the Local Government Act. The Bill is in keeping with Government policy to provide local government with more autonomy, and the amendments include various new powers in addition to either the removal, or variation, of approvals currently required to be obtained by local governments.

As part of the on-going review of the approval requirements, a number of current ministerial approvals are being removed and, in some cases, approval of the Minister is being substituted for the Governor's approval. The changes will facilitate improved administrative procedures and in particular reduce the time taken to give effect to decisions of local governments. The autonomy provisions include power for local governments to authorise travel outside the State without seeking the Minister's approval.

Approximately 25 per cent of the approval powers in the Local Government Act will have been altered in this Government's term, should these amendments be accepted. The new powers generally reflect amendments sought by local government and, I believe, recognise the changing role it is playing in the community as our third sphere of government.

One significant amendment contained in the Bill is the introduction of a new by-law making power to authorise local governments to permit and regulate eating areas in streets and other public places. This new power is similar to those introduced in recent years in respect of other street trading activities in that local governments may regulate the places and times these eating areas may be set up through the issue of licences and impose charges, in addition to the licence fee, for the right to operate in the street or other public places. The establishment of eating areas in streets has been advocated by local governments for some time and is seen as a desirable addition to our tour-

ist and entertainment facilities, particularly in view of the impending America's Cup challenge.

The Bill also introduces a new power for local governments to delegate to officers the performance of their functions under the Local Government Act. Certain specific matters are excluded where the decision-making power should be held by the elected council itself. These were identified by a working party including representatives of local government.

The decision to delegate to officers is required to be made by an absolute majority of the council, and all delegations are to be recorded in a book which shall be kept for the purpose and which shall be available for inspection by electors and ratepayers. Local government will be required to review delegations at least once in each year. This new power of delegation is an option open to local governments to enable them to deal more effectively and efficiently with the administration of the Act, and it has been sought by local government for some time.

The Bill seeks three changes in respect of the electoral provisions of the Act. It is proposed that polling conclude at 6.00 p.m. and this should generally enable returning officers to complete counting and declare results on the polling day. The Country Shire Councils' Association and the executive of the Local Government Association have resolved to seek this reduction in hours.

Another electoral issue relates to the requirement for rolls to be consolidated as from the May 1986 annual election. A number of local governments have indicated they may have some difficulty in complying with this requirement and provision is made for the Minister to authorise the use of the residents' roll and the owners' and occupiers' roll where it can be shown that consolidation is impracticable for a particular election.

It is also proposed that the Act be amended so that councillors who are ratepayers are treated, with respect to holding office, in the same way as those who are not. Councillors will not be disqualified for the non-payment of rates.

Members will be well aware of the activities of some unlicensed street traders, particularly in the central area of the City of Perth and also in the City of Fremantle, and the resulting problems encountered by those councils in controlling such activities. The Minister for Local Government undertook during the passage of amendments to the Act in 1984 to bring the question of confiscation before the House if there were still difficulties. The Minister is now satisfied that the Act should contain clearly defined powers for local governments which have street trading by-laws to remove and impound the goods of a street trader who is operating without, or contrary to, a licence issued under those by-laws.

It is pointed out that a street trader who operates with, and in accordance with any conditions imposed on, a licence, has no cause for concern with the introduction of such a power. In fact, the Bill also provides necessary protection of the interests of any person who may have goods removed and impounded. The legislation clearly sets out procedures to be followed in such cases and it is only a court which has ultimate power to actually confiscate goods. The various representations made have impressed on the Government the need for the introduction of these provisions to provide local governments with an effective means of controlling street trading in the interests of the community at large, and it is considered that experience has clearly demonstrated the justification for legislation of this nature now.

The Bill clarifies the procedures to be followed for the holding of electors' meetings.

It authorises the setting aside of up to 10 per cent, instead of the current five per cent, of ordinary revenue each year for reserve purposes.

The Bill permits the temporary appointment of unqualified persons to the offices of clerk, treasurer, engineer, building surveyor, or town planner without the need to obtain the Minister's approval. Although the Minister for Local Government strongly supports the principle of appointing qualified personnel wherever possible, the need to obtain approval for temporary appointments is considered unnecessary and is to be removed in respect of periods not exceeding three months.

Country local governments have become increasingly aware of their role in the regional economy, and the Minister for Local Government has had requests to assist them. This Bill provides a power for local governments to construct and maintain industrial and commercial premises for lease. It is anticipated that this power will enable local governments to contribute to the economic well-being of their areas.

Other amendments in the Bill include new powers to local governments to—

> Provide buildings for the provision of community welfare services and provide such services;

engage in celebratory activities of national, State, or local significance—for example, the Australian bicentennial and local historical events;

provide, maintain, operate, and manage theatres;

carry out private works for any persons in addition to ratepayers;

establish and maintain doctors' surgeries;

provide buildings and equipment for the provision of emergency services; and

write off rates on occupied Crown land where council considers the rates are irrecoverable.

The Government believes the amendments contained in the Bill have the general support of local government and will enhance the administration of the Local Government Act.

I commend the Bill to the House.

Debate adjourned, on motion by Hon. P. H. Lockyer.

AUTHORITY FOR INTELLECTUALLY HANDICAPPED PERSONS BILL

Receipt and First Reading

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

Second Reading

HON. D. K. DANS (South Metropolitan—Leader of the House) [9.13 p.m.]: I move—

That the Bill be now read a second time.

In the past 23 years, services for intellectually handicapped people have been covered by the Mental Health Act. This Bill is designed to establish a separate authority for the intellectually handicapped, independent of the Health Department but under the auspices of the Minister.

The main reason for introducing legislation to provide for such an authority is that the development of intellectually handicapped people is now generally seen as a socio-educational problem, rather than a health problem. This is in line with modern thinking on the subject. Such a development was foreshadowed in the Australian Labor Party's 1983 election policy statement which said that a Labor Government would—

Examine the desirability and feasibility of separating the Division of the Intellectually Handicapped from Mental Health Services and either attaching it to the Education Department or establishing it as a separate department or authority.

Soon after coming to office, this Government ordered a major inquiry into all aspects of care and treatment of people suffering from mental illness and intellectual handicap. Three working parties were established under the general auspices of Professor Eric Edwards; one working party to look at a new psychiatric services Bill; another to look at the area of guardianship; and the third, under the control of Professor Arthur Beacham, to concentrate on the creation of an authority for the intellectually handicapped. The working party comprised representatives of the Health Department, the Education Department, the psychology profession, and non-Government services. This new Bill largely incorporates the recommendations of the working party.

The recommendations recognise that intellectual handicap and psychiatric illness are entirely different conditions and that services for the intellectually handicapped cannot logically or effectively continue to remain within the structure of a mental health service.

The Bill acknowledges that intellectually handicapped people have the same needs—and should have the same rights—as other citizens. For instance, each intellectually handicapped person's capacity for development in all areas should be recognised and, as far as possible, this development should take place within the community and within community facilities. Within their individual capacity, each person should participate in decisions affecting him or her. Whatever care and protection is needed should restrict the person as little as possible. The integrity of each individual is acknowledged, as well as the rights and interests of family members.

The Bill establishes a body, to be known as the Authority for Intellectually Handicapped Persons, which will have a chairman and five members, who will be appointed by the Minister. Two of the members will have experience and expertise in the provision of services for the intellectually handicapped; one will have experience and expertise in the education needs of the intellectually handicapped; and there will be two representatives of non-Government service providers. At least one of the five members shall be a parent or relative of an intellectually handicapped person.

The authority will report annually to the Minister, who will present the report to both Houses of Parliament.

The authority will—

Develop policies for the provision of services for the intellectually handicapped;

establish local representative bodies to advise and liaise with the authority;

allocate funds to non-Government, service-providing agencies;

promote the use of community services by intellectually handicapped persons;

provide education and training for service providers;

promote research and public education; and

investigate legislation that may affect intellectually handicapped people.

A director will be appointed to administer the authority's day-to-day operations and will be responsible to and will receive instructions from the authority. Other necessary staff will also be appointed. It is proposed that staff now with the Division for the Intellectually Handicapped will transfer to the authority. No additional costs will be incurred in this transfer.

The position of the chairman and the five members will be on a part-time basis.

The legislation specifies procedures to be followed if a client is injured or dies on the authority's premises or licensed facilities.

Financial provisions in the Bill cover the allocation of funding, investment, and borrowing of funds, annual estimates, financial statements, and auditing.

The Bill also sets out licensing provisions for non-Government services. These have been referred to and approved by the office of the Solicitor General in the light of the recommendations made in his report into Penn-Rose Nursing Home and the late Reginald Berryman. These clauses cover which premises are required to be licensed, transitional licensing provisions, ministerial exemptions, application procedures, conditions and effects of licensing, cancellation and suspension of licences, appeals, reviews, and the authority of enforcing inspectors.

The authority will have the right to make regulations—

To manage the services provided by the authority;

to keep records;

to set fees and charges to the authority;

to oversee services provided by non-Government agencies; and

for control and discipline of staff.

The Bill includes a "review" clause which will require the responsible Minister of the day to report to the Parliament on the operations and effectiveness of the legislation within five years after it takes effect.

It had been the Government's original intention that legislation in these areas—a guardianship tribunal Bill, a psychiatric services Bill, and an Authority for Intellectually Handicapped Persons Bill—be presented to Parliament as an integrated reform package, but because of the complex nature of the legislation, the need for extensive consultation with other agencies, and pressure on Parliamentary Counsel responsible for drafting, it has not been possible to complete the first two Bills.

The PRESIDENT: Order! Order! I ask honourable members to cease their audible conversations. The Minister is trying to read his second reading speech.

Hon. D. K. DANS: Drafting of these is well advanced and both should be ready for presenting to Parliament at the beginning of the 1986 session.

The Government believes reform in this important area is long overdue and is indebted to the splendid work in this area by all members of the working parties. It will be a source of great satisfaction for those members to see their work transformed into legislation as well as the benefits that will confer on the community.

I commend the Bill to the House.

Debate adjourned, on motion by Hon. Tom Knight.

ACTS AMENDMENT (AUTHORITY FOR INTELLECTUALLY HANDICAPPED PERSONS) BILL

Receipt and First Reading

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

Second Reading

HON. D. K. DANS (South Metropolitan—Leader of the House) [9.20 p.m.]: I move—

That the Bill be now read a second time.

This Bill provides for amendment to the Mental Health Act 1962 and the Parliamentary Commissioner Act 1972. The amendments arise out of the Authority for Intellectually Handicapped Persons Bill.

Part II of the Bill, with the exception of paragraphs (a), (b), and (c) of clause 4, divests the Mental Health Act 1962 of those provisions that now cover the delivery of services to intellectually handicapped people, which have been otherwise provided for in the Authority for Intellectually Handicapped Persons Bill.

The amendments are necessary to separate services to the intellectually handicapped from those to people suffering from severe psychiatric disorders.

Paragraphs (a), (b), and (c) of clause 4 of the Bill cover, in part, those intellectually handicapped people who come before the courts and are found to be suffering from a mental disorder in accordance with section 47 of the Mental Health Act 1962. They will continue to be dealt with under that section of the Act.

This is achieved by paragraphs (a) and (b) of clause 4 and has been maintained to provide the Chief Secretary—now the Attorney General—with a discretionary power to admit intellectually handicapped offenders to an approved hospital for detention, if the circumstances so require.

No similar provision has been provided for in the Authority for Intellectually Handicapped Persons Bill as there is presently no suitable facility to which intellectually handicapped offenders could be referred for detention—other than an approved hospital—outside the State prison system.

The amendments effected by clause 4 of the Bill also safeguard the care and management of estates of intellectually handicapped people who have been declared incapable under the provisions of part VI of the Mental Health Act 1962. They provide the court with a continuing discretion to receive and determine applications for intellectually handicapped people to be declared incapable for the purposes of that part of the Act.

The need for such provision to be retained arises from the fact that it will not be possible to introduce the Guardianship Tribunal Bill during this session. When that Bill and the Psychiatric Services Bill are presented and passed in the first session of 1986, the Mental Health Act 1962 will no longer be required and will be repealed.

Part III of the Bill brings the operation of the Authority for Intellectually Handicapped Persons—the establishment of which is provided for in the Authority for Intellectually Handicapped Persons Bill—within the scope of the Parliamentary Commissioner for Administrative Investigations.

I commend the Bill to the House.

Debate adjourned, on motion by Hon. Tom Knight.

SKELETON WEED AND RESISTANT GRAIN INSECTS (ERADICATION FUNDS) AMENDMENT BILL

Receipt and First Reading

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

Second Reading

HON. D. K. DANS (South Metropolitan—Leader of the House) [9.25 p.m.]: I move—

That the Bill be now read a second time.

It is 11 years since legislation was passed to impose a levy of $30 per year each on grain and seed producers in the State. The funds are being used to combat skeleton weed in Western Australia and to provide compensation for producers who were obliged to destroy contaminated crops and produce.

The original Skeleton Weed (Eradication Fund) Act was to last for three crop years. It has since been extended three times: In 1976, 1979 and 1982 for further three-year terms each time.

The Act was also amended in November 1980 to allow the establishment of a resistant grain insect eradication fund. Not more than $20 000 could be transferred each year from the skeleton weed eradication fund to this fund. The fund is used to finance the eradication of insects which have evolved resistance to certain insecticides which are needed for grain protection in bulk stores.

The Bill now before the House is to extend the legislation covering skeleton weed eradication for a further three years—the crop years 1985-86, 1986-87, and 1987-88—because the existing Act is about to expire.

The levy has been increased from $30 to $41.50 for each grower who delivers at least 30 tonnes of grain and seed altogether. The power to transfer up to $20 000 to the resistant grain insect eradication fund is unchanged.

Both the extension of the Act for a further three years and the increased levy have the support of both major producer organisations, the Primary Industry Association and the Pastoralists and Graziers Association.

It is essential to the industry that the skeleton weed eradication campaign is maintained. Since 1963, when the weed was first reported in Western Australia, outbreaks have been discovered on 153 farms—just over one per cent of grain producers. During the last season, 1984-85, an extra 13 farms were found to be infested.

Once an infestation is found, eradication is largely a matter of time. A total of 32 outbreaks have been definitely eradicated and all the others have been treated and are at various stages of eradication. Final eradication is not claimed until the affected area has had three crops, and stubble searches following each crop have failed to find a single skeleton weed plant.

All infestations cover relatively small areas; sometimes as few as four or five plants are found in a patch, although occasionally a few score of plants are scattered over several hectares. The total infested area, however, probably does not exceed 20 hectares—a tiny fraction of the agricultural area of the State.

There is no way of knowing what the area would have been if the eradication fund had not been established and nature had been allowed to take its course. Recent research based on the climate and distribution of the weed both here and in the Eastern States indicates that virtually the whole of the wheatbelt and large areas of the south coast provide suitable conditions of soil and climate for the weed.

The campaign has the overwhelming support of the farming community. Nearly 2 500 farmers gave up a day each during last harvest to assist in searching infested and possibly infested areas, as part of the eradication process. In many cases volunteers travelled hundreds of kilometres at their own expense to give their time at one of the busiest periods of the farming year.

Nearly every new infestation is found by farmers or their families and most infestations are being reported while they are still small, and can be eradicated with relative ease. In addition, a telephone survey of a sample of grain producers indicated well over 90 per cent support for the eradication campaign.

There is a growing demand from our grain buyers for insecticide residue free grain. This can be supplied only by the use of controlled atmosphere storage. Co-operative Bulk Handling Ltd is progressing on schedule with its programme to seal all its permanent grain storages so that controlled atmosphere techniques become the dominant method of insect control.

The Agriculture Protection Board's on-farm insect control campaign has attempted to buy time until the CBH sealing programme has been completed. The strategies employed have dual objectives—

(1) to maintain a 'clean pipeline'; that is, ensuring that grain producers deliver insect free grain to CBH storages; and

(2) to encourage farm hygiene generally by advising and demonstrating up-to-date on-farm storage systems and control methods.

The greatest risk to the grain industry occurs if insecticide resistant grain insects are delivered into the storage system where CBH is still relying on insecticides for grain insect control.

Malathion resistance is already very common on farms and Fenitrothion resistance is increasing rapidly. The board's campaign to eradicate Fenitrothion resistant grain insects on farms has been partly funded by the resistant grain insect eradication fund. In the crop year to the end of October, the full $20 000 was spent.

This prompted the board to approach CBH for financial assistance, and it agreed to provide up to $10 000 over and above the $20 000 provided annually by the present legislation. It is expected that most of these funds will be expended during 1985.

If the board's on-farm eradication campaign to control insecticide resistant weevils is to continue, it is essential that the contingency fund be maintained to allow prompt action which may be beyond the resources of individual growers.

In addition, as part of the tidying-up process, the Bill deletes the definition, "section". This definition is no longer required as a consequence of the passing of the Interpretation Act 1984.

I commend the Bill to the House.

Debate adjourned, on motion by Hon. Margaret McAleer.

CONTRACEPTIVES AMENDMENT BILL

Second Reading

Debate resumed from 25 September.

HON. G. E. MASTERS (West—Leader of the Opposition) [9.31 p.m.]: I wonder whether the Minister will reply to the debate. A number

of matters were raised, and obviously the Opposition would be very keen to hear the Minister's reply. I thought he might have missed the call so I rose to draw his attention to the fact that the debate was closing.

Question put and passed.

Bill read a second time.

In Committee

The Chairman of Committees (Hon. D. J. Wordsworth) in the Chair; Hon. D. K. Dans (Leader of the House) in charge of the Bill.

Clause 1: Short title and principal Act—

Hon. P. H. WELLS: We have moved into the Committee stage with no answer to the second reading, which means that the Government has failed to give any explanation to any member who has taken enough interest to raise a question. It is a new low in terms of parliamentary procedure when debates are ignored and none of the questions raised in the second reading debate is answered.

No doubt the answer the Minister will give is that the Bill is in Committee. This in no way excuses the Government, which has available copies of members' speeches, and the department could have provided answers to the wide range of subjects brought up. Now members must raise their questions again. This is a sad situation.

The Bill is not straightforward. For instance, clause 1 refers to the original Act, which is the Contraceptives Act. I would like the Minister to explain where either that Act or the Bill contains anything which can be construed as saying that shops or pharmacists cannot sell contraceptives by vending machines.

In his second reading speech the Minister said there would be no sale by vending machines. Section 49 of the Poisons Act prohibits the sale of poisons by automatic machines. In this case we are talking about contraceptives, which are not poisonous.

I suspect, under the Act, it is possible to prevent a pharmacist from selling by vending machine. The only thing I can see which may be construed as a condition is that the committee is able to lay down conditions. Where in the Act does it say one cannot sell by vending machine? It is important to identify that.

Hon. D. K. DANS: There was no disrespect on my part in not replying to the second reading debate. This is a fairly straightforward Bill.

If you recall, Mr Chairman, I invited members of the Opposition to vote for the repeal of the Contraceptives Act 1939, and let it go at that. They did not take that opportunity.

The Bill has been to a committee, and I see this as a fairly straightfoward operation. All these comments are red herrings. One either votes for the Bill or one votes against it. No amount of gas-bagging will confuse the issue.

The Bill quite clearly makes no provision for the sale of contraceptives through vending machines. It has been pointed out to me that "shop" has the meaning given by section 5 of the Factories and Shops Act, but it does not include vending machines. That may be a deficiency in the Bill, but the fact is that as a result of this amendment one cannot dispense condoms through vending machines.

To return to my original suggestion that perhaps at the second reading stage the Opposition should have voted for the repeal of the Contraceptives Act, I am given to understand that without this Bill the sale of condoms in this State has skyrocketed. Even without the assistance of this Bill people are already taking the necessary precautions. Whether it is because of AIDS or because of the publicity given to this Bill I do not know.

In answer to Mr Wells, the Bill does not provide for the sale of condoms through vending machines. I cannot give him any joy in that respect. I made inquiries about that before the Bill came into this Chamber.

I repeat: I offer no disrespect to this Chamber. The Bill was pretty well debated and it went to a committee. I have always been of the opinion that debate on a Bill has two parts in the Westminster system. There is the explanation at the second reading stage, and the system also provides for a systematic explanation and examination of the Bill at the Committee stage. We have reached that stage now and I will do my best—I am not the Minister for Health—to explain the problems as they arise. The Bill is a small and simple one and I repeat that members of the population at large, with or without the Government's combined experience and undoubted knowledge of what happens out in the community in endeavouring to tell people what is good for them, have taken the bit between their own teeth and are buying condoms for their own protection.

Hon. P. H. WELLS: I want to make it clear to the Minister that questions I raise are not an endeavour to stop the sale of condoms in any way, but in terms of this Bill, I think the Government in some way misunderstood its position. The Government has served up a very sloppy Bill that will not achieve what it set out to do, although in the main the current law has never been policed and condoms are already available in many places other than pharmacies, and I know some of those places.

We are dealing with the current Act—and members need to understand the change to the Act before they can understand the Bill—and I ask the Minister where in the current Act does it say that one cannot sell or buy condoms from vending machines? Under the current Act pharmacists only are allowed to sell condoms. The Minister can correct me if I am wrong. I am trying to establish where the Act provides that vending machines are not allowed to be used for the sale of condoms.

Hon. D. K. DANS: The current Act does not provide that condoms cannot be dispensed from vending machines.

Hon. P. H. Wells: Pharmacists can?

Hon. D. K. DANS: An amending Bill is before us now and it precludes the dispensing of condoms from vending machines. Had the member taken notice of my second reading speech, he would know I said that if the provisions of this Bill were not agreed to—and I will go no further than that—the proper thing to do would be to move to repeal the Contraceptives Act of 1939 and the effect of that would mean condoms could be sold everywhere.

Hon. P. H. Wells made a very strange statement when he said that one could buy condoms in many places other than pharmacies. That statement astounded me, to be quite honest. I am not saying it is wrong, but the law does not allow it to be done. I am fairly worldly-wise and I have never been anywhere where condoms were on sale in any place other than a pharmacy or through an advertisement placed by a recognised pharmaceutical supplier in this State. Perhaps my education is somewhat lacking—and I am not suggesting it is—but Hon. P. H. Wells has said they can be bought in lots of other places.

Hon. H. W. Gayfer: In other States, yes.

Hon. D. K. DANS: In other States, yes. I am only dealing with the provisions of this legislation in WA. I have been informed that those kinky sex shops in other States sell them, but then I would not know about that.

Hon. H. W. Gayfer: I saw a condom vending machine in the basement of the Menzies Hotel.

Hon. N. F. Moore: Someone told you about that?

Hon. D. K. DANS: I did not even know that, but for whatever reason, they can be sold only through pharmacies in this State. Perhaps if condom vending machines had been installed years ago, we would be better off for it today. Let me restate that the Contraceptives Act of 1939 does not preclude vending machines. Perhaps in 1939 vending machines were not the in thing; there were not many of them around, and they were not as technologically advanced as they are today. This amending Bill of course precludes the dispensing of condoms from vending machines.

Hon. P. H. WELLS: I want to take up a couple of points with the Minister. First of all, he said if members did not like the present Bill we could have voted against the second reading and thrown out the Government's legislation.

Hon. D. K. Dans: I said that in my second reading speech.

Hon. P. H. WELLS: I intend to suggest to the Minister a couple of amendments which he may be willing to entertain and which would improve the current legislation and make it more effective. I will do that at the appropriate stage, but I need to clearly understand certain sections of it.

In terms of the current Act, I cite *Family Planning and the Law* second edition, by H. H. Finlay and J. E. Sihombing. The contraceptives laws of every State are dealt with. In connection with the sale of condoms through vending machines in WA it says—

> Sales by vending machines. Section 49 of the *Poisons Act* 1964-1972 prohibits the sale of those contraceptives, which contain poison, by vending machine. The prohibition on the sale of devices contained in s 2 of the *Contraceptives Act* 1941-1972—

That is what we are discussing now. It continues—

> —would presumably cover the sale by vending machine of devices. An exemption may apply if the machine is in the care and control of a registered pharmacist.

It would appear that under the current law if a pharmacist so desires he may install a vending machine. The authority I have just cited says he may do so. It is important to know whether that is legal on the Minister's understanding of the Act and so that members may understand how the Government wants to amend the Act, because I suggest to members that it is implied that other Acts will be affected by the amendments we are about to entertain.

I present to the Minister evidence that says that the Contraceptives Act may allow vending machines to be installed. That is one authority in which it has been suggested.

I ask the Minister whether that ability may exist. Perhaps there may have been a difficulty in the previous legislation and the Government has tried to correct it by the reference to shops.

Hon. D. K. DANS: Hon. P. H. Wells is moving way down the track and I want to set him straight from the word go. We are not talking about the sale of contraceptives.

Hon. P. H. Wells: The sale of condoms.

Hon. D. K. DANS: The term covers a wide range but we are talking about the sale of condoms. They are therapeutic goods and not poisons. If a pharmacist wants to install a vending machine in his pharmacy he can do so now.

Hon. P. H. Wells: That is all I wanted to establish.

Hon. D. K. DANS: I quoted this to the member previously; the Act says that a shopkeeper, because of the Factories and Shops Act, cannot sell them, but a pharmacist can. I would find it difficult to understand why a pharmacist wanted to have a vending machine in his shop because condoms are sold anyway. I cannot see the value in a pharmacist installing a vending machine, particularly in some self-service chemist shops which we see today. There would be no great advantage in that at all.

Hon. P. H. WELLS: I needed to establish that before we moved onto the definitions clause.

When the Act was previously amended the understanding was that condoms would become available both in pharmacies and through medical practitioners. However, that was not put in the Bill. It was reported in *The West Australian* of 24 August 1985 that the State Government had asked doctors to screen prostitutes and insist that the prostitutes' clients wear condoms for protection against deadly diseases.

Is it a fact that medical practitioners cannot sell condoms and that the only person under the current Act who is authorised to sell them is a pharmacist?

Hon. D. K. DANS: I remind members that we are in the Committee stage of the Bill. We should not be debating matters that should have been raised during the second reading debate. I will not fall for the old three-card trick. I am quite prepared to go through the Bill clause by clause. However, Mr Wells is now dealing with clause 3.

Medical practitioners have never been able to sell condoms or contraceptives; nor have they been able to sell medicines, pills, or potions. They prescribe. One then goes to a pharmacist to obtain the contraceptives, condoms, or medicines. Mr Wells knows that. I am advised that the Poisons Act only allows a doctor to prescribe. He does not have a licence to sell.

Mr Wells said he had amendments to the legislation. I would have thought that those amendments were considered by the Standing Committee on Government Agencies and would have been included in its report.

Hon. N. F. Moore: The committee did not look at the whole Bill.

Hon. D. K. DANS: I realise that. It only looked at the question of the Contraceptives Advisory Committee.

Hon. P. H. WELLS: At this stage I am making certain that I understand the Bill, not having the advice which is available to the Minister. Section 23(2) of the Poisons Act states that a medical practitioner is not permitted to manufacture, distribute, or sell by wholesale any poisons unless licensed pursuant to section 24 of the Act.

Hon. D. K. Dans: We are not dealing with the Poisons Act.

Hon. P. H. WELLS: I understand that. The Act says that a medical practitioner or veterinary surgeon is not permitted to sell those items. However, I have been trying to establish some of the reasons for the Bill. I have read *Hansard*, and it is possible that members understand medical practitioners can distribute condoms. I know that medical practitioners are not in the business of providing medicines. However, very often they give medicine to patients and it appears that, under the Act, that is illegal. I do not think that situation has been corrected in the Bill before the House.

I have tried to establish an understanding of the Bill although it was not easy. I believe that what members have said in their speeches on the second reading motion does not match up with what is in the Bill. I understand that doctors cannot only not sell condoms but must not even display them to any of their patients. That seems a little strange.

Clause put and passed.

Clause 2 put and passed.

Clause 3: Sections 2 and 3 repealed and sections 2, 3, 4, 4A, 4B and 4C substituted—

Hon. N. F. MOORE: Clause 3 contains reference to the setting up of the Contraceptives Advisory Committee. I take this opportunity to refute the suggestion made by the Government last week, when it had three of its members of the Standing Committee on Government Agencies resign, that this was an attempt by the Opposition to delay this legislation by referring it to the Standing Committee. It was always the intention of those involved in the decision that it be referred to the Standing Committee to consider the Contraceptives Advisory Committee and to examine whether that committee satisfied the criteria previously set down by the Standing Committee on Government Agencies for proposed new Government bodies. It is regrettable that the Government saw this as a delaying tactic. It certainly was not. The Government knows that Opposition members in this and in the other Chamber are not caucused on this issue and that there is no official Opposition view on whether the Bill should be passed. Had the Government taken notice of the debate in the House prior to the Bill being referred to the commitee, it would have noticed that at least two members of the Opposition supported the Bill. If it had done its sums it would have known that the Bill would have had a good chance of being passed, as is now the case.

The Bill was referred to the Standing Committee for that committee to investigate the Contraceptives Advisory Committee. The committee did that, regrettably in the absence of the three Government members who had resigned. The committee considered the Bill for an hour and a half to two hours, and considered also a written report made to it by its chief adviser. It then made a decision which was presented to the Parliament last Thursday.

It is interesting to note that, when the Government argued against referring this matter to the Standing Committee, it said we were delaying the Bill and that speed was the essence. It said that if we did not pass the Bill in a hurry, severe health problems would result in the community. This Bill has now been around for a long time. Yet it took the Standing Committee only two meetings to make a decision.

The decision that it brought forward is available to all members and was reported by the chairman, Hon. John Williams. The committee reported that it considered the Contraceptives Advisory Committee to be structured in a way which was consistent with the parameters of accountability as delineated by the Standing Committee's sixth report.

The committee had its attention drawn to previous reports by its adviser and these were drawn to the attention of the Minister and the House through this report. The committee's view was that in the past very often these sorts of advisory committees were set up without necessary consideration given to whether the job could be done by someone else or by an existing organisation.

The second important point referred to the House for consideration was the fact that the members of the Standing Committee were concerned that the Parliament had been given no advice as to the cost of the committees and, therefore, was the proposed committee justified in terms of the disruption that could be involved?

Point 7 of the committee's report reads as follows—

> The Committee makes no recommendation on whether the proposed Contraceptives Advisory Committee should or should not be established. In the Committee's opinion this is a matter for the House to decide.

The committee's report fully justifies the action taken by the Opposition to refer the Bill to the Standing Committee, which quite rightly considered the advisory committee that was being set up, and it decided that the advisory committee satisfied the guidelines of the Standing Committee, and it referred the matter back to the Chamber. It did not take a view about the merits or otherwise of the Bill, and it did not take a view about whether a new advisory committee should be established.

The Standing Committee simply looked at the structure of the proposed committee and said that it fell within the parameters and guidelines of the Standing Committee's views on accountability. That course of action should be followed more often.

It is my view, and I have put it to the Standing Committee, that all legislation containing the proposed establishment of a new QANGO should automatically be referred to the Standing Committee so that it can look at its structure. The Standing Committee should not give a view about the merits of the legislation or whether the proposed QANGO should or should not be set up. It should find out simply whether the proposed QANGO is likely to be accountable within the terms of accountability as expressed in the sixth report of the Standing Committee on Government Agencies.

What happened really does debunk the extraordinary action of the Government last week. I call that action extraordinary because the Government sought to make a political issue out of something which was not political, and it has gone to the extraordinary length of having members resign from a Standing Committee of this Chamber. The committee has been doing a good job. The Government thought that it would gain some political points in its campaign against the Legislative Council. The committee has proved that the Government had it all wrong and the very fact that Opposition members are not taking a party political view on this matter demonstrates that the Government was barking up the wrong tree. What happened in this respect should happen in the future. The report of the Standing Committee should be read by members in this Chamber and it should take into account the question of the setting up of committees as expressed in its report.

I make that point because of the situation that occurred last week.

I also want to make my view clear on the establishment of the committee. I do not believe personally that we need a Contraceptives Advisory Committee. I do not propose to move any amendments to the Bill, but it is my view that what the Government is setting up is totally unnecessary.

If the Government wants to set up a system whereby someone must give permission for a retail outlet to sell condoms, it could easily be a job for the Commissioner of Health or for a senior public servant who would be in a position to make such decisions. However, the Government wants to set up a committee which will comprise six members and which is outlined in clause 3 of the Bill. It is an extraordinary situation because this committee must represent a variety of vested interests, but it is interesting that it will not take into account other interests which might be opposed to contraception or birth control. They will not be involved, but we will have six people who will say that Charlie Carters at Booragoon can sell condoms. I have the view that Charlie Carters should be able to sell them without any permission. However, if the Government wants to go to the extent of granting permission to retail outlets to sell condoms, why does it not let the Commissioner of Health have that responsibility rather than set up an advisory committee?

Hon. D. K. DANS: I have taken on board the views expressed by Hon. Norman Moore. The fact is that the Bill was delayed.

Hon. N. F. Moore: It was delayed for other reasons apart from the committee.

Hon. D. K. DANS: I think Hon. Norman Moore should realise that perhaps the Government looked at the question of whether it needed the committee, but it thought it was far better to set up the proposed committee to canvass a wide section of public opinion.

It is not right to say that there will be no member on the proposed committee who does not believe in contraception. A member of the committee chosen by the Minister could easily be a person—

Hon. N. F. Moore: From the Right to Life Association?

Hon. D. K. DANS: —of that persuasion.

Hon. N. F. Moore: I bet he is not.

Hon. D. K. DANS: I will take on board the views expressed by Hon. Norman Moore and I thank him for them.

Hon. E. J. CHARLTON: I am not in favour of the setting up of a Contraceptives Advisory Committee. I add also that I am not in favour of extending the sale of condoms to additional retail outlets.

Hon. D. K. Dans: Mr Wells tells me that they are sold illegally.

Hon. E. J. CHARLTON: I will not comment about whether condoms are sold illegally. I have no doubt that they are.

The setting up of a committee regarding the sale of condoms is something which is a waste of human resources. The Minister has said already that in recent times the sale of condoms has increased dramatically.

Hon. D. K. Dans: Yes, I have been told that.

Hon. E. J. CHARLTON: I accept that and I have no argument with it. However, it goes to prove that the existing outlet facilities are quite capable of satisfying the demand.

The services offered by the pharmacies in this State are quite adequate to satisfy the demand. Pharmacies are situated conveniently to give everybody the opportunity to purchase condoms if they so desire.

Pharmacies are set up right across this State in such a way that people who want to purchase condoms, not necessarily one at a time but as they see fit, can do so. I can see no reason that a committee should be set up to analyse the situation regarding retail outlets. The committee should not be in a position to decide that a certain retail outlet should not be granted permission to sell condoms because it is too close to a school, or it is close to a place where young people gather. These sorts of things will obviously be considered by the committee.

There are many pharmacies operating at present, and that type of thing should be sold in such places. It has been said by the Minister that sales of condoms have increased and many of these pharmacies are open 24 hours a day.

Hon. N. F. Moore: What about towns that do not have them?

Hon. E. J. CHARLTON: It is quite true that some towns have no pharmacy, and I take the point made by Mr Moore. However, if the Government wanted to do something about that situation it could quite easily amend the Act to allow for the sale of these things in certain places. I am not promoting that course. It is not the type of product that a person suddenly decides he needs and races off to the nearest outlet to purchase. The chances are that most proposed outlets will be licensed and, depending on the hour, they could be closed. That would apply more so in the case of retail outlets than in the case of pharmacies. I can see no benefit whatsoever in making these things available in a host of retail outlets. I am not against the sale of condoms, but I register my attitude towards the proposals. Everybody in the community knows where these products are available.

The Government is trying to promote this Bill at a time when the threat of AIDS is so prevalent, but I think it is a bit of a red herring. There is no doubt about the tremendous emphasis placed on this problem in society; and the activity taking place in the film world, together with the many proposals put forward with regard to the control of AIDS, makes me wonder what are the priorities of this world.

I do not consider myself a purist but we do appear to get our wires crossed about the important issues in the world today and the changes we are prepared to make to legislation. I do not consider this problem warrants the measures put forward in the amendment.

I register my opposition to the formation of a committee and also to the expansion of distribution outlets.

Hon. D. K. DANS: This Bill is a tool in the fight against AIDS. I was smiling previously when Mr Charlton said that people can always get condoms from pharmacies. First and foremost, there are some 24-hour pharmacies in Western Australia but not too many of them. Certainly, pharmacies are not spread across the countryside and Mr Knight has not suggested that that is the case. I do not know how long it is since he has been in his electorate of Albany or if he knows what the situation is in that place.

Hon. Tom Knight: I go there every week.

Hon. D. K. DANS: This Bill seeks to make condoms available in places other than pharmacies. Rightly or wrongly, homosexual activity has been pinpointed as the main source of AIDS. Medical opinion has suggested that the homosexual community has been made the whipping boy. I am not qualified to say whether that is right or wrong. It has been suggested that condoms should be sold in bars. Let us be frank about the matter—we are talking about AIDS—it is probable that homosexuals gather in bars and for various reasons they may wish to buy one, two, or three condoms. Of course, condoms are used for purposes other than to prevent the spread of AIDS, but that is what this Bill is about and members should keep that in mind.

The committee proposed to be set up may appear cumbersome, but it has been proposed as a measure to somehow or other preserve the sensitivity of the community in relation to this matter. In Western Australia it sometimes takes us a long time to realise that it is 1985 and not 1895. There is a real world out there and many of the people do not always conform. I respect the reticence of members about this subject, no doubt based on religious grounds, and I have some myself. However, we must accept that we live in a real world. Professor Penington, who is an authority on this subject, has strongly recommended that condoms be more freely available.

I had not thought a great deal about AIDS although I had read about it and was involved in the Bill. I did not realise what the effects of the disease in certain forms could be until I saw a photograph of the film star, Rock Hudson,

before he died. Members must all have been horrified by the devastation caused to that man; he certainly did not look like Rock Hudson or like any human being at all. No matter how trivial, we must do all we can to stop the spread of AIDS.

Bearing in mind that the community in Western Australia is a little conservative, the Government proposed to set up a committee to make the proposal more acceptable to the community. It may appear somewhat cumbersome and, once the community is a little more educated and receptive to these new ideas, we could perhaps do something about the committee. For the time being, however, the committee is proposed to be set up. When application is made for a licence the committee will be able to decide whether or not it should be issued. We often use committees such as this in other legislation dealing with different matters. The committee system has been used because our community has been accustomed to representatives of the Government knowing about and looking at what goes on in the community. It may be that the number of committees is too high, we have gone a little too far, and some have stayed a little too long. However, thousands of citizens in this State have given their services to the community in the committee system. We are following the procedure that has been in existence since before responsible Government when the Legislative Council was established.

I agree with the comment made by Mr Moore, that perhaps it is not necessary to have a committee, but those who drafted the Bill, in their wisdom, decided that in view of the sensitivity of some people a committee should review applications and look after the community's interest.

Firstly, it must be realised that there is not a whole string of chemist shops operating across Western Australia and, more importantly, there are very few 24-hour chemist shops. Last but not least, members should bear in mind that the Bill is concerned with stopping the spread of AIDS.

Hon. E. J. CHARLTON: I have one quick question to ask. I think I know more about QANGOs, quandongs, and condoms that many people. In fact, I have a couple of quandong trees in my backyard.

An Opposition member: I didn't know they grew on trees.

Hon. E. J. CHARLTON: I ask the Minister whether a request was made or information supplied indicating that the existing outlets for the sale of condoms was not adequate to service the community. From where did the need arise to increase the number of retail outlets?

Hon. D. K. DANS: We are looking at the risk of AIDS and rightly or wrongly that question is addressed to the homosexual community. Its members do not always gather around chemist shops. They can be found in bars or nightclubs. The point is that casual acquaintances can occur in a bar. I have had reports of other legislation referred to me. It was strongly recommended by the National Task Force on AIDS that the existing outlets are not adequate. In most parts of the world and other parts of Australia existing outlets are considered not to be adequate. Measures have been taken to eliminate that situation.

Hon. P. H. WELLS: I remind the Minister that members of Parliament are citizens too. I am very much aware that Professor Penington and the National Task Force on AIDS advocated that condoms should be more widely sold.

The concern, according to *The Sydney Morning Herald* referred to the restrictions on advertising. The Australian Broadcasting Corporation does not look favourably on the sale of condoms.

Some years ago I was in Norseman, before I ever read of the Contraceptives Act. I was in the local store and condoms were kept in the safe. Only the manager and a few people knew about them. The Minister in his second reading speech said that because of the proposed amendments the emphasis of this Act would be on the protection of public health rather than on the lawful sale of contraceptives. That has been emphasised all along. There has never been enforcement of the current law and that is why there are a number of places that sell condoms illegally.

I think the Government was misled. Firstly, the Minister for Health indicated that the Government followed the Victorian model. In actual fact, the Bill does not follow the Victorian model, except for the fact that Victoria started in 1974 with an advisory committee. All it did was to approve the sale of condoms in tertiary institutions in Victoria. The only applications that came before that committee were from restaurants and other stores and those applications were rejected by that committee, as was every other application.

The committee was not set up by an Act of Parliament but was an *ad hoc* committee set up within the Health Department. The Victorian result is that that committee had a wider role in the registration of the sale of condoms and a responsibility to make sure they were of a certain standard. In Victoria one is not allowed to sell a condom not registered for sale in that State.

I draw the Minister's attention to the fact that in Victoria the committee has not approved of condoms being sold in shops other than restaurants. I refer to a section of the Health Act on page 1670, section 3 which says—

> The Governor in Council, on the recommendation of the Commission, may, by notice published in the *Government Gazette*, approve, subject to sub-section (4), a family planning clinic or other place as a place at which there may be sold by retail or offered or exposed for sale by retail registered contraceptives included in the class or classes of contraceptives specified in the notice.

The operative words are "or any other place." I arranged with the Health Department in Victoria to obtain a copy of the *Government Gazette* which listed the range of places that the Health Commission had approved. Although the department was willing to approve of condoms being sold in supermarkets there were two reasons that the supermarkets were not interested in selling condoms. There was a report which told of pressure from various church groups, but the main reason was that if condoms were sold off the shelf in a supermarket it would be easy for someone to pick them up and put a pin prick through them which would render them useless. Coles or Woolworths might find themselves sued for unnecessary pregnancies if these practices occurred. The supermarkets have said no to the sale of condoms because they do not want to embarrass their checkout girls.

I point out that the Victorian advisory committee which, according to the Minister for Health, was the model, did not achieve anything and if this advisory committee follows the same line the supermarkets may well say no. Victoria had the Health Department sort the situation out and publish the result in the *Government Gazette*.

I would have thought the procedure for licensing could have been simply laid on the Table of the House rather than leave the final appeal to Parliament. If there is any sensitive area in a member's electorate where condoms are sold at the deli across the road from the school and it is thought that is inappropriate, I would have thought that if it was published in the *Government Gazette* it would be the same as a regulation. One could then have an appeal to Parliament which would take the sensitivity of the issue away from the community.

The advisory committee system that the Minister has suggested in the Bill seems to be an oversell. There is a better way to do it. The Minister could have taken the Victorian approach by going directly through the Health Department and then publishing the result in the *Government Gazette*; or, he could have used an existing committee under the Poisons Act which would have cost no more. I suggest that the present committee should work on the basis of the Victorian experience. The Minister will not achieve what he desires if he does not take the Bill to the Health Department and relay the suggestions I have given. Incidentally, I am told by the Commissioner of Health that the section about reference to the committee may be repealed. The Minister might well consider amendments that follow the system the Victorians are using with the added proviso of having a final appeal to Parliament if there is any adverse community reaction.

Hon. G. C. MacKINNON: I do not care what Victoria or anyone else has done. The answer to the question that Mr Charlton asked of the Minister is that, yes, we have the most old-fashioned contraceptives legislation in the world, let alone Australia, with the possible exception of Ireland. Minister after Minister has made efforts to do something about it, starting with me back in the 1960s. I did a reasonable amount of work as a result of many requests from every organisation that had anything to do with young people. It is a pity that the AIDS question has come into it—unwanted pregnancies are more important. There are all sorts of diseases apart from AIDS.

The Commissioner of Health came down and said, "Why are you doing this work?" I replied that it all seemed pretty old-fashioned and he said, "The trouble is that it comes under police administration for some peculiar reason." So nothing was done about this in the Health Department because it was never in a position to do anything about it.

There is no method of birth control—except the alternative of a glass of water—which can stop disease other than the condom. I would

put them in slot machines. I do not see any different morality in country areas, where already we see them openly displayed in pharmacies and other shops.

It is a pity that a young lad—or a young girl—has to go into a pharmacy and front up to a pretty young girl—or a young male—and suffer the embarrassment of trying to buy a sheath. I have seen grown men go into a pharmacy only to find that it is one run by a Catholic. When the customer has asked for a sheath he has been told, "We don't stock them." That is a shameful thing and I have seen those fellows acutely embarrassed.

I was Minister for Health for over six years and I know that everyone who has had anything to do with this Act knows that it should have been altered years ago. We managed to get one little amendment through to allow condoms to be sold in pharmacies to make access to them a little easier.

To give an example of how difficult it has been to deal with this Act, I indicate that years ago when in Opposition I asked the Minister for Police of the day a question about this matter, but so devoted was he to his religious principles that he would not answer the question. The Leader of the House at the time rang me and asked me what I was going to do about it. I said he should answer it himself because as Leader of the House he could take over from any Minister. That is what happened. I admit that I was being a little mischievous at the time, but my example indicates the reason that the Act has been neglected for so long.

I say again to Mr Charlton that every organisation, every person in charge of these youth organisations, every person involved in social welfare matters, has made tentative approaches to have the Act rationalised and made more reasonable so that the selling of condoms could be opened up and made available from less embarrassing outlets. As young boys of 16, 17 or 18, we have probably all experienced this sort of thing. A young lad does not like to go into a place where he has to shuffle around waiting for a man to serve him. The man is often busy with prescriptions and so the lad will often end up buying a toothbrush.

Frankly, I would love this Bill to have been dealt with in the fashion of the precedent set by Mr Dans when in Opposition before the last election—perhaps his actions were instrumental in seeing his party victorious! He would often get up and say, "I agree with the Bill in principle and in detail" and then sit down and let it go through. I would not perhaps follow that course entirely on this occasion because I believe the establishment of the committee is just hogwash. Its duties should have been given to the Commissioner of Health. Nevertheless, the committee might report back in 12 months with some reasonable recommendations. In any case, the next Government might be sensible enough to get rid of it. I would have liked us to say that we agreed with the Bill in principle and let the darned thing go through.

Hon. ROBERT HETHERINGTON: I agree with what Hon. Graham MacKinnon has said; what he said was commonsense.

What has worried me about some of this debate—and I say this principally to Mr Charlton—is that people talk as though everyone knows where to get condoms. However, as Hon. John Williams has indicated, a lot of young people use gladwrap and a lacky band.

Hon. P. H. Wells: It doesn't work.

Hon. ROBERT HETHERINGTON: Of course not. Therefore, the argument that we must restrict access to condoms to protect the morality of young people ensures only that there are more pregnancies. This worries me. If we all stop and think for a moment about this, we realise that the average persons who have used condoms up to date are heterosexuals, and they have used them to protect themselves from pregnancies. It was thought for a while that syphilis had gone and that we did not have to worry about sexually transmitted diseases. That has proved to be wrong now that AIDS has come along. Up until now, the average homosexual indulging in anal intercourse would not use a condom because he would be unlikely to become pregnant. So we have adult homosexuals who are unmarried who now want to use contraceptives, and who perhaps live in a country town with one pharmacy. Surely the member is not asking that they do nothing at all. Their embarrassment will be too great. Of course we should extend the number of outlets able to sell condoms.

I strongly believe that the Bill does not go far enough. If I had my way we would provide contraceptives in vending machines. I have believed this for many years, ever since, as a tutor in politics, I first looked at the business of the law and morality. We discussed this back in 1957.

This subject has nothing to do with morality, but it does have something to do with public health. We should have condoms available from vending machines.

I do not agree with Mr MacKinnon in his comments about the committee, because I believe it will do a useful job. It will comprise a cross-section of people, and after 12 months I am sure it will have provided sensible advice to the Government. We might even find ourselves getting rid of the committee and introducing condoms in vending machines.

Because there are people like Mr MacKinnon and me who believe there should be wider access, and because there are people like Mr Charlton who do not want to go forward, this is a compromise Bill in order to get some public acceptance so that people will be assured that we do not want to go too far too soon. We will not go too far, but we might get acceptance of the fact that we should not bring our moral judgments into debates on public health matters. We do not stop people from behaving in a way that some people think is immoral by limiting their access to condoms. All we do is to get them to seek alternatives which are quite often dangerous and ineffective, and likely not to do the things they are supposed to be doing.

I support the Bill with some reluctance. At least it is a step in the right direction. It gives us a chance to look at the problem and it gives us a committee comprising a cross-section of the population that might give the Government some good advice after 12 months or so.

Hon. E. J. CHARLTON: It is apparent that the comments I made seem to have generated some response. However, I would like to make a few points.

It has nothing to do with my morality or my religious convictions, but I do not believe that young people today are embarrassed in any way about coming forward and asking for condoms, particularly in view of AIDS and general health problems. I have never known young people to be shy about making comments, regardless of the company they are keeping or the age of the people who are around them. One only has to mix with young people to realise that they have no trouble at all in putting across their point of view. That is why I find it hard to accept that we must overcome this alleged shyness by allowing a greater number of outlets for contraceptives. I do not believe that young people are too embarrassed to go into a chemist shop and I do not believe that the girl behind the counter of the chemist shop is any different from the girl who works behind the counter in a deli or a Coles store. I do not understand why people would be more embarrassed to go to a chemist shop to ask for condoms than to go to any other girl in some other place to ask for the same thing. That argument just does not hold water.

I am very concerned about AIDS and other transmissible diseases. I read Professor Penington's report and I did not entirely agree with everything in it. One reads about the number of haemophiliacs who have contracted AIDS in Victoria and the fact that the lifestyle of certain groups in our community is responsible for this. However, I believe that people should live the life they want to live and should make their own decisions, and I am of the opinion that people in general will make their own judgments about what has been said in this debate.

I will not say anything further except that this discussion has been similar to debates on some other Bills, in which, as the Attorney General said at an earlier stage, nothing was said which could convince him to change his opinion. We have more child-care centres and more community welfare set-ups today than ever before, yet we do not have the results to justify these places. There are 4 000 young Western Australians who do not have homes. It is a peculiar situation. I will guarantee to this Parliament that some situations are worse now than they were 10 years ago. Problems such as people not owning their own homes have not gone away over the last 10 years. I am sure that we will not see any marked improvement in 10 years from now in respect of AIDS by increasing outlets for the supply of contraceptives to young people. I hope I am wrong and if I am, I will be the first to admit my mistake.

The CHAIRMAN: I believe this is turning into a second reading speech. I know that the Minister started this off, but I think it would be advisable if we can return to the clause under discussion.

Hon. D. K. DANS: I do not think I started anyone off. I have been astounded—since this Bill is being supported by all of the speakers—that members have engaged in a talk-fest about other States. We are not discussing Victorian legislation. I do not care where the Minister got the information from. The Bill we are discussing is here in this Chamber and one of the first lessons I learnt when I first came to this Chamber was that one discussed the Bill before the Chamber. When Hon. Les Diver was the President, and I referred to another place—and without casting

aspersions on some other Presiding Officers, he was the best one I have ever had in this Chamber—he said to me, "You are quoting the Bill that is before the Chamber, and not what happens in Victoria and New South Wales." For some unknown reason we seem to get off down that track all the time.

I am aware of what is happening in Victoria and I am aware of some of the changes that we are intending to make. However, some of the Bills to which Hon. Peter Wells referred have nothing to do with this kind of legislation. It does not come under the Health Act, or whatever else he was quoting. He was talking about quality and standards, which is commendable, but I would like to take members back to what Mr MacKinnon said. He said that I was in the habit of getting up and saying that I agreed with a Bill in principle and in detail. It would be nothing novel if I did do so. In most Parliaments in the Westminster system, and indeed in our own Federal Parliament, this is a frequently used phrase, particularly in the second Chamber when Bills are examined by the person responsible for them. It is valid to use this phrase when one agrees with a Bill and has no point of disagreement with it. If members listen to Federal Parliament, they will hear that phrase used by members in both the Senate and the House of Representatives quite regularly.

The issues are quite simple in respect of this clause because one either agrees with the Bill or one does not. The Bill is probably not as strong as I would have liked, but for reasons outlined by Mr MacKinnon, people in this State are reluctant to take bold steps, and so we are feeling our way along. It is not much good saying that in the next 12 months the decisions made by this proposed committee may or may not have been good. One of the things the committee may recommend to Governments along the track is that firstly, it could see no good reason for preventing the introduction of vending machines, and we must look at it in that light. Secondly, the Bill is aimed at preventing the spread of AIDS. For reasons that Mr MacKinnon outlined, an unusual situation has arisen. Homosexual activities have never required the use of any kind of contraceptive because the chances of pregnancy were nil. Either rightly or wrongly, the main cause of the spread of AIDS is based on homosexual or bisexual behaviour. That is really what we are discussing here tonight and it all boils down to one thing: One either supports this Bill or one does not. No amount of gasbaggery will make the situation better or worse.

Mr Wells, in talking to the clause, introduced many matters. I find Mr Wells to be something of a grasshopper, he hops from one subject to another and I find him difficult to follow. Hon. Joe Berinson finds it easy to follow Mr Wells. Perhaps he is right—what Mr Wells was really saying was that if the sky were not well propped up, it would fall. How do we in this place know whether the committee will work or not? This has nothing to do with what has happened in Victoria. This is a difficult Bill to try to put through Parliament.

The Bill has been made as light as possible for that reason and we are hopeful that the committee, in its wisdom, will be able to come back to the Government with some sense of authority based on its experience and say to the Minister, "We believe that these are the things that should happen." It may happen in three months, six months or even 12 months after the committee is established; but with that material available to us members in this Chamber will not be so timid in their approach to this subject.

I have admitted privately and publicly that I would like to see a stronger Bill before this Chamber. I would like members to stop talking about the proposed committee and either support or oppose this clause.

Hon. A. A. LEWIS: Earlier this evening we heard a Minister say that we should take notice of what happens in other States because that is the way we can ascertain whether things will or will not work. However, the Leader of the House is now saying that we should not take notice of what occurs in other States.

Hon. Tom Stephens: What way were you arguing then?

Hon. A. A. LEWIS: I am asking for consistency.

Hon. D. K. Dans: I am not my brother's keeper.

Hon. A. A. LEWIS: I do not think there could be two people like the Leader of the House.

All I am asking is for a little consistency. We have had one Minister tonight flaunting the fact that we should be taking evidence from another State and now the Leader of the House is damning it.

I ask the Leader of the House whether we should be looking at what has happened in other States.

Hon. P. H. WELLS: I make no apology for exercising my right in the Committee stage in an attempt to make sure the Bill is examined properly.

I have no objection to increasing the number of outlets for the sale of condoms. However, what does concern me is what has occurred in other States. I have often heard Ministers say in their second reading speeches that the basis for legislation is that it has operated in other States. The Minister for Health has indicated that this legislation is based on a model from another State and that model has failed.

The Leader of the House has said that this legislation is aimed at preventing the spread of AIDS, but as far as I am concerned it is aimed at increasing the number of outlets from which condoms will be available.

A committee similar to the one which is proposed was established in another State and it failed. It has been suggested that an officer from the Health Department could assess what outlets should be granted permission to sell condoms. Furthermore, a committee has been set up in relation to the Poisons Act which consists of 12 people. Surely it could be given this area of responsibility.

This Government has brought a Bill before this Chamber to set up a committee.

Hon. D. K. Dans: Do you want to support or oppose the Bill?

Hon. P. H. WELLS: I am trying to suggest—

Hon. D. K. Dans: I am giving you the option.

Hon. P. H. WELLS:—that the Government would do better if it looked at some of the other approaches available to it during the Committee stage. It appears that the Leader of the House is not willing to entertain those approaches and, therefore, the approaches which the Opposition desires in this Bill are doomed. It appears the Leader of the House is not prepared to take on board any suggestion made by the Opposition during the Committee stage.

The Minister said that I am a grasshopper, but the reason I have continued to express my concern about the proposed committee is because it was initially raised by Hon. Norman Moore and when I was given the chance I continued with the same subject. I was not grasshopping.

The Leader of the House closes his eyes and says that he wants the Opposition to rubber stamp what the Government desires. The Opposition is entitled to question the Government. The Leader of the House has suggested that the setting up of a committee could be costly, and based on evidence from other States the committee is doomed to failure.

If the Leader of the House is not willing to discuss this matter any further I ask him whether the definition of contraceptive in this Bill includes all forms of contraceptives including gels and pills.

Hon. D. K. DANS: I suggested to the member earlier that if he did not want to vote for the Bill he could vote against it. I did not want to cut him off at the ankles. I did not say that he was a grasshopper, I said that he had the mind of a grasshopper.

I have already pointed out to the Chamber that I fully understand what happened in Victoria and I have also said that I do not believe this is a very strong Bill. I agree with Mr MacKinnon because he believes that we have taken a soft approach to get the Bill passed and for it to be publicly accepted.

Hon. Peter Wells said that the work of the proposed committee could be undertaken more cheaply. I advise him that the committee will not incur any cost to the Government.

Hon. P. H. Wells: There is provision in the Bill for an allowance to the members.

Hon. D. K. DANS: The members of the committee will be paid and that expense will be offset by licence fees that will be charged.

It is not a complicated Bill. We are not talking about Victoria and if members do not want to pass this legislation they should vote against it. It is really a simple situation. No amount of talking about Victoria, New South Wales, or any other State has any bearing on this Bill.

The Bill is straightforward and in the main it refers to condoms, and where the proposed committee will allow them to be sold. We are not talking about other forms of contraception.

Hon. P. H. Wells: What is meant by "any substance"?

Hon. D. K. DANS: I suppose it could mean a number of things. Hon. Peter Wells is a married man with a fairly wide experience of life and he does not need me to answer that question. The definition of contraceptive is as follows—

> "contraceptive" means any contrivance or appliance for securing, or reputed to secure, by the use thereof before, during or after sexual intercourse between human beings that such intercourse may take

> place without resulting in or with less likelihood of resulting in conception, and includes any substance which is or is reputed to be effective or of use for that purpose;

I know of a number of proprietary brands of condoms but as a member of Parliament I cannot advertise them by talking about them here. Mr Wells would be fully aware of what I am talking about. That is all that is involved. We could prolong this discussion about what may or may not constitute a contraceptive all night. I think every member of the Committee understands the Bill and what it is all about.

Hon. H. W. Gayfer: Yes, but some of us think it is a cover up.

Hon. D. K. DANS: I would probably agree, but the committee makes it more publicly acceptable which, as Mr MacKinnon said in this Chamber, we have always shied away from. I hope that the committee will do its job well and in a very short space of time will report to the Government that this or that should take place.

Hon. G. C. MacKinnon: I hope its first action will be to recommend that the Act be repealed.

Hon. D. K. DANS: During the second reading debate, no members opposite took my advice. They decided to continue on their merry way. In the final analysis, that way would entail repealing the legislation.

Hon. P. H. WELLS: If the Minister cannot tell me what a contraceptive is—

Hon. G. C. MacKinnon: The legislation tells you what a contraceptive is.

Hon. P. H. WELLS: I understand that some contraceptives contain a spermicidal gel. As I understand it, if that gel contains a poison it would come under the Poisons Act.

Hon. G. C. MacKinnon: It's not a poison.

Hon. P. H. WELLS: The member may be correct, but I understand that a spermicide kills sperm. That was the reason for my question.

I draw the Minister's attention to page 4 of the Bill and that part of the definition of public place, which states—

> ...but does not include a registered pharmacy or any licensed premises within the meaning of the Liquor Act 1970;

I understand that the Government has included this proviso in order to put licensed premises on the same basis as pharmacies so that they will not have to apply for a licence in the same way as every other store will have to. I understand that pharmacies which already have the right to sell condoms will not have to apply for a licence. They are authorised under this legislation to continue to sell condoms. The other group that is authorised to sell condoms under this legislation without having to apply for a licence is licensed premises within the meaning of the Liquor Act. Could the Minister indicate whether that is correct?

Hon. D. K. DANS: It is patently obvious that that is correct. In answer to the member's first question, I indicate that a spermicide is not a poison, as I think the member knows.

Hon. P. H. Wells: I did not.

Hon. D. K. DANS: In that case, the member's education tonight has been improved by that much.

Hon. P. H. WELLS: I have been told that a licensed premise is not a shop within the meaning of the shops Act. The Minister has said that vending machines would not be allowed, but as I understand it they are to be allowed in licensed premises. If that is not correct, can the Minister tell me which clause excludes vending machines from licensed premises? A number of members have indicated that that would be sensible.

Hon. D. K. DANS: The Bill excludes licensed premises from the definition of public place. If I take that to its logical conclusion, I presume that licensed premises could have vending machines. I am not sure of that, but I wish I was 100 per cent sure because I think it would be a good idea.

Hon. P. H. WELLS: The Minister has indicated that he is not sure whether licensed premises are allowed to install vending machines. The method suggested by the Government with respect to the sale of condoms in licensed premises is that which applies to pharmacies. If a pharmacist decided to put in a vending machine, he could do so. I think the Government is not aware of the fact that licensed premises could install vending machines to sell condoms. The Minister has indicated that he does not know whether that is the case. Members should be aware that this legislation would license liquor stores. About 1 760 different outlets may put in vending machines when this proposed Act is proclaimed. It is clear that there is no restriction on licensed premises being able to put in vending machines.

Hon. D. K. DANS: I will be more explicit. Licensed premises can put in vending machines if they want to, and I am happy with that.

Hon. P. H. WELLS: That is contrary to what the Minister for Health and the Minister said in the second reading speech, but it is important that the Chamber is aware of what is being done. Members of the Australian Hotels Association cannot have any idea that they are to be the front runners in this because there has been no consultation with them or with the Pharmacy Guild or the Pharmacy Council. I would have thought that the Government would have consulted those two organisations in view of its desire to expand the number of outlets selling condoms.

Hon. D. K. DANS: I have spoken to the AHA myself. I speak to its members just about every second day.

Hon. P. H. Wells: You hadn't when this Bill came out.

Hon. D. K. DANS: I have not got together all the AHA people in Western Australia, but I did speak to the president.

Hon. P. H. Wells: About this Bill?

Hon. D. K. DANS: Yes, because he raised the matter. His view was that none of his members would have condoms on their premises if they had to be sold over the bar. I think that would be obvious. The honourable member said that the Minister for Health and I said something in the second reading speeches contrary to what I have since said. In the second reading speech, the Minister for Health said that it was proposed that retailers who wished to sell condoms should apply to the Commissioner of Health for a permit to make the sales. It was also said in that connection that sales by vending machines would not be permitted. A retailer is a shop. A licensed premises comes under the Liquor Act. It is not a shop, so there is no intention to confuse the issue. It is all there in black and white. I just wanted to correct the member. I also refer him to page 4 of the Bill and the definition of shop as given there.

Hon. P. H. WELLS: I do not like to differ with a Minister, but in the second reading speech it was said that sales by vending machines would not be permitted.

Hon. D. K. Dans: I just said that to you.

Hon. P. H. WELLS: I want to make certain that the Chamber is aware that we are moving into allowing vending machines on the premises of a select group for the first time. That was not the concept that was understood when the legislation came into the Chamber or the concept as it was understood in the broader sense.

One would have expected it to be mentioned in the second reading speech. It is a major area in hotels, but the Minister did not mention it.

Hon. D. K. DANS: Anyone reading the Bill would understand what it says. The clause says that a public place does not include a registered pharmacy or any licensed premises within the meaning of the Liquor Act 1970. The second reading speech said that it is proposed that retailers—and I have explained what they are—who wish to sell condoms should apply to the Commissioner of Health for a permit. Sales by vending machines will not be permitted in shops.

Hon. P. H. Wells: You would probably say that about a liquor store which has about 700 outlets.

Hon. D. K. DANS: I have just been advised that vending machines in licensed premises are not covered by the Bill. If they want to put them in I do not think there is anything to stop them because they come under the Liquor Act.

I can understand a person would not like to approach a barmaid in a hotel for a condom. That is self-evident.

Hon. P. H. WELLS: Vending machines are clearly in the definition in connection with shops, but not licensed premises. I raised this during the second reading debate. What would be the position in a hotel?

In New South Wales I understand contraceptives are sold in the toilets of service stations. One member said they were sold in a foyer.

Under paragraph (m) any public lavatory or sanitary convenience is excluded. So contraceptives would have to be sold in the foyer or in the bar. Is that a correct interpretation? Would the Minister say that a university toilet is a public lavatory or sanitary convenience? Would a university be excluded?

Hon. D. K. DANS: A public place is defined on page 2.

The member mentioned a service station and skipped over that.

Hon. P. H. Wells: In the toilet of the service station.

Hon. D. K. DANS: A service station, of course, is a shop.

Hon. P. H. Wells: Is the toilet a shop?

Hon. D. K. DANS: It is part of the premises of the shop. I do not know if one has a shop without a toilet.

Hon. P. H. Wells: It excludes sanitary conveniences.

Hon. D. K. DANS: Off the top of my head, I would say one would not be able to put them in the toilet of a service station or in the toilet of a shop. If my memory serves me correctly, a service station comes under the definition of a shop.

Hon. P. H. Wells: What about the toilets in licensed premises?

Hon. D. K. DANS: The Act refers to any market or fair; any auction room or mart or place while a sale by auction is there proceeding; any public lavatory or sanitary convenience.

Hon. P. H. Wells: That means they cannot be put in there.

Hon. D. K. DANS: I would have to say that may include a washroom of a hotel, yes. It is not a public toilet.

Hon. P. H. Wells: Is it a sanitary convenience?

Hon. D. K. DANS: I do not know. The toilet is only supposed to be for clients.

We can go on all night. I am rising to the member's bait all the time. If the member reads the Bill he will find it is self-evident.

Too many people in this Chamber take notice of the second reading speech. One of my first lessons in this Chamber was, listen to the second reading speech but read the Bill. Most people do not read the Bill. I suffered gravel rash when I first came into this Chamber and met some very capable people on the other side. They rammed that down one's neck at every opportunity.

Hon. G. C. MacKinnon: The second reading speech is a courtesy extended to members, and it has no authority whatsoever. There is no member who has not been here long enough to have learnt that.

Hon. D. K. DANS: Page 2 of the Bill goes on to explain all the things members are asking me questions about. I have established that a pharmacy could use a vending machine if it wanted to. If a hotel wants to have a vending machine it could. That would depend upon the public. I suggest it could have one in the washroom. If a service station were to sell contraceptives it could apply for and obtain a licence to sell them. It would be up to the owner where he puts them.

We talk about a public lavatory or convenience. These matters are fairly self-evident.

I do not know how much longer we can go on with this. It seems to be developing into a kind of joke. Members either support the Bill or they do not. It is all in the Bill. I have given about as much descriptive material as I can. Members should be able to make up their minds whether they want to support it.

Hon. P. H. WELLS: Because of the nature of the Bill, most of the questions relate to this clause. I want to understand exactly what is meant.

In the foyer of the Parliament is a video which was used for Parliament Week. It says that members of Parliament should understand not only what is written in Bills but they should know how others will interpret the words of those Bills. I have been trying to understand how others will interpret this Bill.

The Minister has said he expects a hotel will put the condoms in the washroom. That would seem sensible. But I understand the Bill excludes that because it is a sanitary convenience.

Secondly, I think the Minister has learnt himself, as a result of this debate, that he can put vending machines in a hotel. That was not the impression when the Bill passed through the other Chamber, and it was not the impression given to the public.

All I am saying is that the Minister has said that he believes hotels will put vending machines in their washrooms. My understanding of the meaning of a sanitary convenience is that that is excluded as a result of this Bill.

I was not talking about the second reading speech, I was talking about the Bill. I understand the words of the Bill. The Minister is saying, "Yes, the washroom is a sanitary convenience." If the Minister is saying that, my understanding of the Bill is that that area is excluded.

Hon. D. K. DANS: I will once again use the term "public". I refer to the Act of 1939 which refers to a public lavatory or sanitary convenience.

Hon. P. H. Wells: Is a sanitary convenience public?

Hon. D. K. DANS: If one goes to a public toilet, what does it mean? If one goes down to the town hall, one will see a sign saying "Public Toilet".

Hon. P. H. Wells: What does "sanitary convenience" mean?

Hon. D. K. DANS: I imagine it would mean the washroom.

Hon. P. H. Wells: Even in a hotel?

Hon. D. K. DANS: In any public lavatory.

Hon. P. H. Wells: It does not say it is public.

Hon. D. K. DANS: If the member looks at the Bill and carefully examines it, he will see what it is really talking about. It is talking about shops which must apply for a licence. The Bill says one cannot put vending machines in public toilets or sanitary conveniences, but the owner of a hotel who desires to sell condoms would have the right to put a vending machine where he likes. I would think, exercising a bit of commonsense, that he would put it in a washroom. I do not think he would have it standing on the bar. I would suggest that the managers might put their heads together and decide that the machine go in the washroom. That would be the appropriate place, but in my definition, a washroom would be a sanitary convenience. The washroom is a private one for the clients of that establishment, and a public place is a place where anyone can go.

Hon. P. H. WELLS: This is the last time I will refer to this. We happen to be discussing the interpretation, not anything to do with shops. It is the interpretation section which describes the various areas. It says that one of the areas that is not a public place—and incidentally, one is not allowed to sell condoms in a public place—is a church. By the same token, it says that one of the places that is not a public place is a sanitary convenience. Not a "public sanitary convenience", but a "sanitary convenience".

When this legislation is passed, it will be interpreted by a judge who will say, "A sanitary convenience is a washroom—the Minister already said so in his answer in the Council." I suggest to the Minister that I cannot see how any court would ever accept a sanitary convenience because the word "public" is not before the words "sanitary convenience". Although I agree with the Minister that that would be the best place for a vending machine, my understanding is that a sanitary convenience is a washroom in a hotel, and it does not say it is public. The words "sanitary convenience" stand on their own. The Minister seems to be saying two things: Firstly that it is a washroom; and secondly, that it is not public.

Hon. D. K. DANS: I will try again to make the member understand. The 1939 legislation says—

> . . . exhibits or causes to be exhibited any contraceptive in view of persons who are in any public place.

The definition of "public lavatory" or "sanitary convenience" refers to a public toilet or a public washroom.

Hon. P. H. Wells: It does not say that.

Hon. D. K. DANS: That is what it means. That is the intention. It has been in the Act for a long time and a lot of people before Mr Wells and me have understood it.

Hon. P. H. Wells: It has never happened in those cases before—it was not allowed.

Hon. D. K. DANS: That is true enough, but a public place is not defined in this legislation; it is defined in the 1939 legislation.

Clause put and passed.

Clauses 4 to 6 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by Hon. D. K. Dans (Leader of the House), and passed.

ADJOURNMENT OF THE HOUSE: SPECIAL

HON. D. K. DANS (South Metropolitan—Leader of the House) [11.27 p.m.]: I move—

> That the House at its rising adjourn until Wednesday, 23 October at 2.30 p.m.

Question put and passed.

ADJOURNMENT OF THE HOUSE: ORDINARY

HON. D. K. DANS (South Metropolitan—Leader of the House) [11.28 p.m.]: I move—

> That the House do now adjourn.

Parliamentary Reform

HON. KAY HALLAHAN (South-East Metropolitan) [11.29 p.m.]: I bring to the attention of the House a matter of great importance to electors in my electorate, and that is the state of the electoral laws in this place and the way members are elected to this House; and the way in which the Opposition uses its majority in this House to deprive the constituents of South-East Metropolitan Province of a reasonable vote and a reasonable representation in this House.

Last Saturday, when there was a seminar to discuss the whole question of electoral and parliamentary reform, the members of the Liberal Party from this House were not represented in any way. I think that the people from my electorate have every reason to express the anger they have in response to that event. In fact, their representation is very poor in this House; and we have in this House a Liberal Party which is the only Liberal Party within Australia—one of the eight—which does not have a philosophy of one-vote-one-value but continues to hold up and amend good Bills. We saw that again tonight on a Bill before the House, which has resulted in a very curious piece of legislation leaving this place. That is because the people in this House representing a minority have a majority of the power. I do want to place on record that there was no defence of that position when a public forum was held; and we continue to have people who are not prepared to stand and put their argument about the position they hold and the undue power and influence they have in this State.

Parliament Week: Seminar

HON. A. A. LEWIS (Lower Central) [11.30 p.m.]: I cannot let that go without some comment. I would have quite liked to go to the seminar, and if Parliament Week had been organised by this Parliament and some of us had been told in advance of some of the happenings maybe we could have put in our diaries the fact that a seminar was being held.

Hon. Kay Hallahan: You had advance notice of it.

Hon. A. A. LEWIS: That shows how well some people represent their areas. It was three weeks' notice. That is just not enough for busy members.

Hon. Graham Edwards: Who told you that, Mr Lewis?

Hon. A. A. LEWIS: That is the sort of comment I would expect from Hon. Graham Edwards because he would have to be told by somebody; he would not have the intelligence to find out for himself.

Some of the functions we attend have been arranged for nine, 10, or 12 months, and a three-week Government-sponsored seminar—

Hon. N. F. Moore: Labor Party-sponsored.

Hon. A. A. LEWIS: Labor Party-sponsored if you like, but nothing to do with Parliament, because as you well know, Mr President, Parliament gets very little advance knowledge of what is going on. A week ago today you and I went to one of the functions organised for Parliament Week. I do not think Hon. Kay Hallahan, who was invited, was at that function.

Hon. Kay Hallahan: I went to the seminar.

Hon. A. A. LEWIS: The member was busy. Now we come to the nub of it; Mrs Hallahan was busy on that day.

Hon. Kay Hallahan: Why wasn't one colleague of yours there? You may have been at the Harvey Show—

Hon. A. A. LEWIS: I did not say anything about the Harvey Show.

The PRESIDENT: Order! For the last time I suggest honourable members stop their interjections.

Hon. A. A. LEWIS: I appreciate your protection, Mr President. I believe I should bring this point forward when this sort of nonsense is raised on the adjournment. It is treating this House and members with absolute scorn to speak in the way Mrs Hallahan has done. Not enough time was given to the majority of members in this place. I take exception to her saying where we should put our priorities when we have a heap of work to do.

Hon. Kay Hallahan interjected.

The PRESIDENT: Order! I have already said I will not let members continue to interject.

Hon. A. A. LEWIS: I am sure you would not want me to sit down until I have finished, Mr President. All the nonsense coming from the Labor Party by way of interjections should be disregarded. Members of Parliament in the main are busy people and they should be given due respect by being given some notice about functions.

Members of Parliament: Activities

HON. I. G. PRATT (Lower West) [11.35 p.m.]: I am glad the honourable member has raised this matter on the adjournment. We should look at the question of what members do with their time and how well they service their electorates. For my part I am quite happy to give an account of my activities on Saturday.

As Hon. Sandy Lewis said, the Harvey Show was on and that is where I spent most of my day, along with Hon. Colin Bell, Hon. Graham MacKinnon, and John Bradshaw, walking around the show and talking to our electors. Many problems were raised and people wanted to talk of many things including the way the Labor Government is behaving. My province is

much larger than Hon. Kay Hallahan's, and it takes a considerable time to drive to the places one needs to go to talk to the people one represents. I had an official invitation from the Harvey Agricultural Society, and I had lunch with them so I had to be there in the morning. I had lunch with them and many other community people, and we walked around—

Hon. Tom Stephens: Was it a free lunch?

Hon. I. G. PRATT: For the honourable member's information, I am a paid-up member of the Harvey Agricultural Society. I wonder if he is the same.

Hon. Tom Stephens: So you are in their pocket, or they are in yours.

The PRESIDENT: Order! If the honourable member wishes to leave earlier than the rest of us he is going the right way about it.

Hon. I. G. PRATT: I hope *Hansard* was able to capture that interjection so we can show it to the agricultural society and it can see the sort of respect that society gets from this Labor Government. I will be quite happy if I look through *Hansard* and find it recorded and I will do just that unless some member wants to rise and repudiate the comments the member made about the relationships between agricultural societies and their elected members of Parliament.

Having spent that time at the Harvey Show I returned to the Kelmscott Show which is also in my electorate and serves the Armadale-Kelmscott district. It was later in the afternoon, and not having noticed Hon. Kay Hallahan there I assumed she was somewhere else working for her electors. I spoke to many of my electors, and many electors from across the other side of the Town of Armadale, from Hon. Kay Hallahan's electorate, spoke to me at the show. An ex-Premier, Hon. John Tonkin, opened the show. The reality is that Cyril Rushton had to look after Mr Tonkin on the day. That is an interesting fact.

I do not apologise for the fact that I spent most of the early part of Saturday with my electors in Harvey, nor do I apologise for spending most of the afternoon at the Kelmscott Show with my electors and other people's electors from around the district who were there and wanted to take advantage of the opportunity to talk to members of Parliament.

For those who think perhaps country members do not do any work, I point out I then had to go back to the country for an evening function which I had to leave half way through to go to another function closer to the city. I am happy at the way I spent the day, and I am happy to have it on the record.

HON. D. J. WORDSWORTH (South) [11.38 p.m.]: I would like it on record that I happened to be in Albany on Thursday and Friday, and I had to attend the Esperance Show some 500 kilometres away on Saturday. It is completely unreasonable to expect me to be able to fit in a seminar on the Saturday. I take very strong exception to the Government member who raised this matter and made insinuations about members of this House. I also object to seeing in Saturday's paper much the same thing under the signature of our Presiding Officer and the Speaker of the other House.

Parliament Week: Displays

HON. P. H. WELLS (North Metropolitan) [11.39 p.m.]: I want to raise two issues in connection with Parliament Week. The displays and use of equipment in Parliament House should generally be done in a professional way. However, the video in the foyer of Parliament as part of Parliament Week arrived today, a week after Parliament Week, and has a two-minute gap before the video actually starts; that is, after the opening. People often walk away. It is really shoddy that it has not been spliced together in a professional way that reflects well on this State.

I do not think therefore that this particular production was ideal to be placed in the foyer of the parliamentary building. The gap should have been corrected because I believe that this production should have represented this State. As it was, the flaw in this production indicated that the people responsible for it had not checked it out. They had, in effect, simply sent it up to Parliament, and I think that indicates the shoddy way in which the video was produced.

Secondly I wish to refer to Parliament Week as a whole. I remind the House that the Minister who is now responsible for Parliament Week spent years denigrating me for bringing at least 10 000 people to Parliament. His remarks are in the *Hansard* record for the Legislative Assembly. I have always believed that it is a good idea to enable people to come into these Houses of Parliament, which are their Houses, so they might understand the parliamentary system. I spent some time, not only during Parliament Week, but also throughout the year talking to people in my province and in the schools about coming to Parliament and

seeing how their Parliament operates. It is hypocritical of the Minister in the other place to argue in terms of bringing people to Parliament when he used to condemn me for being involved in that very activity.

Members of Parliament: Activities

Finally I refer to comments made by Hon. Graham Edwards. I agree with him when he said that our electorate is a very busy one. I share that view with him because of the numbers of people involved, but I believe that the proposition that is now before the House means that I will have to represent considerably more than the 90 000 people I currently represent. I do not suggest that the proposition presented in the debate is unreasonable; if one has an electorate of 90 000 people in the metropolitan area, one can get to most functions reasonably quickly; however, that would mean that one is responsible not for 90 000 individuals but rather for an enormous electorate. That is one difficulty which I find with the proposition now before the House.

Parliamentary Reform

HON. GRAHAM EDWARDS (North Metropolitan) [11.43 p.m.]: I would like to make a couple of comments on the points raised by members opposite. I think members opposite have really missed the thrust of what Hon. Kay Hallahan said; that is, that this Chamber is not here as a democratically elected one. It was interesting to listen to what members had to say about what they are doing in their electorates. That is fine—when one is paid to do the job, one does it; but one cannot turn one's back on the fact that this is not a democratically-elected Chamber and that proportional representation will give this Chamber a fairer basis on which to act as a parliamentary House. I support the remarks made by Hon. Kay Hallahan and the more often that we can draw this matter to the attention of the Chamber, the better. I had the pleasure of inserting an advertisement in the local paper the other day which pointed to the fact that while the Liberals profess to support the Anzacs, they do not translate that support into any realistic approach in seeking democracy and fairness in this House. I would be much happier to see them do that instead of merely talking about it.

Parliament Week: Seminar

HON. ROBERT HETHERINGTON (South-East Metropolitan) [11.45 p.m.]: I cannot let the House adjourn before I defend my colleague, Hon. Kay Hallahan, because one of her remarks was not answered and/or put up against her. She said that she found it odd that not one member of the Liberal Party turned up at the seminar to defend their party's position. That does not mean that she said that all members of the Liberal Party should have turned up or that everybody in the Legislative Council should have turned up because, of course, as you well know, Mr President, that given three weeks' notice, six weeks' notice or even six months' notice a great many people in this House, and in the other place, would not be in a position to go to a specific function. We are all fairly busy in one way or another and therefore for various members to get up and defend themselves is hardly necessary. We know that different members cannot come but I did find it odd, as was noted by Dr Jaensch and reported in *The West Australian*, that although representatives of the Labor Party, the National Party, and the Australian Democrats were present at the seminar, there were no representatives from the Liberal Party to defend their case. I think that is the point made by my colleague. She did not say that everyone should have been there, nor did her comment need the kind of defensive comments it received in response because it was just a simple point that has not yet been answered.

HON. G. E. MASTERS (West—Leader of the Opposition) [11.46 p.m.]: I suppose Hon. Kay Hallahan is a bit unhappy about raising this particular matter because she has embarrassed her own colleagues greatly. I had no intention whatsoever of attending a function organised by Arthur Tonkin in the form of what I call "Labor Week". I was very busy in my electorate on Saturday, but even if I had not been, I would not have had any part of Tonkin's week. As far as representing people and being democratically elected goes, I am very proud of the area I represent and I believe that I was democratically elected. I believe further that the people in my electorate will continue to support me and all that I stand for.

Legislation: Discussion

I take exception to Hon. Kay Hallahan complaining that members on my side of the House discuss legislation at length. My colleagues and I have a right and a responsibility to look at legislation that is introduced into this House, and we have a right to examine that legislation carefully and to take our time doing it. At least members on this side have taken the

time and can demonstrate an interest in the legislation. It is very interesting to note that very rarely indeed have members of the Labor Party risen to their feet and talked about their legislation, defended their Minister, or in fact taken any action to oppose what we on this side have said. It seems that we have recently spent all our time correcting Government legislation, because some of it has been very faulty. Tonight we were told that we should not take any notice of second reading speeches. I suppose that is fair comment in the light of the content of some of those very speeches, but I say again that we reserve the right at all times to take our time over legislation and to examine where there is a need to strongly criticise and to bring the faults of the legislation to the attention of the public and, I hope, to bring it at all times to the attention of the media. We will continue to do that and we will not be rushed with legislation. We will do our job as the public expect and demand that we do it.

Parliament Week: Activities

HON. C. J. BELL (Lower West) [11.48 p.m.]: I do not want the House to adjourn before I say a few words on the topic raised by Hon. Kay Hallahan. In many ways I would like to reiterate some comments made by Hon. Gordon Masters. I, too, was busy in my electorate on Saturday, but that did not matter in this context because I felt no compulsion and no desire whatsoever to attend any function organised by Mr Tonkin or his minions in the guise of Parliament Week. That week had no representation of Parliament, it was a farce and it has been since it started. I think when Parliament Week is recreated in a proper representative manner, members on this side of the House may take a good deal more notice of those functions organised on behalf of the Parliament itself. To that extent I am not at all concerned that no members of the Liberal Party attended that function. After all, it had no bearing or significance for the people of Western Australia.

Question put and passed.

House adjourned at 11.50 p.m.

QUESTIONS ON NOTICE

AGRICULTURE PROTECTION BOARD

Norseman Checkpoint

265. Hon. C. J. BELL, to the Leader of the House representing the Minister for Agriculture:

(1) (a) What improvements have been made to the Norseman APB checkpoint in the year 1984-85;

(b) what was the cost of same?

(2) (a) What improvements have been made to the stock handling facilities at Norseman in 1984-85;

(b) what was the cost of same?

(3) What assistance is given to stock transporters to help the cleaning of the vehicles?

(4) What implements are available to expedite the cleaning of vehicles?

(5) Are the facilities at Norseman considered adequate to properly clean vehicles in a reasonable time?

(6) What is the normal cleaning time for—

(a) horse floats;

(b) cattle trucks;

(c) sheep trucks, double deck and triple deck?

(7) What is being done to police the Mt Beaumont Road turnoff?

(8) Is it intended to move the checkpoint to Eucla?

(9) What work is intended at Norseman checkpoint this year?

Hon. D. K. DANS replied:

(1) and (2)

(i) Surface water drain to protect yard	$600
(ii) Resurface gravel road	$1 200
(iii) New high pressure water pump	$1 500
(iv) Retaining wall for unloading horse floats	$250
(v) Small trailer carport for unloading tourists' goods	$300.

(3) High pressure water supply is made available. No assistance with labour is provided, other than with the handling of difficult animals.

(4) Pump, brooms, shovels, wheelbarrow, water, power, and incidental tools.

(5) It is considered that improvements should be made to the present system—see answer to part (9).

(6) (a) Horse floats (12-15 horses)—1.5 to 2 hours;

(b) cattle trucks—2 to 5 hours;

(c) sheep trucks—
double deck—2 hours
triple deck—3 to 3.5 hours.

(7) The Beaumont Road is not policed at this time.

(8) The need for relocation of the checkpoint to Eucla is being considered.

(9) A stock transporter washdown ramp and a roofed area to provide protection during inspection will be erected in 1985-86.

WATER RESOURCES: UNDERGROUND

Wells: Repairs

267. Hon. H. W. GAYFER, to the Leader of the House representing the Minister for Water Resources:

(1) I have flown the area of the seven shires declared drought affected and observing that dam water will have disappeared by Christmas and in some cases before, what steps are being taken to repair and if necessary upgrade the Government wells and bores on which windmills and tanks have fallen into disrepair?

(2) Will the Minister make immediate contact with the shires concerned to ascertain from their local knowledge those wells and bores that need attention?

Hon. D. K. DANS replied:

(1) and (2) The Minister has not received any reports of Government windmills and tanks in drought-affected areas falling into disrepair and he does not believe the maintenance of these facilities should necessarily be initiated in an attempt to overcome the current water deficiencies.

The farm water supplies advisory committee, which comes under the overall responsibility of the Minister for Agriculture, arranges the supply of water to declared water deficient areas. This may be by carting from standpipes on existing Water Auth-

ority schemes, from existing tanks and wells, or from emergency water sources specially developed for this purpose. This committee should consider and utilise the most cost-effective option.

In many cases the long-term costs of maintenance of the older Government tanks and wells is not as cost-effective a drought relief option as the short-term carting of water.

The assistance available in water deficient areas is set out on page 6 of the publication "Drought Relief in the Agricultural Districts 1985-86" available from the Department of Agriculture.

EDUCATION: TEACHERS

Accommodation: Kojonup

270. Hon. W. N. STRETCH, to the Minister for Employment and Training representing the Minister for Education:

(1) Is the Minister aware that there is a serious shortage of married teachers' accommodation in the town of Kojonup, and that three houses are urgently required for 1986?

(2) Are plans already made to alleviate this shortage?

(3) If not, would the Minister take urgent steps to ensure that such teachers do not have to leave Kojonup for housing reasons?

Hon. PETER DOWDING replied:

(1) No. There are 26 teaching staff in Kojonup; 13 are housed in 11 GEHA houses and the remainder in rental or leased accommodation.

(2) No.

(3) Yes. A departmental officer will visit Kojonup to assess the housing situation in late November 1985.

HOUSING

Homeswest: Home Purchase Schemes

271. Hon. P. H. WELLS, to the Minister for Employment and Training representing the Minister for Housing:

(1) What are the different home purchasing schemes available from Homeswest?

(2) In each of these schemes, at what stage is the purchaser's name put on the title of the land being purchased?

(3) Do all pensioners qualify for rebate of local government rates under each of these schemes?

(4) If not, which pensioners do qualify for rebate of local government rates under each scheme?

Hon. PETER DOWDING replied:

(1) The different types of home purchase schemes available from Homeswest are

(i) First mortgage.

(ii) Flexible deposits.

(iii) Shared equity.

(iv) Senior citizens.

(v) Home purchase assistance scheme.

(vi) Aboriginal home purchase assistance scheme.

(2) The stage at which the purchaser's name is placed on the title depends on the conditions of purchase, which vary between the various schemes.

For a sale under mortgage conditions the name of the purchaser is entered on the title on registration of the document.

For a sale under contract of sale conditions, the name of State Housing Commission is entered on the title at registration. The purchaser's name is entered on the title if at a later date the purchase price is paid in full or the purchaser pays a sum of not less than 10 per cent of the purchase money and all interest due.

Sales under the first mortgage scheme are under mortgage conditions and those under flexible deposits and shared equity schemes are under contract of sale conditions.

The other schemes, namely senior citizens, home purchase assistance, or Aboriginal home purchase assistance can be either under mortgage or contract of sale conditions.

(3) No.

(4) Eligible pensioners purchasing under all of Homeswest's loan schemes, excluding the shared equity scheme, may qualify for a rebate of local govern-

ment rates. In respect of the shared equity scheme, it is intended to write to the Minister for Local Government to determine if local authorities will extend this concession to equity purchasers under shared equity conditions.

WATER RESOURCES: UNDERGROUND

Bores: Registrations

272. Hon. P. H. WELLS, to the Leader of the House representing the Minister for Water Resources:

(1) How many water bores have been registered in the—

(a) City of Stirling;

(b) Shire of Wanneroo?

(2) How many of these water bores for each local government area are on—

(a) residential property;

(b) urban farm land;

(c) areas classified for commercial purposes?

(3) What is the daily water allowance for bores from the various classifications of land use recognised by the department?

(4) Does the volume of water, which is allowed to be drawn, vary with the area of the property?

Hon. D. K. DANS replied:

(1) The number of licensed bores in—

(a) City of Stirling is 1 879;

(b) Shire of Wanneroo is 974.

(2) The number of licensed bores in—

	City of Stirling	Shire of Wanneroo
(a) Residential	1 739	111
(b) Special rural (urban farmland)	0	102
Rural	100	756
(c) Industrial	40	5

(3) Water allowances for bores are—

(a) Residential—500 kilolitres per lot per annum.

(b) Special rural—1 500 kilolitres per lot per annum. Applications for an allocation greater than 1 500 kilolitres are considered by an advisory committee which makes recommendations to the Water Authority.

(c) Rural—Allowance is commensurate with applicants' needs and availability of groundwater.

(d) Industrial—Allowance is commensurate with applicants' needs and availability of groundwater.

(4) Groundwater allocations are not dependent on the area of the property but are determined as answered above.

ROADS

Belmont Avenue-Great Eastern Highway Junction: Reconstruction

273. Hon. FRED McKENZIE, to the Minister for Employment and Training representing the Minister for Transport:

(1) Is the Main Roads Department considering an alteration to the "T" junction at the Belmont Avenue-Great Eastern Highway Junction?

(2) If so, will he provide details of any proposal currently under consideration and the purpose of it?

(3) Has the Belmont City Council been consulted on the proposal?

(4) If so, what has been its response?

(5) If the junction is to be changed, will the traffic lights be retained at the intersection?

(6) Is any consideration being given to providing a service road to St John of God Hospital from Belmont Avenue if any proposal for change suggests a continuation of Belmont Avenue to the western side of Great Eastern Highway?

(7) If not, will he ensure that the matter of entry and egress from the hospital is incorporated in any current planning to alter the Belmont Avenue-Great Eastern Highway Junction?

(8) If not, why not?

Hon. PETER DOWDING replied:

(1) Yes.

(2) The changes to this intersection are being considered because of an application for a major redevelopment of the Sandringham Hotel site.

(3) Yes.

(4) I understand the Belmont City Council has supported the proposed alteration to the intersection.

(5) Yes.

(6) This idea has been considered but has been rejected.

(7) Access to St John of God Hospital has been incorporated in the plans for the eventual upgrading of Great Eastern Highway.

(8) Answered by (7).

274. *Postponed.*

TRANSPORT: BUSES

Bunbury: Tenders

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

Further to his answer to my question 246 of 10 October 1985 will the Minister advise—

(a) the total subsidy sought by each of the three tenderers;

(b) whether the services' school bus operations are additional to services which may be currently operated by the successful tenderers, and if so, which additional services will be operated by South West Coach Lines?

Hon. PETER DOWDING replied:

(a) The information requested in relation to the unsuccessful tenderers is confidential to those tenderers. The shortfall subsidy accepted by the successful tenderer was $480 549 for the first year of operation with provision for up to a further $80 000 to cover possible additional expenditure for interest charges on bus purchases and wages.

(b) All school bus services operated under the proposed public Bunbury town bus service are additional to those currently operated by South West Coach Lines. The detail of the services proposed is substantial and will be provided direct to the member.

276 and 277. *Postponed.*

QUESTIONS WITHOUT NOTICE

MINISTER FOR RACING AND GAMING

Overseas Trip: Gifts

244. Hon. G. E. MASTERS, to the Minister for Racing and Gaming:

I refer the Minister to his answer to question 19 of 22 August 1985 when he said that he had had two overseas trips in October and November of 1984. On his first trip the Minister stated that he had visited Hong Kong and Macau. Did he receive any free trips or any free accommodation on that trip?

Hon. D. K. DANS replied:

I did not visit only Hong Kong and Macau; I also visited Malaysia. The answer is "No".

MINISTER FOR RACING AND GAMING

Overseas Trip: Gifts

245. Hon. G. E. MASTERS, to the Minister for Racing and Gaming:

To make the matter absolutely clear in my mind, did the Minister receive any free trips or accommodation on the trip to Hong Kong, Macau, and Kuala Lumpur, Malaysia?

Hon. D. K. DANS replied:

No.

MINISTER FOR RACING AND GAMING

Staff: Gifts

246. Hon. G. E. MASTERS, to the Minister for Racing and Gaming:

(1) Have any of the Minister's staff over the past 12 months received any free trips or free accommodation?

(2) If so, to what countries and under what circumstances?

Hon. D. K. DANS replied:

(1) and (2) To the best of my knowledge, no. The Chairman of the Totalisator Agency Board may have been overseas. He was certainly overseas with me in Malaysia. I stood alongside him when he paid his bill. Knowing the type of person Harry Jarman is, I suggest that he has never had a free trip anywhere.

To the best of my knowledge no member of my staff, whom I know closely, has ever had any free trips. When Mr Shimmon was head of the Department of Administrative Services, he went overseas with other people looking at casinos. I recall very vividly insisting that all his expenses be met by the Government.

HEALTH: NOISE ABATEMENT

Testing

247. Hon. A. A. LEWIS, to the Minister for Industrial Relations:

I thank the Minister for the softening of his attitude to the noise abatement regulations as he was requested by Hon. Bill Stretch and me.

Has the Minister given further consideration to having block testing done of certain machines to further assist the implementation of the regulations? Machines to be used in certain shires should have their decibel rating regulated at a certain point.

Hon. PETER DOWDING replied:

It has to be understood that individual machines can produce different levels of noise and individual machines in different states of repair can produce different levels of noise. However, discussions have taken place between my department and the Country Shire Councils Association. I understand, in that context, matters such as that raised by the member will be considered.