Legislative Council

Tuesday, 15 October 1985

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

ADDRESS-IN-REPLY

Presentation to Governor: Acknowledgment

THE PRESIDENT: I have to announce that, in company with several members, I waited on His Excellency the Governor, and presented the Address-in-Reply to His Excellency's Speech, agreed to by this House. His Excellency has been pleased to make the following reply—

> Mr President and Honourable Members of the Legislative Council:
>
> I thank you for your expressions of loyalty to Her Most Gracious Majesty The Queen, and for your Address-in-Reply to the Speech with which I opened Parliament.
>
> GORDON REID,
> Governor.

STANDING COMMITTEE ON GOVERNMENT AGENCIES

Members: Election

THE PRESIDENT: Honourable members, I received the following letters a moment ago and I wish to read them to you. They are all addressed to me and read as follows—

> Dear Mr President,
> I hereby resign my position as a member of the Standing Committee on Government Agencies.
>
> Yours faithfully
> R. Hetherington, MLC
> Member for South-East Metropolitan Province

> Dear Mr President,
> I wish to submit my resignation as a member of the Legislative Council Committee on Government Agencies.
>
> Yours sincerely
> James Brown
> Member for South-East Province

> Dear Mr President,
> I wish to submit my resignation as a member of the Legislative Council Committee on Government Agencies.
>
> Yours sincerely
> Kay Hallahan, MLC
> Member for South-East Metropolitan Province

Honourable members, as this brings about a vacancy on this committee of three positions, in accordance with Standing Order No. 401 we will hold a ballot. I remind members that the procedure we adopt is that before the Council proceeds with a ballot the bells will be rung as for a division, the doors will be closed and no member shall enter or leave the Chamber until after the ballot or election has been completed. Standing Order No. 401 reads as follows—

> The Ballot shall be taken in the following manner:—Each Member present shall give to the Clerk a list of the names of such nominated Members as he may think fit and proper to be chosen at such Ballot; and if any list contain a larger or lesser number of names than are to be chosen, it shall be void and rejected. When all the lists are collected, the Clerk, with a Member appointed by the President acting as scrutineers, shall ascertain and report to the President the names of the Members having the greatest number of votes, which Members shall be declared to be chosen. If two or more Members have an equality of votes, the President shall determine by lot which shall be chosen.

I realise that most honourable members would not have required me to read out that Standing Order because they would be familiar with the steps to be followed; but the situation is that because these vacancies occur other than at the expiration of a session of the Parliament, the members have to be replaced, and because there are three vacancies we will hold three elections. I now call upon the Clerk to ring the bells for two minutes in accordance with Standing Order No. 400.

[Bells rung.]

The PRESIDENT: Order! There seems to be some confusion as to what is going to happen. I thought the Standing Orders were quite clear. However, in the event that some people think they are not, the position is this: There are three vacancies to be filled and each vacancy will be filled independently. We will have therefore three elections. Shortly I will call for nominations for the first vacancy. Members may nominate whomever they wish for that first vacancy. In the event of there being more than one nomination there will be a ballot. If there is only one nomination there will be no ballot.

We will then go on to the second vacancy, and will follow that procedure for the second and third vacancies.

Honourable members, we need to bear in mind that we have never done this before, and therefore we must be a bit tolerant of each other. I am being tolerant. At least let us establish clearly the rules so that everybody understands because I do not want somebody saying afterwards he did not comprehend what we did. It is pretty simple. If honourable members have any doubts about the situation—although it is not normal—I am prepared to clear up any misapprehensions.

Hon. G. E. MASTERS: Mr President, what would happen if I were to stand up and nominate one of the Government members? Is it correct that he would have a choice of accepting or refusing?

The PRESIDENT: Of course.

Hon. G. E. MASTERS: It seems to me they do not want to accept.

The PRESIDENT: Order! That is supposition; it is normal that there is no compulsion on members to accept if they do not want to be nominated. That applies whether they are members of the Government or Opposition. A member who does not want to be nominated simply says, "I do not want to be nominated." Even I can understand that.

Unless there are any further questions I now declare the first position vacant and call for nominations for that vacancy.

Hon. G. E. MASTERS: I nominate Hon. Lyla Elliott.

Hon. LYLA ELLIOTT: I decline.

The PRESIDENT: Are there any further nominations?

Hon. G. E. MASTERS: I nominate Hon. Tom Stephens.

Hon. TOM STEPHENS: I decline. The Leader of the Opposition can avoid this by not nominating any of us.

The PRESIDENT: Are there any further nominations?

Hon. G. E. MASTERS: I nominate Hon. Fred McKenzie.

Hon. FRED McKENZIE: I decline.

The PRESIDENT: Are there any further nominations?

Hon. G. E. MASTERS: I nominate Hon. Graham Edwards.

Hon. GRAHAM EDWARDS: It is with extreme pleasure that I decline the nomination, and I say that if that was ignored by the Opposition I would have much pleasure in resigning.

The PRESIDENT: Are there any further nominations?

Hon. G. E. MASTERS: I nominate Hon. Sam Piantadosi.

Hon. S. M. PIANTADOSI: I decline.

The PRESIDENT: Are there any further nominations?

Hon. G. E. MASTERS: I nominate Hon. Garry Kelly.

Hon. GARRY KELLY: I, too, decline.

The PRESIDENT: Are there any further nominations?

Hon. G. E. MASTERS: I nominate Hon. Tom McNeil.

Hon. P. H. LOCKYER: I second that.

The PRESIDENT: Are there any further nominations for the first vacancy? I declare Hon. Tom McNeil elected. We will now hold an election for the second vacancy. Are there any nominations?

Hon. G. E. MASTERS: I nominate Hon. Graham MacKinnon.

Hon. P. G. PENDAL: I second that.

The PRESIDENT: Are there any other nominations for the second vacancy? I declare Hon. G. C. MacKinnon elected. Are there any nominations for the third and final vacancy?

Hon. G. E. MASTERS: I nominate Hon. W. N. Stretch.

Hon. P. G. PENDAL: I second that.

The PRESIDENT: Are there any other nominations for the third vacancy? I declare that Hon. W. N. Stretch has been elected.

Hon. Tom Stephens: The committee is about as stacked as the House.

Hon. N. F. Moore: That is absolute nonsense and you know it.

The PRESIDENT: Order!

HOUSING: RENTAL

Heating: Petition

The following petition bearing the signatures of 112 electors was presented by Hon. G. C. MacKinnon—

> TO: The Honourable the President and Honourable Members of the Legislative Council of the Parliament of Western Australia in Parliament Assembled.

WE, THE UNDERSIGNED, request that adequate heating facilities be provided in taxpayer funded basic rental housing and at no extra cost to residents.

WE BELIEVE that all persons should be treated equally with no discrimination for race or religion.

WE THE PETITIONERS would point out to the Parliament that taxpayer funded houses for aboriginal families are being erected in the Withers Area of Bunbury and being provided with solid fuel heating facilities, whereas similar housing being built for non-aboriginal families do not receive heating facilities of any nature. This would appear to us to be discrimination on racial grounds.

WE THE PETITIONERS request that because of the expense of operating either gas or electric heating that solid fuel heaters be provided in all taxpayer funded basic rental housing.

YOUR PETITIONERS therefore humbly pray that you will give this matter your earnest consideration and your Petitioners in duty bound will ever pray.

(See paper No. 213.)

EDUCATION ACT REGULATIONS

Disallowance: Amendment to Motion

Debate resumed from 10 October.

HON. ROBERT HETHERINGTON (South-East Metropolitan) [4.48 p.m.]: I support the amendment because it reduces the motion to the basic argument that we should be debating, and once the amendment is passed, if the House chooses to pass it, I will oppose the motion.

HON. I. G. PRATT (Lower West) [4.49 p.m.]: Hon. Peter Wells has already said he has moved this amendment with my agreement and I wish personally to state that to the House. I want to make it clear as I did when I moved the original motion that my reason for this move is purely and simply the affirmative action section of the regulations which I feel gives some women in the system an unfair advantage over their colleagues.

I will comment further on what the Minister had to say about my speech when I reply to the motion, but I believe that it was within the Government's ability to suggest this move itself rather than opposing the motion.

While I was not aware that we could have moved to delete part of the regulation I would imagine that at least some of the Government Ministers would have been. It was this Government which amended the Interpretation Act some 12 months ago which allowed this to happen. As Hon. Peter Wells said when moving the amendment, this is the first occasion on which this sort of thing has happened in this House and I guess it is the first of many occasions on which this action will be taken and part of a regulation will be disallowed.

It was not my intention to cause any of the horrific things that the Minister for Education and the union have suggested I have done by moving this motion.

I am glad that Hon. Robert Hetherington is in favour of the amendment because it will achieve what I set out to do in the first place. It would not have been difficult had we stuck to the original motion and disallowed the whole regulation, because despite what the Press and the Minister for Education have said, the Minister for Education could have introduced another regulation forthwith. There was no need for him to have waited until next year to do that. He could have done it straightaway.

The things which I was accused of doing by the Press had no relevance to the situation. The Government could have overcome the problem straightaway and could have moved to amend my motion as Hon. Peter Wells has done. I commend him for his action and offer him my congratulations.

HON. PETER DOWDING (North—Minister for Employment and Training) [4.52 p.m.]: In the context of the motion moved by Hon. Ian Pratt to disallow regulations which will have an effect far beyond that which he expresses a desire to achieve, this amendment is acceptable to that extent. The Government continues to oppose the purpose of this motion in the sense that it is part of an action which the Government regards as unacceptable. In the context of the amendment, I would like to make a couple of points.

First, if Hon. Ian Pratt does not know the Standing Orders it is hardly the fault of the Government.

Hon. I. G. Pratt: Do you?

Hon. PETER DOWDING: It is not the fault of the Government, and the truth is that he originated this action without regard for its implications; or, alternatively, he was careless of its implications. That is the measure of how the Opposition in this House is prepared to use its

numbers, is prepared to achieve an interference with part of the Government's programme for which it was elected, and is prepared to frustrate the reasonable activities of a Government which has the confidence of the people of this State.

In that context, in the Government's view it is a misuse of a power. The irresponsible misuse of it is highlighted by the fact that this amendment has become necessary.

The second point I raise about the amendment moved by Hon. Peter Wells is that in moving it he continued to ignore reality, despite all the alleged polling of teachers which he claimed to have done.

Hon. P. G. Pendal: Which is more than the Government has done.

Hon. PETER DOWDING: I can hear Little Miss Echo Pendal who can be relied upon to say anything at any time.

The truth is that Hon. Peter Wells has continued to mislead the people with whom he interacted when he expanded the implications of the regulation, even with the amendment he has moved.

I am sorry Hon. Phil Pendal does not want to deal seriously today with this very important issue of the rights of a small group of women in the Education Department who were deprived of the opportunity of promotion. I am sorry Hon. Phil Pendal does not take this matter seriously enough.

Hon. P. G. Pendal interjected.

Hon. PETER DOWDING: Hon. Phil Pendal is sitting on the other side of the House interjecting about something that has nothing to do with education. He does not treat this issue and the problems of those women seriously.

I have already told this House, and perhaps it needs to be reminded again, that out of all the so-called horrific effects of these regulations, in fact, four women received promotion. This motion provides us with an opportunity to remind the House that 63 per cent of the primary teaching force are women, yet 503 out of 533 principal positions are occupied by men. When will honourable members accept the responsibility of the real issue and not perceive it as some sort of threatening agenda?

I am really most concerned and I believe that some of Hon. Peter Wells' constituents are also most concerned with the stories coming back to this House about his efforts to stir up a hornets' nest in his electorate over the last few days. When people go out in the electorate and fail to represent the true position honestly, we have a very real and serious concern.

I make it quite clear that the Government will support this amendment, only because it certainly reduces the consequences of the Opposition's misuse of the Constitution Act and the Electoral Act to use its numbers to frustrate what was a measure, very small in its impact, but, nevertheless, an important measure which the Opposition now wishes to bring to its knees.

Amendment put and passed.

Motion, as amended

HON. ROBERT HETHERINGTON (South-East Metropolitan) [4.59 p.m.]: I oppose the motion and in doing so I point out to honourable members that the motion is now not quite as broad as some people seem to have suggested. Perhaps I had better read out what we are talking about. It reads—

> 3. Regulation 97 of the principal regulations is amended—
>
> (a) in subregulation (1)—
>
> (i) by inserting before paragraph (g) the following paragraph—
>
> " (f) Notwithstanding anything in regulation 97(1)(a) or (b)(i), until 31 December 1989—

In other words, this regulation ceases on 31 December 1989. It will operate for a period of a little over four years. It continues—

> —the names of teachers holding any of the following positions, namely—
>
> (A) deputy principal (female) of a Class IA primary school; or
>
> (B) deputy principal (female) of a Class I primary school; and
>
> (ii) the names of female teachers holding the positions of—
>
> (A) deputy principal (primary) of a district high school;
>
> (B) principal of a Class II primary school; or
>
> (C) principal of a Class III primary school,
>
> are deemed to be included on the promotion list for the position of principal of a Class I primary school for the purposes of special promotion

under regulation 99 (1) (a) (ia), and for those purposes only, if any such teachers—

This is a further clarification. It continues—

(iii) are holders of the Teachers' Higher Certificate; and

(iv) have completed not less than 15 years' service—

Hardly Johnnies-come-lately. It continues—

—of which not less than 10 years have been served in any one or more of the positions referred to in paragraphs (i) and (ii).

Hon. P. H. Wells interjected.

Hon. ROBERT HETHERINGTON: I point out to Hon. Peter Wells that I listened with great interest while he was making what I consider to be one of the most intemperate speeches I have heard him make since being in this House. The attack he made on the Minister for Education was so nonsensical that I could not believe my ears. However, I have listened to him and I do not need him now to interject during my speech. I know what the member said, I have read it since. I would like to bring the debate back to what I think is the main issue; it is about the educational needs of students.

The PRESIDENT: Order! Firstly, the audible conversation in the Chamber must cease; it is out of order.

Secondly, it is now 5.00 p.m. and in accordance with our sessional orders we shall take questions without notice.

As there are no questions without notice, the debate will proceed.

Debate (on motion, as amended) Resumed

Hon. ROBERT HETHERINGTON: We are not talking about jobs for the boys or girls, or finding jobs for aged females who have suffered discrimination; we are not talking about who is worthy of a free ride to the top or who can score the most votes from teachers. If we were talking about employment in business, a shire office, a shopping centre, or in professions such as nursing and engineering, it would perhaps be relevant. However, we are discussing education. That means that employment practices cannot be discussed in isolation from their effect on students.

Our main concern here today should be to come forward with a system which best meets the needs of students in our education system without cutting across the employment rights of teachers. The impetus for change to the administrative structure within the education system has quite clearly been a result of research work done on the education needs of students. One of the most publicly recognised statements on the matter came from the Australian Schools Commission document titled "Girls, School and Society" which was a report done for the commission in November 1985. Among other things, the report commented upon the ways in which schools, through omission and unintended ways, convey messages about sex differences and the inferiority of females.

This information about the structural inadequacy of our schools must be viewed in the light of growing concern about the education needs of females in terms of their subject choice and career options.

The Schools Commission report from January 1985 called, "Girls and Tomorrow: The Challenge for Schools" outlines some of the concerns as follows—

Recommendation 2:

School Organisation

The Working Party recommends that measures be taken to feminise school hierarchies to ensure women participate fully with men in decision-making in schools; and that school timetables be structured so as to maximise girls' participation in the full range of studies and activities offered by the school.

The same report also points out that the percentage of female principals in Western Australian schools has actually declined. The report states that over a 10-year period 1969-79 during which the percentage of females in the Western Australian Education Department increased from 52.4 per cent to 57.7 per cent, the percentage of promotion positions—that is, principal or deputy principal—held by females declined from 19.4 per cent to 17.8 per cent.

The report points out that teachers provide role models of sex-appropriate behaviour for their students and that young women aspire not to be administrators because of the female role in education with which they are most familiar. It goes on to say that in co-educational schools with male principals, male students do not perceive women as possessing attributes appropriate to leadership roles.

I am sure that I have no need to inform honourable members that this schooling experience impinges very strongly on the career choice and career path of women in later life. This community cannot afford a situation in which the skills and attributes of half of the population are underused and, in fact, cost the community a considerable amount of money.

Members will be familiar with the information on women and poverty which shows that poverty is becoming increasingly feminised and that the majority of welfare recipients are female. In the United States, two out of three adults in poverty are women. Worldwide, the statistic climbs to more than 70 per cent.

The Beazley committee of inquiry looked at this background when examining the need for role models for males and females in administrative positions in schools. The solution offered by Beazley was to guarantee a percentage of the jobs to females; but the working party of union and departmental representatives considered this option and rejected it as not being compatible with Beazley's concern for a merit system of promotion.

The working party believed that the best way to achieve both ends—that is, a fair representation of women and merit promotion—was to allow a body of women with seniority and experience to compete with men for the job of principal.

Members would need to understand the promotion system to appreciate how important the affirmative action proposal is within the primary sector of the Education Department. To be eligible to apply for merit promotion a teacher must be on the relevant list. A teacher applying for a position in a class 1 primary school, must be on the class 1 principals' list. I think this is very peculiar but I gather it is the way things are done. At the moment that list consists of 108 names, of which three are females.

I am informed that the working party decided that in order to obtain females as role models in administrative positions in the largest Western Australian primary schools, it would be necessary to allow an extra body of women to apply for merit promotion in that area.

In order to decide which women should have that opportunity, the working party considered women who would be at least equal in seniority and administrative experience to the men who would be applying for similar positions. It has been mentioned in the Minister's speech that of the nine positions available this year to merit promotion in the class 1 schools, four went to women. This is a very small step forward indeed when one remembers that of the 533 primary principals in Western Australia as at 1 July 1984, 503 are male and only 30 are female.

Let us consider the proposed changes: A number of important changes should be kept before us. Firstly, the changes are based first and foremost on the educational needs of students as they affect subject choice and career options.

Secondly, they have been designed to minimise disruption to the current promotion system.

Thirdly, no male in the system has had his promotional opportunities at all interfered with, but some women, of equivalent seniority, have been permitted to compete in open competition for the jobs of principals of larger primary schools.

The only male who could possibly claim disadvantage is the one who could not beat these women in open competition and therefore could not win a job ahead of them. I am sure that honourable members would not wish to be seen to be trying to reserve jobs for males who could not win those jobs in open competition within a merit system or to be seen to be ignoring the educational needs of students. Therefore I oppose the motion to disallow this regulation.

This regulation has been very carefully thought out. Of course it does not do what Beazley said, but the Education Department does not do everything that Beazley suggested. The department follows some of the principles of the Beazley report, but for the honourable gentleman on my right to suggest that this is not in Beazley and therefore should be rejected is, I find, nonsensical. I believe that we need to get women into positions where they can be seen as administrators. It is not always realised in our society, which has been male-oriented and male-dominated for so long, that girls in schools are put off from applying themselves to a course of education that allows them to go into certain positions or jobs because of the expectations they have placed before them and the role models they are expected to follow.

What the department and the working party have done—and I have inquired about what the union is doing and what it is trying to do—seems to be eminently reasonable. The de-

partment, the working party and the union are trying to put some women into the system because in the past the system was structured in such a way that women could not compete on the basis of merit for positions of principals. This regulation will mean that a few more women might become principals and administrators so that we can get some sort of balance in our education system. For that reason I have listened to the arguments and I have looked at the regulation, and I will certainly be voting against the motion and supporting—although I have not always done so in the past—the departmental regulations.

HON. I. G. PRATT (Lower West) [5.15 p.m.]: I would like to thank all the members who have contributed to this debate. Obviously I have not agreed with the arguments some of them have advanced, but I appreciate the fact that honourable members have felt this matter important enough to take an interest in. It would seem inappropriate at this stage to reply to everything that has been said by all members because the motion has now been substantially amended. I hope that the members who spoke earlier in the debate will not feel that their input has not been considered or is being ignored because I do not specifically refer to the comments they made.

I made the point by interjection earlier that I agreed wholeheartedly with the amendment. I know that was disorderly and probably that is why the Minister did not take it into account as he usually does. I commented that this whole issue was much like a "Yes Minister" situation. It is one we in this place are used to getting from Government departments—not just under this Government; we experienced it under the Government of my own political calling. The departments want to get something achieved which they know is not acceptable to the majority of the people and they do this by including that unacceptable matter in an Act of Parliament or in a set of regulations with other initiatives which are favourably considered. In fact these initiatives are very often those which people in the professions and in the general public consider to be of vital importance.

This is a way of doing Government business that we have actually found creeping into the money Bills. I believe, Mr President, that you have had to call the Government's attention to the fact that one does not tag unacceptable things onto money Bills so that they cannot be amended in this particular Chamber. I think "tagging" is the term used for that particular exercise in trying to get unacceptable things put through Parliament.

I made the point that I did not wish women to be deprived from seeking promotion to principals of junior primary schools; I did not intend to frustrate promotion on the basis of merit. However, I would like to make a couple of comments on this merit idea. While it sounds wonderful and in fact sounds rather like "motherhood" as Hon. Phil Pendal would say, I do not think that that comment is particularly appropriate for this debate. However, promotion on the basis of merit will create tremendous problems for the Education Department. I lived through the system in which we had inspectors. Hon. Graham MacKinnon spoke about this in his contribution. Inspectors came into each class and tested it and if one's class did not do spelling as well as the same class in another school one was in trouble, regardless of whether those children were of the same ability. Over the years the Education Department has run on trends. Something is done overseas and everybody here says it must be wonderful and we should do it here, irrespective of its worth.

Leaders of our Education Department have imported ideas and have attempted to make work in Australia ideas that have been on their way to disaster in other countries. The initial use of cuisenaire rods in WA occurred at the time it was being abandoned in other countries. All the children received little coloured rods, and instructions came from the Education Department that one was not to teach tables or combinations. In consequence a whole group of children—and my eldest daughter was one of them—went through their first four years of schooling without being taught tables or combinations. They were given little coloured rods and teachers were told they would understand. It was an absolute disaster—we had children going through schools during those four years who could not count and could not multiply. They had lots of fun playing with little coloured rods. An instruction then came from the department that it had been discovered that there was no real reason that tables and combinations could not be taught. Gradually tables and combinations started to be taught once more.

I do not know what the situation is in that regard now but I do know that the people who went through the system in which they were taught to use their mathematical abilities were able to do so throughout their lives. Once they had learned their tables they never really forgot

them. Besides having a daughter, who is a very intelligent girl, who went through that particular time, I used to teach quite a number of children with whom I now mix on a business basis. They do work for me from time to time because I try to put work in the way of the children I once taught. I believe that as adults they should be encouraged as much as they should have been when they were children. Many of them have the legacy of that particular trend of doing away with teaching tables and combinations.

I state that just to make the point about the wonderful ideas our administrators have and what can actually happen when these ideas are instituted. Promotion on merit sounds wonderful—at the beginning. I wonder how it is going to sound a few years down the line when the competition really hots up and it is impossible to choose on merit between a number of teachers available for a position.

Are we then to choose them and say that we will have half men and half women and then toss up to see who gets the jobs? Mr President, we have so many talented people in the Education Department that the task of selecting perhaps six out of 20 on merit would not be an easy thing to do. This would create great injustices in the department.

One thing the promotion by seniority did was provide some basis of justice in the system, because the people who did the hard things, the things that had to be done, the people who went through some degree of deprivation with their families to do what needed to be done, knew that if they had the ability as well, they had the edge—and they needed ability.

I am hoping Hon. Garry Kelly is not suggesting by interjection that the headmasters who gained promotion under that system do not have ability.

Hon. Garry Kelly: No, but a lot of deadwood got through as well.

Hon. I. G. PRATT: Would the member like to indicate a proportion of those headmasters who are not able teachers?

Hon. Garry Kelly: You cannot put a figure on this sort of thing.

Hon. I. G. PRATT: Would the member, by interjection, suggest that it is a large or a small proportion of headmasters?

Hon. Garry Kelly: A fair proportion.

Hon. I. G. PRATT: Very specific, indeed. The member has been interjecting on me and saying that headmasters got through without merit, yet he cannot give an indication of what proportion they might represent. Mr President, do you know why he cannot do so? The reason is that he knows very well that a lot of people in his electorate are teachers. It is okay for him to mouth off his philosophical ideas, and to do so mainly by interjection—although he did make a contribution to this debate—but he knows that he has to mouth off the excuse for this regulation, and it is an excuse. However, he is not prepared to say whether the deadwood to which he has referred represents five per cent or 10 per cent of headmasters. He is not prepared to say that he has worked with X number of headmasters and that X number were fools. He should be prepared to say so. Then we will know where he stands, and where his colleagues stand, on this matter. It would also tell us how he stands in relation to all those teachers out there with whom I invited him to speak, with me, last week. He did not take up my suggestion. That invitation was extended also to Hon. Kay Hallahan because I had had several of her schools contact me.

Hon. Kay Hallahan: I never heard an invitation.

Hon. I. G. PRATT: Had the member been listening more carefully she would have heard my invitation. I specifically said that a school in her province had phoned me to indicate that the 22 women staff members were unanimous in being against the regulation.

Hon. Kay Hallahan: Which school?

The PRESIDENT: Order! Members are not allowed to carry on conversations across the Chamber. I want the interjections to cease and I want the honourable member on his feet who is closing the debate to please address his comments to the Chair.

Hon. I. G. PRATT: The example I gave the House a moment ago is accurate. I said before that I would only give examples to the House in this debate which were examples already mentioned in the Press, and that I would do so for a very good reason. The reason is that teachers out there in the community are very apprehensive about things happening in the Education Department. They do not want to be identified in case they receive a telephone call the next day and are told by the department that they should not have talked to someone. The message has come through to teachers that the department does not appreciate their talking to certain people.

The figures given to me I have checked and I am certain they are correct. That is why I said to members on the Government side that if they doubted what I said they should go out into their schools, sit down with individual staff members and talk to them about this matter. I have been right through the schools in my province checking on the views of teachers on this matter and I got the same story at all the schools. Primary school teachers on the whole do not want this regulation. Some do because they see in it a chance for some short-term gain. But the majority of teachers—both men and women—do not want it.

It has been suggested that this motion is the initiative of the Primary Principals Association; the suggestion has been made in the House and in the Press. It is just not true. I mentioned previously that the first contact I had had with the association was within the week leading up to the motion being debated here. I will explain exactly what happened.

For many weeks I had been talking with teachers in my province, particularly the teachers in the Mandurah area, which is represented by myself in the Legislative Council and by Mr John Read, a Government member in the Legislative Assembly. I received an overwhelming number of requests from those teachers for me to do something about this regulation.

Hon. Peter Dowding: Did you tell them the truth about its impact, or did you do a "Wells" on them?

Hon. I. G. PRATT: We now have the same sort of supercillious, snide and uninformed interjection from the Minister as we had from his speech. Had he bothered to listen he would have just heard me tell the House that I had initially discussed this matter with teachers in my province and that they had indicated they felt a need for representation on this matter. In most cases the concern was raised by them, not me. However, once this regulation was shown to be a concern to them, I proceeded to ask further about the way teachers felt. Finally I went to the extent of contacting teachers not just in the Mandurah area but right throughout my province. I found the feeling towards the regulation was the same. The teachers did not need to be told how they should feel about it. Most schools have had staff meetings on the subject; many have had several staff meetings to discuss it. They did not need to be told what it was all about. Heavens above, what sort of fools does the Government take teachers for? What utter and complete disrespect the Government appears to hold for the teaching profession.

Hon. Peter Dowding: That is just too silly for words.

Hon. I. G. PRATT: Has the honourable Minister interjecting spoken with teachers in his electorate? Has he been to his electorate recently? If the interjecting Minister has talked with teachers in his province, his speech last week would indicate that he has not represented them very well in this House. My understanding is that the people most concerned are those teachers serving in remote schools in the north of the State.

Hon. Peter Dowding: You know that isn't correct.

Hon. I. G. PRATT: In other words, I am referring to those teachers serving in the schools represented by the Minister, Hon. Peter Dowding.

I was a little concerned last Thursday when I read a story in the *Daily News*, a story which had been propped up by the Teachers Union and the Minister. It disappointed me that the reporter had not bothered to ring me, to listen to what I had said in the House or to ring some teachers in the schools. A lass from *The West Australian* rang me yesterday to ask me a few questions but, unfortunately, at the time I was out on the road and did not arrive back until after tea, and when I rang her she had left her office. At least she had shown the courtesy of ringing me to ask for my comments.

In the first instance it would have been a good exercise for someone from the Press to have gone to some schools and spoken with the primary teachers. There is no point in going to the Teachers Union and talking to the secondary teachers there. The Press should talk to the primary teachers, the ones affected by this regulation. The Press would then be able to come up with a very good story. Had the Press spoken to members representing these teachers, those members could have put some of the nonsense we have heard to the test, nonsense such as the comments we heard today from Hon. Bob Hetherington, who is the only member to have spoken to the amended motion.

He spoke of structural inadequacies in the department and said a system based on this

regulation would best fill the needs of students. There is nothing in this regulation about students. Mr Hetherington has said the community cannot afford a situation in which skills and qualities are not used. He referred to the educational needs of students and the choice of subjects. This regulation has nothing to do with the choice of subjects. He was rattling off from a philosophically written report which mainly pushes Labor Party policy, although it contains many good things—as I said, the "motherhood" aspect. A few unacceptable things are placed in a report like this with nice things around them. It was no easier to swallow tonight when Mr Hetherington mouthed it than it was when it first came out. I admit that parts of it are good. Mr Hetherington said students had to have role models of sex-appropriate behaviour. We are really dealing not with the needs of teachers or students but with the need of a socialist Government to restructure society.

Hon. Kay Hallahan: That is ridiculous.

Hon. I. G. PRATT: That is what this is all about—the wishes and needs of a socialist Government to restructure society by producing the particular models we are supposed to follow.

Hon. Kay Hallahan: We do not want a male modelled society like you propose.

Hon. I. G. PRATT: The interjection proves the point. I am not suggesting a male dominated society. I have not said anything in this debate to reflect in any way on the ability of females or my desire for the opportunity available to females in the teaching system.

Hon. Kay Hallahan: You keep on keeping them down.

Hon. I. G. PRATT: I find that interjection very offensive, but I believe we should leave it on the record and not ask for it to be withdrawn because it demonstrates the type of attitude put forward in this debate and within the Government to these sorts of matters and to anyone who disagrees with them. I have taught with some very talented female teachers.

On Friday I went to a sports meeting with a woman who is acting principal of a class 1 school. I did not ask whether she was on the list; she has every right to be on it. She has chosen to stay in the community while her children grow up. She has been quite happy to be a deputy in a class 1 school. She is acting principal, and a very good one. If she were to take the appropriate course and seek promotion to a class 2 school that would be fine. If she then got to be class 1 principal that would be fine, too. I have no objection to women, but if they want to get to the same position as men they should be prepared to do the same things that men have to do to get there.

That is what is so totally unfair about this regulation—it is setting aside to a group of women the ability to achieve the fruits without having to do the labour. We have been given the example of a number of teachers with an average of 12 years' country service. I mention that because one of them has been living in her country town for 24-odd years; she married in that town. Another is married to a farmer in the general area in which she has been teaching for a number of years. Of those four people with an average of 12 years' service, one has 24 years-plus living in a secure married situation in a large country town, and another—I cannot quote the exact number of years—I understand is living in the same sort of situation. That makes a bit of a mess of the average; it is a horrible mess.

The quotation used by Mr Hetherington about effectively wasting the resources and skills of 63 per cent of the work force is rot. I do not believe female teachers who are teaching children are being wasted. Those men teaching in classrooms are also doing a worthwhile job for the community.

The main job of the Education Department is to educate, not to administrate. I do not think it does such a wonderful job for the students if we take out talented teachers and make them administrators. They may be good administrators, but so possibly might be a chartered secretary or someone like that.

I want to refer to the Minister's comment about women who were previously denied access to the system and the remark that regulation 97 gives them a permit to enter the race. On the weekend I spoke to a long-time friend of mine who is an athlete and runs in marathons from time to time. I said to him, "How would you feel if you were running in a full 26-mile marathon and at the 24-mile mark someone came up and said, 'This group of athletes has been discriminated against; for some reason they were not at the start so we will put them in the race now'?" My athlete friend said he would not be happy, and neither would I.

Hon. Garry Kelly: That is not valid at all.

Hon. I. G. PRATT: Mr Kelly can interject as much as he likes, but that is what Mr Dowding said—that it was allowing them to enter the race.

Hon. G. C. MacKinnon interjected.

The PRESIDENT: Order! The honourable member is trying to close the debate and the fewer interjections and comments there are the more chance he has of doing that.

Hon. I. G. PRATT: The Minister said this regulation would allow women to enter the race, but it is at the end of the race because most teachers who have got to the position of being considered for that promotional level have run the race all over the State of Western Australia, serving the children in the schools we represent.

I went through the list of country members the other day and a couple were not here so I used the expression, "any other country members" and included them. I pointed out that the teachers affected by the regulation are in the main teaching in schools in those members' electorates.

The PRESIDENT: Order! Would Hon. G. C. MacKinnon cease his audible conversations? I suggest that as he has been here some time he understands that is out of order.

Hon. I. G. PRATT: The Minister had the effrontery to suggest in the House that the opposite was the case and that this regulation which would give accelerated promotions to this group of women would make education better in country areas. That is not so. Headmasters I have talked to say they would not be bothered going around the country and teaching at country schools. They would prefer to settle down and stay in one place, watch football on Saturday and play golf, and not have the hassles of running around the countryside.

I do not apologise for the length of my reply; it has been a long debate—one of the longest on the disallowance of a regulation. It has been an interesting debate inasmuch as Hon. Peter Wells has moved his amendment. I am sure that is something many of us will be doing in future—moving to delete a part of a regulation. I am sure his argument in successfully moving his amendment is a good one. I agree with it, and I hope I have convinced enough members of the need to put some justice into this promotion system for both men and women. I hope members will support this motion as amended and relieve primary school teachers of Western Australia of what they see as a tremendous burden.

Question (motion, as amended) put and a division taken with the following result—

Ayes 19

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

Noes 12

Hon. J. M. Berinson	Hon. Kay Hallahan
Hon. J. M. Brown	Hon. Robert Hetherington
Hon. D. K. Dans	Hon. Garry Kelly
Hon. Peter Dowding	Hon. S. M. Piantadosi
Hon. Graham Edwards	Hon. Tom Stephens
Hon. Lyla Elliott	Hon. Fred McKenzie
	(Teller)

Pair

Aye	No
Hon. A. A. Lewis	Hon. Mark Nevill

Question thus passed.

AUSTRALIA ACTS (REQUEST) BILL

Statement by President

THE PRESIDENT (Hon. Clive Griffiths): Following its introduction in the Legislative Assembly on 17 September, the Clerk of the Council drew my attention to certain aspects of the Australia Acts (Request) Bill which, in his view, raised certain fundamental issues as to the constitutional power of the Commonwealth Parliament to alter the Constitution of the State of Western Australia.

The Clerk was concerned that the Bill expressly relied on section 51(xxxviii) of the Commonwealth Constitution for the validity of the Australia Act of the Commonwealth Parliament which appears in the first schedule to the Bill now before this House.

I shared the Clerk's view that the section relied on could not authorise the Commonwealth's proposed Australia Act because that Act, in clause 14, purports to amend the Western Australian Constitution.

Section 51(xxxviii) refers specifically to powers that could only be exercised as at 1 January 1901, the date on which the Constitution came into force, by the Parliament of the United Kingdom. At that time, the WA Parliament had full power to amend the State Constitution. It follows that section 51(xxxviii) could not possibly authorise clause 14 of the Commonwealth proposed Act.

This matter was raised immediately with the Attorney General and Hon. I. G. Medcalf because of his involvement as the previous Attorney General. Each was informed of my view

that the Bill appeared to be invalid to the extent that it purported to amend the State Constitution.

Discussions with both members confirm my original impression that the proposed Commonwealth Act is thought by the State to be, at least in part, invalid. However, I have been assured that the uniqueness of the circumstances leading to the enactment of this legislation is such that it should be allowed to proceed should the House so determine.

It appears that widely differing views are held by the advisers to the Commonwealth and the States as to the legal steps whereby the severance of the links with the UK Parliament and Government can be achieved validly. As a means of reconciling those views, the Premiers' Conference in 1982 agreed to the simultaneous proclamation of two identical Australia Acts; one enacted by the UK Parliament, the other by the Commonwealth. All agreed that, taken clause by clause, one or other of the two Acts would validly achieve the objective. The 1982 agreement thus ensured that while each Government thought that all or part of one or other of the Acts was invalid, the legal and political difficulties associated with this exercise were overcome, and I am therefore not prepared to rule the Bill out of order.

The main purpose of this statement is to record my own certain view that the Commonwealth Act is incapable of amending the State Constitution.

Before the Attorney General moves the second reading I meant to say earlier that it is my intention, when the sitting is suspended, to request that the bells not be rung until 8.00 p.m. As a result of that I have had a discussion with the Attorney General and I have indicated to him that if his second reading speech goes beyond 6.00 p.m. it is not my intention to make him stop halfway through, but to allow it to continue.

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) [5.48 p.m.]: I move—

That the Bill be now read a second time.

This Bill is the first stage in the implementation of the agreement reached between all State Governments and the Commonwealth Government—in which Her Majesty and the United Kingdom Government have concurred—to remove the constitutional links which remain between Australia and the United Kingdom Parliament, Government and judicial system, and to substitute new constitutional provisions and procedural arrangements. In particular, the implementation of the agreement will bring the constitutional arrangements affecting the States into conformity with the status of Australia as a sovereign, independent, and Federal nation.

The specific details of this agreement have been reached following extensive consultations which have taken place over the last few years between the Commonwealth, State, and United Kingdom Governments and Her Majesty.

At the outset, I emphasise that nothing in the legislation will impair the constitutional position of Her Majesty the Queen in the government of each State and the Commonwealth of Australia. On the contrary, as will appear later, the effect of the legislation will be to bring the Crown closer to the people and Governments of this nation, since the Queen, instead of being formally advised on State matters by United Kingdom Ministers, will be advised by State Premiers.

Most of these measures are to be effected by legislation to be enacted by the State, Commonwealth and United Kingdom Parliaments, the form of which has been agreed by all Governments.

Ultimately, the key elements will be an Act of the Federal Parliament and an Act of the United Kingdom Parliament, each to be known as the Australia Act, which will be identical in all material respects.

The two Australia Acts will be proclaimed to come into operation simultaneously. By this unique legislative means, it has been possible to resolve the legal and political difficulties inherent in the historic step we are taking.

In accordance with the agreed procedure, and to satisfy constitutional requirements, before the Australia Acts can be enacted the Parliament and Government of every State will—

(1) request the Commonwealth Parliament, pursuant to section 51(xxxviii) of the Commonwealth Constitution, to enact its Australia Act;

(2) request and consent to, in accordance with Constitutional Convention, the United Kingdom Parliament enacting its Australia Act; and

(3) request and consent to the Commonwealth Parliament in turn requesting and consenting to the United Kingdom Parliament enacting its Australia Act; the request and consent of the Commonwealth Parliament to the Australia Act of the United Kingdom is required by section 4 of the Statute of Westminster.

Clauses 3, 4, and 5 respectively of the Bill now before the House achieve each of these three prerequisites.

The first schedule contains the proposed Australia Act of the Commonwealth Parliament. The second schedule contains the proposed Australia (Request and Consent) Act by which the Commonwealth Parliament and Government will request and consent to the enactment of the Australia Act of the United Kingdom. The UK Australia Act is in turn a schedule to the Australia (Request and Consent) Act. It is identical in all material aspects to the Australia Act of the Commonwealth Parliament; minor differences, especially in the interpretation clause—clause 16—are necessary, because they are Acts of different Parliaments.

It is hoped that all State Parliaments will pass this legislation in time for the Commonwealth Parliament to pass its Australia Bill and the Australia (Request and Consent) Bill during its current session. In this event, the United Kingdom Government has agreed to set aside time early in 1986 for the passage of its Australia Act.

I turn now briefly to the provisions of the proposed Australia Acts. A more detailed explanatory memorandum will be circulated.

Clause 1 will terminate all power that remains in the United Kingdom Parliament to make laws having effect as part of the law of the Commonwealth, a State, or a Territory of Australia.

Clause 2 will make important changes by removing existing fetters and limitations on the legislative powers of the Parliaments of the Australian States which stem, by and large, from their origins as English colonies. The residual powers of the United Kingdom Parliament to make laws for the peace, order and good government of a State will be expressly vested in the Parliament of the State, and any existing uncertainty as to the capacity of State Parliaments to make laws which have an extra-territorial operation will be removed, but not so as to confer any additional capacity to engage in relations with countries outside Australia.

Clause 3 provides that neither the Colonial Laws Validity Act nor the common law doctrine of repugnancy will apply to State laws made after the commencement of the Australia Acts.

An effect of these changes will be that, in future, State Parliaments will have full legislative power to repeal or alter any United Kingdom law which presently applies in the State.

Clause 4 expressly repeals sections 735 and 736 of the Imperial Merchant Shipping Act 1894 in so far as they form part of the laws of a State.

The changes in the legislative powers of the State Parliament are, by clause 5, subject to the Commonwealth Constitution and the Commonwealth Constitution Act and do not enable State Parliaments to alter the Commonwealth Constitution, the Commonwealth Constitution Act, the Statute of Westminster, or the Australia Acts.

Clause 6 preserves the entrenched provision of State Constitutions.

A major change to be effected by the Australia Acts concerns State Governors. By subclauses 7(1) and 7(2) the Governor, as Her Majesty's representative, will be vested with all of the Queen's powers and functions in respect of the State except in relation to the appointment and dismissal of the Governor. Her Majesty will, however, be able to exercise any of those powers and functions when she is personally present in the State by virtue of subclause 7(4).

In the appointment and dismissal of State Governors and in the exercise of her powers and functions when she is personally present in a State, subclause 7(5) provides that Her Majesty will be directly advised by the Premier of the State concerned.

The Australia Acts thus established the constitutional role of the Premiers in directly advising the Queen. Her Majesty has already expressed her concurrence in this development by which the role of the Crown will be adjusted to suit the needs of the Australian Federation.

While Her Majesty will be able to exercise any of her powers and functions normally performed by the Governor when she is personally present in the State, all State Premiers have expressly concurred in an undertaking that Her Majesty will only be formally advised to exercise those powers or functions when in a State when there has been mutual and prior agreement between the Queen and the Premier. It is anticipated that this will become accepted as a convention governing the circumstances in which the Queen will exercise such powers.

The Governor of a State in future will be able to assent to all laws enacted by the Parliament of a State. By clause 8 Her Majesty will not be able to disallow an Act to which the Governor has assented nor shall any State Act be suspended pending the signification of Her Majesty's pleasure; and by clause 9, the Governor will no longer be required to withhold assent from certain types of Bills or to reserve any Bill for the significance of Her Majesty's pleasure.

Clause 10 terminates the residual executive powers of the United Kingdom Government with respect to the States.

Clause 11 will remove the remaining avenues of appeal from Australian courts to the Privy Council making the High Court of Australia the final court of appeal for all Australian courts. This will end the anomalous situation in the area of legal precedent, where a State Supreme Court could find itself faced with two binding, yet conflicting, authorities.

Clause 12 expressly repeals certain provisions of the Statute of Westminster made redundant by the Australia Acts in so far as they form part of Australian law.

Clauses 13 and 14 will make necessary consequential changes to the Constitutions of Western Australia and Queensland. No other State has equivalent provisions.

Clause 15 provides that the Australia Acts themselves and the Statute of Westminster in its application to Australia will be able to be repealed or amended in the future, but only by an Act of the Commonwealth Parliament passed at the request or with the concurrence of the Parliaments of all the States.

Clauses 16 and 17 provide for matters of interpretation, short title and commencement.

New arrangements have also been agreed by which State Governments will be able to use the Imperial honours system if they wish. The Australia Acts do not make provision for these, as they are strictly matters of Imperial, rather than Australian, concern.

In future, recommendations for honours at the instigation of State Governments will be tendered by the Premier of the State direct to Her Majesty and will no longer involve the provision of advice from United Kingdom Ministers. Her Majesty has agreed to this new arrangement and the United Kingdom is currently drafting amendments to the Statutes and Warrants governing the various honours to provide for this change.

The existing arrangements for the Commonwealth Government to use the Imperial honours system will continue and the existing quota system will continue to apply to State and Commonwealth awards.

Mr President, implementation of these changes will represent the completion of a unique project of major significance which has received the support of all Governments in Australia, regardless of their political composition. It should be a matter of particular satisfaction for Western Australians to note the significant part this State has played in the resolution of this matter.

The essential elements agreed at the two Premiers' Conferences in June 1982 and June 1984 were based on proposals originally put forward by Western Australia. These proved, in the end, to be the way through apparently insuperable political and legal difficulties.

The changes to be effected by the Australia Acts will complete the process of Australia's constitutional development commenced at the beginning of this century. It will eliminate those laws and procedures which are anachronistic and substitute new arrangements which reflect Australia's status as an independent and sovereign nation.

It will ensure the capacity of the States to exercise fully powers appropriate to their position in our Federation, freed at last from the legal fetters and limitations derived from their earlier status as British colonies.

This Bill is the culmination of a long and difficult process. That process has taken some years to complete, but that has not been unreasonable given the complex questions—both constitutional and political—involved.

It is only fair to acknowledge the early impetus to the move to this Bill which Hon. Ian Medcalf, as Attorney General at the time, provided. Relevant proposals were well advanced by 1983 and this was in large part due to Mr Medcalf's application to the task.

We should also acknowledge the leading role in this process of the State's Solicitor General, Mr Kevin Parker QC. His professional advice has been invaluable, not only to successive Governments in this State but also to all Governments which have associated themselves in this complex and unique enterprise.

I commend the Bill to the House.

Debate adjourned, on motion by Hon. Margaret McAleer.

Sitting suspended from 6.00 to 8.00 p.m.

MEMBERS OF PARLIAMENT

INWATS Telephone Service: Statement by President

THE PRESIDENT (Hon. Clive Griffiths): I wish to advise members, for the benefit of those who are not aware of it, that this morning the Joint House Committee launched the establishment of a 008 telephone call system into Parliament House. That means that anybody from anywhere in Western Australia is now able to ring Parliament House for 16c, which is the cost of a suburban call, simply by dialling 008 and the rest of the telephone number.

ENVIRONMENT

Men of The Trees: Statement by President

THE PRESIDENT (Hon. Clive Griffiths): The Men of the Trees are in the foyer on the main floor. Members will recall they were to talk to us, as they normally do once a year, during the tea suspension tonight. As the tea suspension tonight was a special one and members were not able to be here, I have suggested to the Men of the Trees, and they have accepted it, that they leave all their material here and that about five to seven in the tea hour tomorrow night the Men of the Trees will address those members who are interested, on their work. There is not enough time to send out a written notice, so members should take that as the notice.

TAXI-CAR CONTROL BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon. Peter Dowding (Minister for Employment and Training), read a first time.

Second Reading

HON. PETER DOWDING (North—Minister for Employment and Training) [8.05 p.m.]: I move—

That the Bill be now read a second time.

On taking office, this Government, concerned that the organisational structure of the Taxi Control Board did not give members of the taxi industry a strong enough voice in the management of the industry's affairs, introduced legislation which increased industry representation on the board from three to six.

At the same time the Government put to the owners and drivers, through their respective representative organisations, the matter of the future of the taxi industry and requested that submissions be made to amend the Taxi-cars (Co-ordination and Control) Act so as to allow the industry to function within a legislative framework that was in step with current industry attitudes. This Bill represents, primarily, the results of this request and will provide the industry with the capacity to meet the demands of progress.

Much has been said in the past of the need for change in the taxi industry and of the need for it to adapt to the changing patterns of the taxi market. This need is no less important today. The past year has been a significant one for the taxi industry; we have seen a marked upturn in demand for service and a growing emphasis on the nature and extent of the taxi industry's transport task for the America's Cup series.

As entrepreneurs focus their attention on the tourism potential of this State and on the specialised passenger transport opportunities that are associated with that potential, the threat of increased erosion to the taxi industry's existing and future growth markets becomes very real.

The taxi industry is a service industry and in its front line position is under considerable scrutiny with regard to its performance and its capacity to meet the anticipated increase in demand of 1986-87 and beyond. The Government believes that the present situation provides the taxi industry with its greatest opportunity and its greatest challenge.

In order to halt any erosion and to capitalise on the market prospects of the next few years, the industry must concern itself with unit utilisation and flexibility of operating mode, for if it does not, alternative sources will be found to satisfy not only the increase in demand for the traditional taxi service, but also the diverse transport needs of those living in or visiting our State.

These amendments provide the taxi industry with the means to address this situation properly. In addition, these amendments provide an

industry, granted the ability by this Government to determine its own destiny, the opportunity to fulfil its obligation by accepting a greater responsibility for service and day-to-day management issues.

It is important to point out here that the Taxi-cars (Co-ordination and Control) Act in its present form has been subjected to extensive amendment since its introduction in 1963. To amend this Act again with amendments of some significance was considered by Parliamentary Counsel to add further confusion to the intent of the Act. The opportunity has therefore been taken to have the Act rewritten and the end result is a far more precise and functional piece of legislation termed simply, the Taxi-car Control Bill.

It will be seen that this Bill contains a number of what the Government considers to be innovative provisions, provisions which will enable the Perth taxi industry to improve its viability, its competitiveness, and its efficiency. Furthermore, the Government is confident that the taxi industry has a much greater role to play in Perth's transport and tourism scene of the future.

It has, through its Taxi Control Board representation, the ability to decide upon that role.

What is required now for any such decision to become a reality is the legislative framework provided in this Bill, as the future success of the taxi industry really depends upon what the taxi industry can do for itself.

It is the view of the Government that these amendments will enable the industry to accept greater responsibility. The importance of the industry assuming a day-to-day management role and getting down to the task of addressing the more finite activities associated with the provision of taxicar services cannot be emphasised strongly enough. In this respect this legislation contains quite significant provisions—provisions enabling individuals or organisations engaged in providing taxicar services to exercise, in the public interest, the necessary controls and to in turn acknowledge the inherent obligations.

I commend the Bill to the House.

Debate adjourned, on motion by Hon. N. F. Moore.

OCCUPIERS' LIABILITY BILL

Returned

Bill returned from the Assembly without amendment.

QUEEN ELIZABETH II MEDICAL CENTRE 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) [8.12 p.m.]: I move—

That the Bill be now read a second time.

The main thrust of this Bill is to improve the management of the Queen Elizabeth II Medical Centre.

The Perth Medical Centre Trust was established in 1966. Its name was changed in 1977 to the Queen Elizabeth II Medical Centre Trust. The trust was to undertake the development, control and management of the medical centre reserve, before and after the establishment of a medical centre. The trust has carried out its duties well since it first met in 1968.

The Bill we are discussing today proposes that the trust will continue to be responsible for the overall development, control, and management of the centre site, but it will delegate authority for the day-to-day running of the site.

The trust will have sole authority to borrow money, or to lease, mortgage, charge, or otherwise deal with the land on which the centre is established.

This Bill will enable the trust, with the approval of the Minister, to set aside all or any part of the reserve on which the centre is established, for purposes it considers worthy. It will also have the power to delegate responsibility for that particular area to the board of Sir Charles Gairdner Hospital.

Where the trust delegates authority, it will retain the right to give directions on the use of the site. The trust will delegate responsibility for controlling vandalism, the right of entry, security, trespass, hawkers, bill posting, or the presence of animals.

The trust will also delegate responsibility for providing pathways, roadways, kerbing, signs, landscaping, lighting, sewerage and drainage, maintenance of the grounds, and the removal of litter and refuse.

The delegate will also have control over car traffic and parking on the reserve.

This Bill gives a delegate the power to impose the necessary regulations. It also demands that the delegate set up proper accounting pro-

cedures, and supply an annual report and audited statements to the trust. The trust will be able to make a grant or lend money to the delegate to allow it to carry out the developments proposed.

Provision is also made for the trust to operate a bank account so that it can bring its procedures into line with present requirements, thus overcoming some of the deficiencies in the previous Act.

Another area of concern has been that medical staff appointments are sometimes made jointly with two teaching hospitals. To ensure that such appointments proceed smoothly, the Bill allows the appointments committee of one hospital to coopt a representative from the other hospital to consider the appointment.

As I said at the beginning, this Bill is designed to streamline the operation of the Queen Elizabeth II Medical Centre.

I commend it to the House.

Debate adjourned, on motion by Hon. John Williams.

ACTS AMENDMENT (HOSPITALS) BILL

Second Reading

Debate resumed from 10 October.

HON. FRED McKENZIE (North-East Metropolitan) [8.15 p.m.]: I support the legislation and, while I appreciate the remarks made by Hon. John Williams in respect of Hon. Lyla Elliott and myself, I feel that this Bill will overcome the problem that I faced when I was dealing with the Reginald Berryman case; that was, my understanding was that Reginald Berryman was in a nursing home. Subsequent events made it quite clear that it was not a nursing home and was in fact nothing more than a lodging house. This Bill will ensure that that situation does not occur in the future. That is my understanding of the Bill. Some members are indicating that is not the case. I will be interested to hear what the Leader of the House has to say in his reply in this regard, but certainly that is the intent of the Bill.

It might be true that nursing homes will be known as rest homes, but there is quite a difference between knowing an establishment is called, say, the Penn-Rose Nursing Home as against the Penn-Rose Rest Home. Had I known that Mr Berryman was in a rest home, my approach to the whole matter might have been quite different. On viewing the condition that the late Reginald Berryman was in when I saw him, and knowing the time that he had been in the hospital, it was my view that his condition must have deteriorated considerably before he was admitted to hospital.

The nurse who took me to look at Mr Berryman and inspect his condition—in fact, I was invited to do so by a nurse at the Swan Districts Hospital because she was concerned about his condition and she told me this was not the first case they had had from that establishment—led me to believe that in fact he had been in a nursing home. I believe she was perfectly honest in assuming it was a nursing home because I saw her later and she was surprised to learn it was not in fact a nursing home. When I checked the telephone book it was listed as the Penn-Rose Nursing Home. I understand that since then the name has been changed, but that was the position at that time.

In order to overcome that problem the Minister has brought forward legislation to prevent Penn-Rose, or any other establishment for that matter, calling itself a nursing home. It may well be known in the future as the Penn-Rose Rest Home, but had that been the situation when I was investigating the Reginald Berryman case, I might have taken a different attitude. I really and honestly believed that it was a nursing home and I thought, "If this is the sort of thing that is going on in nursing homes we had better do something about it." I have never been on the premises of Penn-Rose to inspect it or otherwise because I did not see that as being important. The important thing was that I wanted an investigation into that establishment because I believed it was a nursing home.

The important point is that when this legislation is passed that problem will be overcome. Hon. John Williams has said that various other organisations which are properly registered as nursing homes will welcome this legislation, and I agree with him because as a result of the publicity over the Berryman case they also received a bad name until it was revealed that Penn-Rose was nothing other than a lodging establishment.

I just wanted to say that while I appreciate the remarks of Hon. John Williams, I do not share his concern that we will not overcome the problem with this legislation. It may well be that we have to go further in the future, but there is quite a difference between "nursing home" and "rest home". I fully understand what a nursing home implies whereas I would not understand the exact difference between a rest home and a lodging house.

I am not so alarmed, and I am sure the authorities would not send people like Reg Berryman into rest homes, if they were not properly accredited. I want to make that point quite clear.

I have looked at the legislation and overall I think it is an improvement, and worthy of support.

HON. D. K. DANS (South Metropolitan—Leader of the House) [8.21 p.m.]: I have read Hon. John Williams' "greens" and also the speech in *Hansard* and it seems to me that Hon. John Williams has three areas of concern: the first is rest homes; the second, day-care centres; and the third, guidelines.

Naturally, I have taken some advice on these matters. I say in the first instance that there is no mention of rest homes in the Bill. "Aged persons' home" is a term that has been used, but that is not a matter for the Hospitals Act. Such homes simply have to satisfy local government requirements; and we are not talking about rest homes, or aged persons' homes.

The Commonwealth was advised of the broad proposals in this Bill. The Federal Government pays a day hospital subsidy direct to the hospital concerned and not to the State, and the Hospitals Act is not involved.

The question of places no longer being called nursing homes is not addressed. The offence is if a place calls itself a nursing home when it is not. In other words, if someone puts a sign up or advertises that it is a nursing home when it is actually not a nursing home, that person commits an offence. That is what the Bill is addressing. Where a place operates as a boarding house—and we have just heard Hon. Fred McKenzie talking of that—then it is outside the Act.

Hon. John Williams also mentioned children's day-care centres. I believe they come under the Child Welfare Act. The term "day-care centre" is not used in this Bill. The term "day hospital facilities" is used, and those terms mean vastly different things.

Hon. John Williams mentioned as the first amendment he foreshadowed—and some of his speeches are rather like mine; they jump around a bit and are a little hard to follow—that the regulations provide an exemption by the Governor, and that there is no similar exemption provision for the guidelines, as the commissioner has to be satisfied that the premises are suitable. He must be satisfied that the premises are suitable and in accordance with new section 26C, and that they satisfy the specifications in the guidelines.

I might say here that the guidelines are very different from the regulations. The document I have in my hand comprises the regulations, and now I show members the guidelines, which are departmental guidelines. If one put them together one would have an awfully bulky document. The departmental guidelines have been used for years and I do not think it would be of any value to glue these documents together because guidelines can be changed from day to day or week to week to suit the circumstances. For instance, technology improves from day to day in hospitals. What may be the right guideline today would not have any resemblance to what the guideline should be tomorrow, because the apparatus being used or the methods practised would be found to be inadequate and certainly more guidelines would be needed. The department sets the guidelines, and this has meant flexibility over the years. No-one will argue when I say that we have a fairly good hospital system over the whole range of medical services in this State.

Under new section 26D the commissioner can issue a licence when he is satisfied that the premises are satisfactory for the purpose. That is plain. The commissioner does not issue a licence until such time as he knows those premises are satisfactory for the purpose required. It is almost impossible to cover every existing variable in premises. Regulations could be made for new buildings but would be unwieldy and full of specifications that would need to be complied with. Of course, we are talking here of local government regulations that are outside the scope of this Act.

In respect of buildings converted for use as hospitals or nursing homes, it would be most difficult to prescribe by regulation every particular that is necessary for approval, whereas guidelines can be made flexible to enable the unimportant variables in existing premises to be ignored when considering those premises for approval.

Representatives of the hospital industry have been a party to the preparation of the proposed regulations for private hospitals which were intended to be made under the Health Act and which were referred to the Crown Law Department for drafting on 2 April 1984.

An Opposition member: 1983.

Hon. D. K. DANS: I will not argue with that—I know it was more than 12 months ago. Those proposed regulations included matters which the Parliamentary Counsel advised would be more suitably handled as guidelines, as matters such as standards of construction and design in respect of prevention of fire are subject to constant change and could be much more easily handled in the guidelines by the addition of new pages. Simply dealing with this question of fire should make the point clear. New materials are identified from day to day as having more potential than was thought for smoke and various other conditions that may occur, or conditions that may occur because of chemical spills on that material. One would not wish to be stuck with a set of guidelines that had to be brought to this Parliament for amendment from time to time. It just would not work, and the people discussing this Act with the Minister are well aware of that.

I might say that the guidelines set out the requirements for people wishing to have premises approved as a private hospital. Before they seek approval they should get a copy of the guidelines or find out what the guidelines are. If the premises do not comply with the guidelines, the applicants for the licence may apply again. In other words, there is more flexibility. If a person wants to establish a private hospital, he should go to the department for the guidelines. He should have a look at his premises and the department will also inspect them; and if the premises do not comply, there is flexibility. It is pointed out to the applicant where they do not comply, and if there is a chance that he can bring the premises up to the required standard as set out in the guidelines, then there is no hard and fast rule—he can go and do that.

Hon. John Williams made reference to St John's Hospital in Belmont. The old nuns' complex referred to would be a rest home and not a hospital. It would not be embraced by the Hospitals Act, which has nothing to do with it; it would come under the local government requirements.

The policy to make appeals more accessible is to lower the level of the authority to which appeals can be made, and the appeal should be allowable to the Minister. I am a great believer in that procedure in legislation which I have introduced into Parliament because it does not really matter who is dealing with a particular matter; the Minister must be responsible. I have been told that in this Chamber dozens of times when quoting what committees have done. Eventually, matters come back to ministerial responsibility no matter what kind of committee or mechanism has been dealing with it. If members doubt my word they should consider what is happening federally in respect of the Australian Bicentennial Authority. That authority is outside the control of Parliament. However, eventually someone is responsible for it. If members want an appeal in this case, that appeal should go straight to the person who will be able to do something about it with advice of the various people around him.

Another reason for this level of appeal is that it is considered inappropriate for a magistrate in a Local Court to hear an appeal and give a ruling about the conduct of a hospital as these matters are professional and are matters on which judgments are made on professional grounds. I do not know how a magistrate could consider those sorts of matters. I have discussed this matter with a lawyer friend of mine. He said it would be impossible. A magistrate would have to call expert evidence himself and things would go around in circles. Matters to be considered could relate to building problems, medical problems, or any one of a number of other problems. A Minister would have access to people outside his department for expert advice. He could ask, for example, Hon. Phil Lockyer, who has lodged a complaint, to sit down around a table and to negotiate a resolution of the problem. I think that is the correct way to go about these issues. We should not enter the legal arena unless there is a need to do so. If that were the case, the development of medical services under this Bill could be delayed for weeks if appeals went before magistrates.

Hon. John Williams: You put it in the Bill, not I.

Hon. D. K. DANS: It is not in the Bill.

Hon. John Williams: It is.

Hon. D. K. DANS: Mr Williams may be able to point out to me during the Committee stage a tricky comment by him in his speech. He said that the patient must be present at his own examination.

Hon. John Williams: I said a patient's doctor should be present.

Hon. D. K. DANS: That should have been there, but it is not.

Hon. John Williams: You know what I meant.

Hon. D. K. DANS: Yes.

Once the licence is temporarily granted, it is considered fair for a court to decide if there were sufficient grounds for the cancellation of the licence. That is a different matter, because one would be cancelling the licence on some valid grounds, and the matter could eventually go before a magistrate to consider the suitability or otherwise of the premises. At that time, an offence would have been committed. I am not a lawyer, but it seems patently obvious to me that is so.

The matter relating to the patient's doctor being present at a medical examination has been addressed by the Minister in another place.

I think the Bill is a good one. It meets the requirements, of people in the industry, although I have not spoken to them. I have pointed out some areas about which Hon. John Williams may be a little mistaken. I am not saying he is; however, in the Committee stage of the Bill, he can seek further explanation and I may be able to give it to him. The fact is that a number of amendments were agreed to in another place, and also that the Opposition spokesman on this matter congratulated the Government publicly, in the Chamber, for its accepting the amendments and for introducing this fine piece of legislation. I have certainly received no complaints, as we normally do at the eleventh hour. If I had, I would certainly relay them to the Chamber now and consider the matter a little deeper.

I have tried to answer, as best I can, the matters raised by Mr Williams. That does not discount our going further into the Bill in the Committee stage. I thank Hon. John Williams and others for their support of the Bill.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (Hon. P. H. Lockyer) in the Chair; Hon. D. K. Dans (Leader of the House) in charge of the Bill.

Clauses 1 to 18 put and passed.

Clause 19: Section 10 amended—

Hon. JOHN WILLIAMS: It was in the remarks relating to this clause that I was inaccurately reported. I would never say that a patient should be present at his own examination.

Hon. D. K. Dans: I thought it was humorous.

Hon. JOHN WILLIAMS: It worries me and many people that, from time to time, complaints are made and that a patient, a guardian, or a person responsible for a patient should be in a position to have to give permission for an examination. Proposed new section 10(2)(a) states that an examination shall not be made except on complaint to the executive director.

To the best of my knowledge the Health Department has always insisted that this complaint be made in a proper fashion. I will not be pedantic about this, but I would have preferred that it was provided for in the legislation that an examination shall not be made except on written complaint to the executive director. As Hon. Fred McKenzie could tell the Committee, it is easy in these cases to get emotional and upset upon seeing the condition of a patient. A relative or a friend has great cause for alarm when visiting a patient who has suddenly deteriorated. Unless one is trained to know that in another four hours a certain medication which has been given to that patient will take effect and that the patient will then look much brighter one is alarmed. One can go away in a highly emotional state and say to someone in authority: "They are ill-treating that patient; they are not doing the right thing."

I want the Minister to understand clearly that until now the department has always played the game and asked the concerned person to put that complaint in writing. But I would prefer to see the word "written" with respect to a complaint put in the provision. Let us presume that a relative or a well-meaning friend visits a patient. That patient's practitioner has been to see the patient earlier in the day and has prescribed certain medication. Some medications can be extremely drastic in their action. After one injection a patient can deteriorate before one's very eyes. But the medical profession understands that. It expects that sort of reaction and also that rehabilitation might come two or three hours later.

The Bill quite rightly says that the medical practitioner of a patient shall be notified of the intention of the authorised person to examine the patient and given an opportunity to be present at the examination. As a safeguard, I would like the word "reasonable" to be inserted before the word "opportunity". It is no use a doctor visiting a patient at 11 o'clock in the morning and prescribing a certain medication, the relatives visiting at 2 o'clock in the afternoon and making a complaint to the department, and the departmental doctor being

ordered out to examine the patient before the patient's own medical practitioner has had a chance to be present at the examination and comment on it. The medical practitioner should have the opportunity to describe the treatment that he has given the patient. It seems to me that he must be given a reasonable time to attend the examination. I think it would be a simple matter for the word to be inserted. It would not cause any offence to either party.

I have nothing more to say about this clause, except that I believe that the AMA is not terribly happy with it. We cannot bypass or ride roughshod over the patient's doctor. A doctor may have been attending the patient for 20 years and will know what the very twitch of an eyelid may mean. Such a doctor knows the patient's condition to the nth degree. It may be that the Government doctor who is called in may never have treated that complaint. That doctor may never have seen, for example, granulation due to a bed sore, or something of that nature. If there is a difference of opinion, the older doctor could explain to the Government doctor that he had prescribed a particular treatment for various reasons using the technical terms.

The medical practitioner has the right to be present at an examination by the departmental doctor. Nevertheless, I would like the practitioner to be given a reasonable amount of time to attend such examination. If the Minister understands what I am after, I do not think he will have any rigid objection. It will not wreck the Bill or delay it one iota. It will just safeguard the rights of the medical practitioner.

Hon. D. K. DANS: Hon. John Williams has some quaint turns of phrase. He presumed that an older doctor would have been treating a patient. I think that we are drawing long bows about things that we need not draw long bows about. I will turn to what the amended provision says. It says that where a person is a patient in a private hospital the following provisions apply in respect of an examination under section (1)(c)—

> an examination shall not be made except on complaint to the Executive Director;

The executive director in this case means the Executive Director, Personal Health Services of the department. In this case, the executive director is Dr Jones. I could not imagine a man with his professional qualifications and standing in the medical professsion willy-nilly agreeing to examination after receiving a complaint by telephone. He would look at the complaint very carefully. One has to have regard to the professional qualifications of the medical profession. The provision continues—

> the medical practitioner of the patient shall be notified of the intention . . .

The intention, of course, gives him the opportunity to get to the examination. That is what that provision means. Dr Jones would say on the telephone something to the effect of, "Listen, Bert, this is Dr Jones here. When can you be there?" We have to have regard for commonsense. I know that in many areas of our lives today that ingredient is sadly lacking, but I do not think that it is lacking in the medical profession. The provision then continues—

> . . . and given an opportunity to be present at the examination;

That provision means that every opportunity will be afforded to that doctor to be present.

It would be stupid not to give the doctor ample time and opportunity to be present. If we did not provide that opportunity we would have a dispute on our hands. In any case, the doctor is notified of the intention to conduct the examination. The doctor is not the only one to be notified. The person who is running the establishment, the licence holder under part IIIA, is also notified.

With all due respect—I am sure Hon. John Williams will agree with me—I point out that the provision is carefully worded. The intention is first relayed and the doctor is then given the opportunity. What does "the opportunity" mean? I do not think that insertion of the word "reasonable" or some other word would make the provision any better. Someone could then argue about what is reasonable. I could not envisage a situation in which the department would dive in. There is not much argument that I know of between the Health Department and the medical profession. They work hand in hand. I cannot imagine the department failing to notify a doctor. It would be unethical for a start; besides that, it would be plain bad manners.

The amendment subjects the departmental medical officer to certain requirements before he can medically examine patients in a private hospital. Someone cannot come into the department and say: "I went to see dear old Auntie Jane and I think she is pretty crook today. She is crooker than she was yesterday and I think you had better send someone to examine her." I take the point that Hon. John

Williams made about a patient who may have just had an injection. The medical profession knows about such things and their effect. The Bill provides that a complaint must be lodged with the department. That complaint could be in writing. Certainly if someone rang up with a complaint the department would call him in. He could not just ring up and ask that a departmental doctor be sent to examine a patient.

The patient's medical practitioner must be advised of the proposal to examine the patient, and he must be invited to be present at the examination. The licensee of the hospital where the patient is accommodated must be advised. I do not think one can go much further than that. It is boxed-up very tightly.

I share the concerns of Hon. John Williams, but they have been well taken care of. In respect of complaints, people get anxious and, they become overwrought. The patient's doctor must be given every assistance to get there, and also the person who owns the nursing home. I do not think any tinkering around with that clause by putting in other words would make it any stronger. We are moving into a new area. Hon. John Williams is not opposing the Bill. I do not mind talking to him, but in all honesty and fairness I do not think the addition of any words would make this clause any stronger.

Hon. JOHN WILLIAMS: I am satisfied with the explanation given by the Minister. I am even more satisfied it is on the record, because the Minister, being an honest man, spoke precisely about it, and the concern I was expressing was the concern which has been expressed to me by other organisations. I am perfectly satisfied that the Minister has given the explanation. It is satisfying to know that these days when we sit in Committee and explanations are given the words of the Minister contain his approval and explanation. The organisations which are making representations to me I am sure will be equally satisfied. The Minister knows I shall not be uptight.

Clause put and passed.

Clauses 20 and 21 put and passed.

Clause 22: Part IIIA inserted—

Hon. JOHN WILLIAMS: The only point I wish to make in regard to new section 26D is in regard to new subsection (6) which provides for an appeal to the Minister against a decision of the commissioner. I think that is the best possible form of appeal.

However, in his second reading reply the Minister said that magistrates and so on would not know how to cope with an appeal, therefore he foreshadowed an appeal to the Minister or the Local Court. The whole of that new section is concerned with this.

I refer members to subsection (5). Here we have the principle laid down very clearly that the commissioner may say one may not have a private hospital licence, firstly because the person is not of good character, and secondly, because the building is rickety, the roof leaks, and so on. The person may say, "I did not know I had to fix the roof; I did not know that because she has a few convictions my wife could not do this."

An appeal may be made to the Minister. I was asked why it could not be amended so that the appeal could be made either to the Minister or to the Local Court. It does not matter what is the political complexion of the Government; there are some people who can deal with Ministers quite happily and some who cannot.

The DEPUTY CHAIRMAN (Hon. P. H. Lockyer): Order! There is far too much audible conversation. I am having great difficulty hearing and I think the Leader of the House is also.

Hon. JOHN WILLIAMS: The concerned person might prefer to go to an interim fellow. I am not sure if that is a good thing. I want the Minister to know from the outset that I am happy with an appeal to the Minister, but these people ask why they do not have the option of going either to the Local Court or to the Minister. After all, Ministers sometimes reach decisions on ideological grounds and say they do not agree with people.

I am putting this in *Hansard*. These people felt they should be given the option of appealing to the Minister or to the Local Court. After all, surely the magistrate can decide whether the length of a corridor comes within the ambit of the regulations. Surely the dispute would be as to whether the building is suitable. The commissioner never says the building is not suitable; he always says it is not suitable because of such and such—he gives reasons. I do not think the Minister can dispute that. I am asking him if he can give an explanation to the people who have approached me as to why they must appeal to the Minister and not to the Local Court.

I will not transgress Standing Orders or break the rules, but if somebody would explain to me why in a later clause we have provision for an

appeal to go to the Local Court and not to the Minister I would be happy. Can the Minister explain the anomaly at the end of clause 31?

Hon. D. K. DANS: I shall do as Hon. John Williams has done and go back a little. We are talking about the suitability of a person to operate a hospital. New section 26B reads—

> (2) Subject to this Act, a person not being a member of a firm or a body corporate who desires to obtain a licence to conduct a private hospital shall satisfy the Commissioner—
>
> (a) that he or she has attained the age of 18 years;
>
> (b) that he or she is a person of good character and repute and a fit and proper person to conduct a private hospital;

One could not take new section 26B(2)(c) to court for decision. Section 26B(2)(d) is a different matter. It deals with the obligations imposed on a person who desires to obtain a licence to conduct a private hospital and it concerns the fact that persons must understand fully their duties in relation to the conduct of a private hospital. If a matron, for instance, applies and is refused a licence it would be most proper for her to appeal to the Minister because he could call before him the people who refused the licence, and ask for the reasons for their decisions. They could then say that on such-and-such a day her medical record was examined and they based their decision on that. If the Minister wanted another opinion, he could call upon another group of people.

I do not know of any Minister, at least in my experience in this Government, who has made decisions of this nature based on political ideology. Members in this place know that we can sling mud at one another in this Chamber, but one who assumes ministerial responsibilities certainly would not be worried about a person's political affiliation. I was told by John Tonkin that the only day on which one worried about a person's political affiliation was election day. It certainly does not do any good to consider a person's political affiliation between elections. Members would know what sort of harassment one gets between elections from members of one's own political party. Once in office one carries out one's duties and one does not worry too much which way a person votes.

This new section first and foremost deals with the professional qualifications of the people who wish to conduct a private hospital and the best people to judge such people are their peers. They must decide who is the best person to run the hospital; they know who is the best person for the job, and where a steriliser should or should not be, or where some other medical apparatus should go. The whole Bill is designed to make it easier for the applicant who has been refused a licence to see the Minister and let him determine the reasons. I think that is a very fair situation. I have had no complaints and I am not doubting the possibility that Hon. John Williams may have some complaints, but I certainly have had no approaches made to me. When this Bill is passed I would be quite prepared to discuss it with the complainants or Hon. John Williams and give them the assurances that I am now giving this Committee.

This Bill was designed in consultation with the people who operate hospitals in this State, and it was designed to clarify matters. I repeat: No matter how many committees and authorities there are, ultimately it comes down to the Minister himself; he is the person who should decide questions on this. Had there been some eleventh-hour change on the part of the industry I would have been only too pleased to discuss it with its members, but I have not had any approaches and I do not see any danger with this legislation whatsoever. It is a good clause and I give Hon. John Williams my assurance on it.

Hon. JOHN WILLIAMS: I accept the assurances the Minister has given. I have no qualms or quibbles about that. I want to look now at new section 26J which deals with the guidelines the commissioner may issue with respect to the construction, establishment and maintenance of private hospitals. It deals further with the specification of standards to be observed and my point about these guidelines was misinterpreted. However, I will not labour the point other than to say that the guidelines are still in the Crown Law Department. They have not been issued yet and if they have, I have been misinformed.

If one looks at new section 26J, one realises that perhaps it becomes a bit confusing. The Minister said I was hopping from one clause to another, but I have simply been looking at different subsections of the new section. I draw the attention of the Committee to new section 26O(3) which deals with the fact that the Governor may exempt any private hospital from any of the regulations made under the section generally. Section 26O is a very good provision because the Governor may say,

"Now look, you have to do this; but for the time being you are exempt. Get it up to date within three months and there will be no case". However, in the guidelines—which are far more complex because one must consider the Standards Association of Australia and the British Standards Institution as well as other bodies specified—the commissioner can issue instructions. I would like to see the possibility of an exemption for a certain period. One might issue an order just for three months and say, "The Minister may say for three months you are exempted from that". It has been brought to my notice that while new section 26O allows the Governor to exempt any private hospital from any of the regulations, the Minister does not afford the hospital any exemptions under the guidelines, which to me are far more complex.

Hon. D. K. DANS: First of all there are guidelines which are virtually recommendations, and there are regulations. The guidelines are outside the Act and are departmental. Hon. John Williams said that some things were recommended which are still down at the Crown Law Department. The reason for that is that there is insufficient power at present in the Health Act to have some of those guidelines—some, not all—made into regulations.

That is the simple explanation for that. I think I went through it chapter and verse during the second reading debate, but I will repeat it for the benefit of the Committee. The Governor can set aside regulations in a number of Acts. There is nothing unusual about that; he can do it for a specified period and for specified reasons. Hon. John Williams would recognise that he must have sound reasons for so doing. Guidelines change from day to day for the reasons I have outlined. We have to maintain that flexibility. My notes say that guidelines are hereby authorised to be issued for setting the required standards for construction, maintenance, equipment, management, tenants, staffing, etc. Published standards of codes can be adopted or amended and specified. This eliminates the need in regulations for considerable one-off requirements relating to construction and installation. Maintenance of these standards is enabled by work orders.

Members can imagine the problems which might arise in the construction of a new day hospital when a certain guideline may have been appropriate last week and a new material is used in the construction of the hospital; the guidelines have to be changed. That flexibility must be maintained or the Act will not operate. I have not gone into the question of fire prevention and all those sorts of things, but the guidelines change from day to day and that flexibility must be maintained.

The member mentioned the problems relating to matters which are now at the Crown Law Department, and I have explained why there are some problems there. Generally, however, we have brought together a good Bill which will fulfil the requirements and desires of all members. I do not want to go deeply into this because it could go on endlessly. There are regulations on one hand and departmental guidelines on the other, and they are revised from day to day.

Hon. JOHN WILLIAMS: I accept that explanation. It is a real problem for the people who have spoken to me. It is quite possible that an inspector could say, "You need to do this and that." The people want to protect themselves, I guess, from the inspector saying that they must do certain things in a certain time. On appeal to the Minister those people could say, "We appreciate what you have said but would you look at the overall situation and give us an exemption, not for three months, but for six months?" The Minister should have the right to say he will go along with that. That is the sort of exemption those people are looking for. I accept what the Minister is saying and I will not delay the Committee any longer.

Hon. Peter Dowding: Hear, hear!

Hon. JOHN WILLIAMS: The Minister may say that, but I have a duty to the constituents who came to see me about this matter. The Minister should know that I will not flinch from what I have to do for the sake of expediency. I am here because those people expressed an interest to me, and I intend to protect their interests; that is my job.

I accept the Minister's explanation, but I do not know whether the organisations concerned will accept it. It is up to them to take the matter further if they wish.

Clause put and passed.

Clauses 23 to 31 put and passed.

Title—

Hon. JOHN WILLIAMS: I come back to the original point that I made. It is a good Bill and a necessary Bill, and it must be implemented in an attempt to stop the abuse which brought this legislation into being. This Bill on its own,

however, will not totally prevent that abuse. There are always loopholes and it is up to members of Parliament to be as vigilant as they can when they spot these abuses and the law being bent. That will prevent the untimely death of people who have been ill-treated under a false label. As a parting shot I ask the Minister, now that this Bill is almost an Act, what is the traditional Hamersley Hospital to be called, because it is not a hospital?

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.

ACTS AMENDMENT AND REPEAL (TRANSPORT CO-ORDINATION) BILL

Second Reading

Debate resumed from 26 September.

HON. N. F. MOORE (Lower North) [9.18 p.m.]: This Bill represents a relatively significant change to the administration of transport in Western Australia. In effect it proposes to amalgamate the office of the Coordinator General of Transport with the Transport Commission, and the combination of the two organisations will form a new Department of Transport. The present Coordinator General of Transport carries out an advisory function and provides the Minister with advice on general aspects relating to transport. He has an overseeing role, and if members read the Minister's second reading speech they will see he also has a coordinating role in respect of capital programmes, operating budgets, etc. So in a sense, the Coordinator General provides policy advice to the Minister for Transport. The other organisation, the Transport Commission, is mainly a regulatory body and its activities are associated with licences, subsidies, and the day-to-day administration and running of our transport system.

The legislation before the House proposes to join the two together and to form a Department of Transport. It is easy to understand why the Minister chose to go down this path—he gave his explanation in his second reading speech—to form a Department of Transport. I would have thought that the first reason for doing this would have been to achieve a greater degree of efficiency within the administration of transport. It is rather amusing that, in his second reading speech, the Minister spoke about increased efficiency. He also pointed out that the amalgamation would be achieved without any increases in staff numbers. One would have assumed, with the amalgamation of two statutory authorities, that there would not be a need for the same number of staff to carry out the activities of two organisations when they become amalgamated.

Hon. Peter Dowding: Why not?

Hon. N. F. MOORE: I know the Minister was listening very carefully when I said that one of the reasons for carrying out an amalgamation would be to make the operation of the two organisations more efficient.

Hon. Peter Dowding: Why does that mean that you have to shed staff?

Hon. N. F. MOORE: That is one aspect of efficiency, as the Minister would know. One reason that Governments cost a lot of money is that they employ people that they do not need. I assume that, when an amalgamation of two organisations takes place to form a new organisation which will be more efficient, one would seek to reduce staff numbers. The Transport Commissioner has a receptionist, as the Coordinator General has a receptionist. Will there be two receptionists in the Department of Transport? I know that is silly, but I use it as an example of the sort of duplication that would not be necessary after an amalgamation of two organisations. Surely many activities are common to both and, with the increased efficiency that will come about with the amalgamation, it would not be necessary for that duplication to continue.

Hon. Fred McKenzie: You might use that other staff member in another place.

Hon. N. F. MOORE: That may be so. However, when one reads what the Minister said about the new department—that he wants to keep it lean, small, and dynamic—one assumes he will be looking at keeping the numbers to a minimum and not necessarily saying to the receptionist, "You have to become a train driver" or something like that. It is rather disappointing that, with his amalgamation, the Minister feels it is not necessary to shed any staff.

The main purpose of the Bill is the amalgamation. However, at the same time, the Minister has taken the opportunity to make other amendments which relate to transport in general. The first to which I wish to refer is the question of the new Department of Transport participating in organisations or companies whose objectives relate to transport. Clause 11 of the Bill provides for proposed new sections 7A to 7D to be inserted. Proposed new section 7A states—

> (1) Subject to this Act, the Minister may—
>
> (a) become a member of or a shareholder in; and
>
> (b) contribute funds to,
>
> anybody whether incorporated or not (in this section referred to as "the body") which—
>
> (c) has its principal office within the Commonwealth; and
>
> (d) has among its principal objects the carrying out of research, investigations, inquiries or studies into the improvement of transport or transport safety, or both, within the Commonwealth.

The Minister, in his second reading speech, referred to that proposed new section as one of the most significant amendments to the existing legislation. When the Minister responds to the second reading debate, he may wish to advise me of the reason that he feels it necessary for the Minister—in this case "Minister" refers to the department—to become a shareholder in the sorts of organisations referred to in clause 11.

The question was raised in another place and the clause was amended to allay fears that were expressed in the industry that this was an attempt by the Government to become involved in the business of transport.

Hon. Peter Dowding: You read his comments, did you not?

Hon. N. F. MOORE: I have read the comments but I am not totally satisfied that it is necessary for the Minister to become a shareholder in the various bodies referred to.

Hon. Peter Dowding: He gave an unequivocal assurance about the use of it, did he not?

Hon. N. F. MOORE: Ministers often give unequivocal assurances. The more of these unequivocal assurances that one can get in these circumstances the better. I hope that the Minister representing the Minister for Transport will give an unequivocal assurance in this House for my benefit because, as the Minister realises, the debate took place in another place and it is not something to which I can refer. I therefore expect this House to be given the assurance by the Minister that the Government has no intention of using clause 11 of the Bill to enable the Minister for Transport to enter the business of transport. In its original wording there was some doubt whether that was what the Minister had in mind.

If the Minister advises that what he really means is to enable the Government to assist such organisations as the National Safety Council, the Liquor Industry Road Safety Association, and the Western Australian Road Transport Industry Training Committee, there are no problems. However, I think members of this House should be advised by the Minister handling the Bill what the Government has in mind in respect of this clause. I have no doubt that the Minister handling the Bill will give us that assurance.

The other amendment to which I wish to refer is a fairly minor one. It relates to the transporting of grain. In his second reading speech, the Minister said—

> The other proposed amendment will extend a transport freedom to enable carriers to transport grain past the nearest CBH bin where for some reason the grain cannot be delivered to that site.

The words "transport freedom" are used. I wonder whether the Minister took those words from the Liberal Party's policy on transport, which is titled "Transport Freedom". I think it is significant that the only bit of freedom given in this Bill contains the words "transport freedom" which is in the Liberal Party's policy on freedom for transport.

Hon. Peter Dowding: Long on title, short on content.

Hon. N. F. MOORE: The policy contains significantly more than the two words. The Opposition is resolved, when it is in Government next year, to free up the transport system. If I was not an optimist I would not be in this business. Government members have had more time on that on this side of the House to cogitate about optimism and so on. We do not spend much time on that on this side of the House. For that reason I am optimistic about the next election.

Be that as it may, the reason I raise this matter now is simply to make the point that the Minister has really missed an opportunity to do something down the track towards transport freedom in Western Australia. Transport in Western Australia is one of the most highly regulated and controlled industries we have. While I give credit to the current Minister for carrying on with some of the deregulatory proposals put forward by the previous Government, I do not believe he has gone far enough.

Hon. Peter Dowding: You did not go far enough.

Hon. N. F. MOORE: I wonder where Hon. Peter Dowding spends his time. The previous Minister, Mr Rushton, was severely criticised by the Minister's own members for deregulating many aspects of the transport system. He put them into practice or in train, so to speak. He commenced the whole process of deregulating the transport system.

While the current Minister has, to his credit, continued on in some areas in respect of the transport system, he has not in my view gone far enough.

This Bill, which is a major piece of legislation because it rearranges the administration of transport, provides a golden opportunity for the Minister for Transport to take some positive steps towards opening up transport in Western Australia. Of course, he cannot, because being a Minister in a Labor Government, he is to a very large extent, controlled by the people who control the transport system from the point of view of unions. He would find it very difficult, particularly in regard to Westrail, to do a whole lot more than has already been done.

Hon. Peter Dowding: Give him his due. He did a lot more than Mr Rushton.

Hon. N. F. MOORE: That is a subjective judgment which Hon. Peter Dowding seeks to make.

The point is that I have said the Minister should be commended for carrying on the policies commenced by the previous Government, but he has not gone far enough. I am trying to be fair to the Minister by saying that, but many unions are involved, particularly in regard to Westrail, and he would find it difficult to go any further.

I understand the Minister's predicament. I do not think that a future Liberal Government would find itself in the same predicament. The Liberal Party has given a positive undertaking that when elected to Government it will free up the transport system.

Hon. Peter Dowding: Tell us, in due course, what you mean. Your present document is very short on content.

Hon. G. E. Masters: He probably has not read it.

Hon. N. F. MOORE: Mr Dowding always reads these documents. He is always asking for copies of documents to be sent to him. I know he has asked for a copy of the Liberal Party's Aboriginal policy and I am sure he has asked for its transport policy. He likes to keep himself informed about other portfolios in case he is moved to one of them.

Hon. Peter Dowding: No-one has said that he is disappointed that I have been moved to the area of industrial relations; but people have written saying they will resign from the union if Mr Masters continues in that position.

The PRESIDENT: Order!

Hon. N. F. MOORE: In the event that the Liberal Party wins the next election there will be massive deregulation and opening up of the transport system. I say that because the Minister for Transport has not chosen this occasion to do something about it himself.

The Bill contains a review clause which was added as an afterthought in another place. In effect it states that after five years of operation, this legislation will be reviewed. I notice that the Government includes a review clause in a lot of its legislation these days and it is a worthwhile activity. The review clause in this Bill calls on the Minister to review the functions of the authority to see if it is inefficient. It is in a sense an appeal from Caesar to Caesar and it would be better if the Standing Committee on Government Agencies were given the role of reviewing the legislation.

Hon. Peter Dowding: You know our view on that.

Hon. N. F. MOORE: I regret that the Minister had to say that, because I do not know the Government's view on that subject.

Hon. Peter Dowding: You want to play the game that way.

Hon. N. F. MOORE: I have not seen any reasons published nor have I heard any announcement to tell me why the Government members of that committee have resigned. I understand that a statement has been put out, but I have not seen a copy of it. However, we

can argue about that matter at another time—perhaps on the adjournment motion tonight.

It seems to me that that committee is an appropriate body to review the activities of Government agencies. It was set up for that purpose. I understand that all Ministers are writing review clauses into legislation such as this which calls on the Minister concerned to review the activities of agencies. Perhaps it would be more sensible for the Standing Committee to undertake that function. We would certainly get a more bipartisan approach to the activities of the agencies if the committee were undertaking the review.

The Bill before the House represents an administrative change more than anything else. I cannot become too enthused about the prospect of another Government department, and the Liberal Party has suggested in its policy document that there be a Ministry of Transport rather than a department in the sense that it is being set up in this Bill.

Hon. Fred McKenzie: Is there any difference?

Hon. N. F. MOORE: There is, but maybe it is a question of being pedantic. The Opposition does not see the necessity for a Government department in the sense that one understands the word "department".

What we have in the area of transport is a whole series of different organisations each of which has its own activities such as Westrail, the MTT, and the port authorities. In a sense they all operate independently of one another and should be responsible to the Minister. I see the Ministry of Transport as being a small body which assists the Minister and carries out certain functions relating to the ministerial role within the transport system.

I take on board the Minister's comments in another place that he does not see this proposed new department burgeoning into a bureaucratic department. However, it is something which is almost unnatural. I have never known of a Government department which has become smaller, but I certainly know of a large number of them which have become bigger. The potential is there, under this legislation, for the Transport Department to burgeon into a big bureaucratic monster which in a sense will encompass all aspects of transport. We could find a big department running the whole transport system and the independence of organisations like the Main Roads Department, Westrail, and the MTT will become usurped by that department.

The people who run the Transport Department will run and control transport across the board. Those are my fears and the Minister will say that it is not his intention. I accept that, but the fear I have is that it will happen.

I would appreciate it if the Minister would let me know in his response the reason that it is necessary for the Government to become a shareholder in the bodies referred to in clause 11. I can understand it becoming a member and providing funds, but I still have difficulty in accepting the necessity for the Government to be a shareholder in those bodies.

The Opposition does not oppose the Bill; it is not frantically enthusiastic about it, either. It sees the Bill as a decision made by the Government to go down a certain track. We are fearful of what that track will lead to in the long term but we are in a sense fortified by the Minister's desire that the department be kept as small and efficient as possible.

We shall wait and see, and when we become the Government in the foreseeable future major changes will be made in the field of transport. We shall wait until that time to bring forward our alterations.

HON. D. J. WORDSWORTH (South) [9.41 p.m.]: Speaking to this Bill, I am perhaps in a unique position. As a previous Minister for Transport I have a fair idea of what the Bill is about and what is involved. The only other members in the Parliament to have had this experience are Hon. Cyril Rushton and Hon. Julian Grill.

As I think has been previously explained by Mr Moore, the Ministry of Transport has been completely different from any other Ministry. The Minister is responsible for Acts of Parliament and for authorities that are not contained within his own department; they include outside organisations which report to him, and over which he has some control but not from within. Indeed, during my term as Minister I had as my staff a couple of typists and a private secretary. I had no under secretary of the department to guide me through the minefield or to pass on the experience of previous Governments and Ministries. In fact, the Minister was quite alone. For those who follow the television programme, "Yes, Minister" there was no equivalent of Sir Humphry and the only staff member was Bernard.

Hon. Peter Dowding: And look at what happens to him.

Hon. D. J. WORDSWORTH: That is probably a good point. Not only was the Minister responsible for each of the modes of transport and for examining them through the Budget, etc, but also he was given the responsibility of balancing one mode against the other. He did not have just an overseeing job, but had to maintain a balance between the different sectors. I suppose that the major balance is road against rail, but nevertheless there is competition between sea and road transport, and between air and road/rail. If one looks back historically to the 1920s one finds that the model T Ford was endangering the future of Westrail and that is why we have had transport regulations in existence which required that Westrail be the sole transporter to the rural areas. It seems strange to think that a model T Ford could successfully compete with a steam engine but, in fact, it could and it did.

Since then Governments seem to have always protected Westrail, whether they were Labor or Liberal Governments. It could perhaps be thought that non-Labor Governments would look for greater involvement by private enterprise but, in fact, it appears that non-Labor Governments have always been concerned about protecting the Government's interest in rail. That has probably been because there has not been a large number of people involved in the alternative—road transport. There has been no great voting lobby to encourage previous Liberal Governments to balance the transport mode. The Governments have always preferred to stick with Westrail to ensure that the losses incurred in that area did not increase.

Needless to say, Labor Governments saw a need to protect the employees of Westrail, and that was fair enough. When I was Minister for Transport, I was interested to note that at one time when we were discussing a reduction in staff for Westrail, the transport unions said that at least they knew where I stood on my side of the House with regard to Westrail. They said that they always expected greater things from the Labor Party but never got them. That was an interesting statement for them to make. In fact, they were dying for me to ask whether Westrail would be willing to accept the task of carting yellowcake from Kalgoorlie to Esperance and they were rather anxious to say that they were willing to do so. However, as members will recall, the situation never arose because the uranium industry at Kalgoorlie did not get off the ground.

It is interesting to think back to the time when I started farming in Esperance 20 years ago and to recall buying a shearing shed from the Cyclone company in Perth. That company loaded the components of the shearing shed onto a truck and I am sure that it was not damaged by the time the men finished loading it. At that stage the company's responsibility ceased and the transport of the shed became the purchaser's risk. The road truckie carted the shearing shed to the railway. Cyclone had loaded the heavy parts of the shed on the bottom and the light and delicate parts on the top. When the truckie unloaded the components onto rail the order was reversed so that the heavy components were on the top and the light and delicate were on the bottom. The load travelled to Kalgoorlie and on to Parkston and it had to be moved from standard gauge to narrow gauge railcars. The employees of the railways moved the parts of my shearing shed from one railcar to the other and again the position of the goods was reversed—the heavy parts were at the bottom and the light parts were on top. When the goods reached Esperance they were transferred to road transport for cartage to the farm. It was practically impossible to erect that shearing shed by the time it arrived. A blacksmith was called in to straighten the whole thing out and many parts were thrown away.

When Sir Charles Court was in the process of forming a Ministry he asked members of the Liberal Party what were their interests. I took a keen interest in transport and its effect on the rural industry and I was given that portfolio.

I also recall the situation which existed with regard to the transport of fertilisers. All fertilisers had to be carried by rail and were mainly transported in wooden wagons. However, there was no satisfactory way of unloading the fertilisers. At best the contractors introduced a Clark shovel, which was rather like a scoop on the end of a wire rope, and the fertiliser was dragged from the truck. Westrail had a monopoly in the transport field and, therefore, it had no reason to buy new trucks or to modernise the transport of this product.

Dramatic changes have since taken place in the transport field. It started with the preparation of the SWATS report and it was a great achievement to have not only the users of

transport accept that report but also the executive of Westrail and the unions involved with Westrail.

Undoubtedly, the unions could see the reduction of their numbers down to about half. They could see the loss of a traditional form of transport which they got by right more than by competition. Yet, after a two-year study made by dozens of people and many meetings, we saw the gradual acceptance of the SWATS report which could most easily be described as giving the right to the consumer to choose his own mode of transport. I do not believe that that could have been done with a Department of Transport. It was done in a situation where the Minister was not tied to recommendations from one field or the other. The Minister had, as a visitor to his office, the Director General of Transport who came to offer advice, but nevertheless he was not situated in the office and was not a departmental person. He came in the same manner as the Commissioner of Railways, or the Commissioner of Main Roads or the Commissioner of Transport.

Those who have watched "Yes, Minister" may recall seeing the programme where the Minister for Transport was made the transport supremo. He was told to develop a master plan for transport in the United Kingdom. He was shocked when he met with the various departments, and found each one rather than regulating its particular field, promoted its particular mode of transport and at the conference they fought with one another over which was the ideal form of transport.

I am concerned that when we start combining the Director General of Transport and the Transport Commission into a ministry that right under the Minister's roof, there is a department that promotes road transport. I do not believe I would have had the same success in respect of the acceptance of the SWATS report had there been a ministry of this nature. Traditionally the Commissioner of Transport always had to regulate roads. He commanded the heavy transport boys and gave the directions as to where road transport can and cannot go. While he regulated them, when it came to a debate over what should be done by road or rail, one had the commissioner and others in Westrail promoting the rail services and the Commissioner for Transport detailing what could be done by road, and at what cost and what capabilities the industry had. I suppose there is a road transport association that could play that part in the future; but I believe, as an ex-Minister, that there are various sections that reported to the Minister, for example from Stateships to the MTT or Westrail. Similarly, the commissioner came to the Minister and reported on the road transport industry and whether it was carrying out its task.

Yet under this new idea, we see the Transport Commission becoming closer to the Minister. That will not give the ministry quite the same independent position. I think the various departments and organisations in the transport field will find it harder to report to their Minister. Instead of reporting directly to their Minister they will find themselves reporting to the under secretary and having an idea promoted through the ranks rather than the Minister having to do the sorting out in each of the departments and organisations, balancing one case against another.

I do not think we would have seen the acceptance of the SWATS report without a ministry as we saw it then with the situation where the Minister worked alone in a sole role. I think it was a great credit to those various advisers and to those who worked on SWATS that they were able to prepare a plan which was acceptable not only to the Government but to the employees and executives within Westrail. We did not have any strikes; it was a slow and gradual acceptance which has now turned Westrail into a very viable mode of transport.

I look back to the days when refrigerated traffic was regulated off rail onto road. To most members that would seem a fairly insignificant thing but to those who were tied up in the transport field it meant that Westrail was no longer obliged to visit every country town practically daily. Often it was visiting isolated towns and communities with very little cargo to drop—sometimes there was as little as 10 kilograms. That refrigerated traffic could well have been dropped at midnight in some places which meant that the storekeeper had to be there to meet the train. He carried the goods to his store in the back of his truck which was not refrigerated, and this meant that the goods in his shop were often of a poor standard. Those who used to buy icecream from a country store will know that its consistency was not that of real icecream. It was often a mass of water and chocolate which had thawed and been refrozen.

By putting refrigerated traffic on road it meant that Westrail was able to direct its activities into those fields that it could do best at. It no longer had to visit every little community with perishables, but could send trains to the various districts when there was a need. Since

then, we have seen parcels put on road as well and now Westrail has confined its activities to bulk handling; without doubt it can do this task very effectively and economically. I think it has come at a very important time when grain prices are falling. It means that Westrail has been able to lower prices and is not a great loser or deficit budgeter today.

We have seen Westrail's losses peak at about $70 million, yet the New South Wales Transport portfolio is losing almost $1 billion a year. How one Government department in one State can lose $1 billion in a year is very hard to imagine. There is little doubt Australia will go broke if that is the way we manage transport in this country.

Of course, in New South Wales the Government has endeavoured to run parallel services with rail and road rather than, shall we say, vacating the field in which it could not compete—and I example parcels and refrigerated traffic in that area—and confining its activities to bulk transport. Instead, in New South Wales the department is trying to do both, unsuccessfully, and is sharing the small markets and making huge losses.

I believe Westrail has a great future and we are very lucky we did not hand over our rail services to the Federal Government as happened in South Australia and Tasmania.

Hon. Peter Dowding: Or to private enterprise like you want to.

Hon. G. C. MacKinnon: The Liberal Government bought it from private enterprise. What are you going on about? That shows what you know about history.

Hon. D. J. WORDSWORTH: It shows that this Government is quite ignorant, because we as a political party, have not made any statements as regards selling Westrail to private enterprise, but rather I think the Government can fairly and squarely say that we have set Westrail on this track, not only during the three years when I was Minister, but also when Cyril Rushton was Minister. Julian Grill has carried on that same policy which has been to the great benefit not only of Westrail but also of the whole transport sector. I do not want to dwell any further on this matter of who deserves the most credit.

Another matter which I should mention during the second reading stage concerns the Director General of Transport and his duty to advise the Minister on the justification of capital expenditure for the various modes of transport, for he was able to do it a lot better by being a visitor to the Minister's office than being the under secretary of the Department of Transport.

Once he becomes the under secretary he will be looking to defend budgets of financial allocations which he has been responsible for bringing to the Treasury, whereas at present the director general has not been in a position where he has had to present those budgets, but has been an independent critic, of Government departments and organisations, if one likes to put it that way. This small group of advisers was able to concentrate only on that task of looking at and examining various transport modes and ascertaining ways in which they could be improved or made more economical. John Knox when Commissioner for Transport had a very good group of advisers who were mostly young men and who did an excellent job in advising the Minister. They went to the Minister directly because they were not able to go to an under secretary or another person. They had to make their input direct to the Minister, whereas in a Department of Transport that advice will be fed in somewhere down the line and will arrive on the Minister's desk via an under secretary.

I cannot see that being as effective as the situation has been in the past. However, I do not suppose every Minister would like to take on the task of administering a ministry without having someone who could be directly responsible to him to take away from him some of the burden of the responsibility, and there is no doubt that an under secretary does that; but in the future I wonder where transport will go. Information will obviously go through an under secretary or even through a political adviser posted to that department. I do not know whether we will see the same achievements in regard to modernising the transport portfolio as we have seen in the past with that sort of system in vogue.

However, it is not my intention to vote against this legislation. I simply say that where previously we have had a Minister without a transport department, he has perhaps been able to give a better service to the various modes of transport and has been in a better position to be able to balance one against the other.

HON. W. N. STRETCH (Lower Central) [10.06 p.m.]: Like my colleagues, I do support the Bill, but I have a few reservations about it. It also raises a couple of questions that I would like answered.

I feel that the Bill generally has done a lot to address one of the major problems we had in the recent harvest, and I brought that matter to the attention of this House and Hon. Peter Dowding. I am very glad to say that despite his protestations at the time that such a situation was occurring, the Minister has now put a provision in the present Bill, and that is contained in the clause which enables carriers to deliver grain to the closest available open receival point without having to go to the trouble of obtaining a licence. That is a very welcome point. It caused some awful bottlenecks in the last harvest; hopefully we will get more harvests like it. It does not look very likely this year, however.

I am a little disappointed that the Bill does not address the very urgent problems of transport in the south-west Kojonup area, which I have brought to the attention of this House on many occasions. I am well aware of the deregulation which is due from 1 January 1986 in that area and I greatly welcome it.

Hon. Peter Dowding: Mr Stretch, you must agree that Mr Grill has done an excellent job.

Hon. W. N. STRETCH: Be patient. We are looking forward to the Minister's reply.

Hon. Peter Dowding: That is fair comment.

Hon. W. N. STRETCH: I welcome the moves to deregulate. I am sorry that the Minister did not go ahead and take the steps in time for the coming harvest and wool clip, because this has caused a few problems. Like my colleagues I am concerned that the amalgamation of the two present arms of transport control will not produce a reduction in staff. The relief that was announced recently caused considerable confusion in both departments. When the relief measures and the new transport regulations for the south-west were announced I promptly rang the Commissioner for Transport because the changes were of great importance to my constituents. He said he was sorry but he had only read about it in *The West Australian*. He had no knowledge of what the Government was doing, so I rang the Minister's department and asked whether the south-west and the South-West Land Division, the South-West Province, or the south-west part of the State which includes my area of concern of south-west Kojonup would be affected, and the person said he was sorry but the Minister had made the announcement in Cabinet and the Press release had come from there and he did not know anything about it.

Hon. Peter Dowding: Operating like a Ministry like Mr Wordsworth wants us to have.

Hon. W. N. STRETCH: Whatever it was operating like, it was not being very effective in respect of disseminating information to members of Parliament so that they could help their people. We waited in this case for three weeks for the ministry to get through to the transport operators. As the Minister will recognise from his experience in the grain industry as a CBH bin attendant—

Hon. Peter Dowding: Oh, that!

Hon. W. N. STRETCH: He will recognise that in three weeks a lot of freight is carried.

There is a great need to streamline the systems in the Transport Commission, and I sincerely hope that this will come about under the plans the Minister has in this Bill. Mr Grill has carried on very well the work started by Mr Rushton. He has continued the rationalisation, or as somebody called it, the "leaning down" of Westrail. Westrail has reduced its staff by about 1 700 since early 1983 and, while I do not like to see anyone lose his job, most of those people fortunately have been relocated in other jobs and a certain number have retired.

Hon. Peter Dowding: Do you know by how many Mr Rushton reduced the work force?

Hon. W. N. STRETCH: I am sure the Minister will tell me. I know it was by some thousands, and I will be glad to hear the Minister's figure. I believe the reduction is necessary. Westrail is working in a very competitive field, and on what I call the skeleton or backbone lines of Western Australia Westrail has a very bright future.

Hon. David Wordsworth mentioned the cartage of superphosphate which is a vital commodity. I salute Westrail for the handling innovations it has introduced. Superphosphate is now stored in many country subdepots. I have inspected the facilities and watched unloading, and it is a very smooth operation. It does not save much in costs but it helps the farmers living near the depots.

Hon. G. C. MacKinnon: It was introduced by a good friend of yours Hon. John Hearman in conjunction with the then Minister for Railways, Harry Strickland.

Hon. W. N. STRETCH: I am indebted to my colleague for his historical rundown on the railway.

Hon. G. C. MacKinnon: It was against the opposition of the forebears of the National Party—the Country Party. Most wheat farmers have always opposed progress.

Hon. W. N. STRETCH: My history does not go back that far, but I am indebted to my colleague for his information.

Hon. H. W. Gayfer: Some of the items Mr MacKinnon has talked about need checking.

The DEPUTY PRESIDENT (Hon. D. J. Wordsworth): Order! Honourable members can make their speeches after the member on his feet has finished.

Hon. W. N. STRETCH: I welcome the colour those members have added to the debate, even if it is not noted for its accuracy.

I salute Westrail and the Minister for keeping things going along the lines Mr Rushton laid down. It is a pity that, while the transport system is being reviewed, the Minister did not go further and look at some railway lines which are obviously defunct. My colleague, Hon. Sandy Lewis, and I have asked on a number of occasions about the future of the Boyup Brook-Katanning line. We have been told it will not be closed because there may be some perceivable need for it. It was mentioned that some unexpected mineral deposit may crop up near the line. In the meantime, Westrail has moved 22 000 sleepers, three sets of traffic lights, and all the bridges and culverts; but it will not close the line!

I find that a little contrary because where those lines pass through the middle of small towns they cause considerable dislocation. To leave a railway line which has obviously been dismantled and has virtually no hope of ever being reopened seems a little foolish. It would be better to make a clean break and say the line will be closed rather than pull up 22 000 sleepers and leave it in a state of limbo. People do not know where they are, transport operators do not know where they are, and towns such as Kojonup, which are trying to get rational development going, are faced with a large slab of railway line in the middle of the town. Commonsense says the line will not be used; it is a pity the commonsense did not get through to the Minister so that if the theoretical mineral deposit eventuated the Government would provide some sort of transport to service it. To leave the future of the line floating was probably a little foolish.

As far as the Bill is concerned I want to raise a couple of questions which the Minister may have time to check. If not, I will raise them in Committee. I refer to the clause which will enable carriers to transport grain past the nearest CBH bin. This raises the question of how free is the Minister's version of "freedom of transport." I refer to page 3 of the Minister's second reading speech and the first schedule of the Bill which refers to section 33 of the parent Act. If a commercial vehicle—and I presume that is a vehicle employed as a carrier for a farmer delivering grain, and not the farmer's own "commercial vehicle"—is carting grain to point A which is a receival bin and it cannot unload because the bin is full, is the carrier required to notify the new Transport Department of his intention to unload to point B? Or is it automatic and the carrier can just go on to point B?

Hon. Peter Dowding: Which clause are you referring to? You have lost me for a moment.

The DEPUTY PRESIDENT: Order! This is meant to take place in the Committee stage, and I think the member should confine his remarks to the general nature of the Bill.

Hon. W. N. STRETCH: I will notify the Minister of the clauses which are causing me some concern. The point I am making is there is a certain amount of doubt if one is bypassing a bin and delivering to another bin. Is one expected to stop and find a telephone and ring the Transport Department and say, "I am carting somebody's grain past point A to another bin; am I able to do so?"

Is it required in later sections of the Act that he notify the Minister, or is it regarded that he is free to do so? If he is not, he is then faced with the onus of proof that the bin was unable to accept his grain and therefore he went past it.

If that is so, we open up a real tin of worms inasmuch as the grain receival bin, at a very busy time, can be closed in the morning and open in the afternoon, as my colleague, Hon. Mick Gayfer, would know.

Hon. Peter Dowding: Section 33 is not being amended.

Hon. W. N. STRETCH: We will not return to section 33 at this stage, for fear of incurring the wrath of Mr Deputy President. I will speak to the Minister about it prior to the Committee stage, if I may.

The onus of proof is a very delicate area. The present Act says that the onus of proof lies with the commercial carrier. I can imagine that being quite a disincentive to people taking on that sort of load, when they are faced with having to

prove their right to bypass a bin. That may seem a minor point to members of this House, but I assure them that it is a very real problem when the pressure of harvest is on and the one thing that counts is getting the truck empty in the shortest possible time.

The Minister will also be aware from his halcyon days at CBH of the difficulties of contacting the Department of Transport. Many receival bins in isolated areas do not have telephones. I would therefore ask the Minister handling the Bill to check that the freedom is clearly spelt out to operators so that they know exactly where they stand.

I will leave my further comments to the Committee stage. I repeat that I support the general thrust of the Bill as it is a move in the right direction to amalgamate these authorities into a new Transport Department. I hope the Minister can streamline that department with the same success as Westrail management is showing in streamlining its operation. As it is such an important part of the State's operations, I wish this transport Bill well.

HON. PETER DOWDING (North—Minister for Employment and Training) [10.22 p.m.]: I thank members opposite for their broad support of this legislation, and I take it that even their modified congratulations for Hon. Julian Grill for his very excellent effort in the area of improving the State's transport are well intended. I take it that, given the political realities of life, it goes to about as effusive a commendation as it is possible to achieve.

The fact is that it is acknowledged generally that Hon. Julian Grill has been an excellent Minister for Transport and, in terms of the interest that so many members opposite tend to focus their energies on in this House, he has been a remarkably good Minister for Transport. To say that he really carried on the work started by Cyril Rushton is to put a little too much store by what was alleged to be happening before Mr Grill took over, and perhaps not quite enough on his own personal dedication and efficiencies in that area.

The remarkable thing is that he has been prepared to grasp the nettle, not only in areas which previous Ministers of Transport were unwilling to broach in order to try to achieve efficiencies at the risk of offending one or other interest group that was currently a user of Westrail, but by a sensible industrial relations perspective; and he has been able to achieve far more than any other Minister for Transport in Australia in trying to rationalise the operations of Westrail and to gain union acceptance and support for that rationalisation.

As a result, we see the very great advantages to the State in terms of a remarkable tie-back in the deficit of Westrail.

I might also say that Mr Grill has been commended, certainly at conferences I have attended, for driving that very difficult line between ensuring that we have an adequate rail service and at the same time attending to the needs perceived by those who favour deregulation.

The Government thanks the Opposition for its support of this legislation and will deal in Committee with those queries that were raised in the course of the second reading debate.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (Hon. P. H. Lockyer) in the Chair; Hon. Peter Dowding (Minister for Employment and Training) in charge of the Bill.

Clauses 1 to 10 put and passed.

Clause 11: Sections 7A to 7D inserted—

Hon. N. F. MOORE: I refer the Minister to the comments I made in my second reading speech on this subject. Clause 11 refers to the capacity of the Minister to become a member of or a shareholder in certain organisations. I refer particularly to proposed section 7A(1)(c) and (d).

I raise this matter because of the concern I have for the continued inclusion of the words "or shareholder in" in the legislation. For the benefit of members, the original Bill which was debated in another place was amended in that place to endeavour to broaden the matters referred to in proposed section 7A(1)(d), which are the criteria that the body must have in order for the Minister to become "a member of or a shareholder in".

While that amendment satisfies my concern to a fairly large extent, I am still not convinced that there is a necessity for the Minister to be a shareholder in one of those bodies. My concern is simply that we do not believe it is the Government's position, nor role, nor right, to be involved in the business of transport. I am a little worried that this clause may give the Minister the power to become a shareholder in an organisation which is involved in the business of transport. I would appreciate the Minis-

ter explaining to me the reasons that the Government quite deliberately left in the word "shareholder", and why it is not sufficient for the Minister to be just a member of one of those bodies.

Hon. PETER DOWDING: The Minister has given an unequivocal assurance that it is not his intention to utilise the powers tht proposed section 7A would confer upon him as a means of the Government's advising itself of the commercial aspects of a transport operation. He has given that unequivocal assurance and I am instructed to give that assurance to this Committee. Honourable members who noted the detailed debates on this Bill in the other place will have noted that the Minister introduced an amendment to clause 11 to add in proposed section 7A the words which limit the function of the principal objects of any organisation in which he takes shares. The words inserted were—

> the carrying out of research, investigations, inquiries or studies into the improvement of transport or transport safety, or both, within the Commonwealth.

First we have an unequivocal assurance that the intention is not to utilise this as a means of the Government involving itself in commercial activity. Secondly, the clause was amended before reaching this place in order to ensure that the objects of any organisation in which the Minister took shares were circumscribed by the requirement of the objects being related to those things that I have identified. Thirdly, the Minister has made it clear—and I so advise the Chamber—that the Commissioner of Transport is involved in the activities of a number of bodies, some of which have or may have as an organisational structure a shareholding. In those circumstances, the Minister has said that he wants to be able to participate in those bodies.

I cannot add anything more, except to say, first, that the principal objects of anybody referred to in this respect are the improvement of transport or transport safety, and not the carrying on of commercial transport operations. Secondly, the sorts of bodies in which the commissioners are presently involved include the Road Safety Council, the Liquor Industry Road Safety Association and the WA Road Transport Industry Training Committee. I am advised by the Minister that some of the organisations are incorporated bodies and, as such, may issue shares. If the Government wants to participate in a structure in which those shares were issued, it would require this authorisation by the legislation. That is the explanation for it. The assurance is given to this Committee and incorporated in *Hansard* as to the purpose and brief of that clause.

Hon. N. F. MOORE: I thank the Minister for his explanation. I make the point, however, that he did not give an example of an organisation in which the Government would seek to become a shareholder. He carefully skirted that by saying that the Government sought to be involved with certian organisations, but he did not specificially say that any of those three organisations that he mentioned was one in which the Government might seek to be a shareholder. I will not labour the point because I think that probably what is happening is that the Government is writing the necessary words into the legislation in the event that certain circumstances occur down the track. A situation may arise in which it is necessary for the Government to be a shareholder in a body which is involved in, for example, some sort of research into transport safety. Thus I accept the Minister's assurance and simply reiterate the fact that the Opposition is very concerned about Governments being involved in commercial aspects of transport. We think that Governments should not be involved in the commercial operations of transport. We were concerned that this clause may give the Government that sort of power. I accept the Minister's assurances, but advise him that we will certainly keep an eye on the way in which this clause is put into practice when it becomes part of the Act.

Clause put and passed.

Clauses 12 to 49 put and passed.

Clause 50: Section 64 inserted—

Hon. N. F. MOORE: I re-emphasise the point I made during the second reading debate on this review provision. It provides that the Minister shall carry out a review of the operations of the Act as soon as practicable after 1 January 1991 and every fifth anniversary of that date. I think it is commendable that the Government is going down this path and is seeking to ensure that these Acts of Parliament are reviewed as a matter of course. This is particularly so when an agency is set up to perform a certain activity or carry out certain functions.

The Standing Committee on Government Agencies in its various reports has suggested that these sorts of reviews ought to take place. Thus I commend the Minister for this particular clause.

I also make the point that he is seeking such review in other legislation which is before the House, for which I also commend him. However, it is a pity that the legislation requires the Minister to carry out the review because the person who is running the department—in this case—is the person who will review the activities of that department. It always seems to me that a more realistic appraisal of the activities of an office is obtained if somebody from outside that department carries out the review. I hope that whoever the Minister might happen to be in 1991 will employ an outsider—perhaps a consulting firm—to carry out the review rather than have it done within the department.

I would like to see clauses of this sort contain a provision for the Standing Committee on Government Agencies to review the activities of statutory bodies. That is what it was set up to do in the first place and it is now in a position to start doing that with great enthusiasm. It would be sensible for members of Parliament to be involved in the review of the activities of agencies such as this.

While I commend the Minister for inserting this clause, I suggest it is really like Caesar judging Caesar. There may be a better way of dealing with these review clauses. However, it is a start in the right direction and perhaps things will get better as we go on.

Hon. PETER DOWDING: Hopefully by 1991 we will have resolved the present issues of the electoral procedures of this House and we will be able to have a decent committee system.

Several members interjected.

The DEPUTY CHAIRMAN (Hon. P. H. Lockyer): Order! I must remind honourable members I will not tolerate these interjections. I remind Hon. P. G. Pendal and Hon. Kay Hallahan that I have been watching them very closely.

Hon. PETER DOWDING: I draw the honourable member's attention to the fact that the Minister must cause the report to be laid before each House of Parliament. That gives an appropriate mechanism for the Parliament to scrutinise the reports prepared for the purposes of the review.

Clause put and passed.

Clause 51: First Schedule amended—

Hon. W. N. STRETCH: By now the Minister probably has an idea of what I am getting at. This concern stems from the part of the parent Act which is affected by clause 51 of this Bill. Does the Minister require any further clarification?

Hon. Peter Dowding: I am afraid I do, yes.

Hon. H. W. GAYFER: As I understand the argument of Hon. Bill Stretch, he is seeking clarification in respect of the laden truck which may proceed to one of the bins operated by Co-operative Bulk Handling Ltd., only to find that the grain cannot be received there.

The key words of clause 51 are "the nearest facility which is available for its receival". That would be a let-out if a bin were closed or did not receive the particular variety of grain a person wanted to deliver. He would have to go past it. He would be allowed to go past it if it was not available for receival. That is my interpretation, and that is why I have not queried it at this stage. I ask the Minister if he thinks my interpretation is correct.

Hon. PETER DOWDING: Mr Gayfer has deep understanding of the issue and his wisdom is entirely correct. That is my understanding of it, and that is the plain reason for that clause.

Hon. W. N. STRETCH: I have no quibble with that; I agree with it. That is a request I put forward late last harvest on behalf of several of my constituents. It has been adequately addressed in this Bill.

Hon. H. W. Gayfer: And most necessary.

Hon. W. N. STRETCH: And most necessary.

I refer members to section 5. While that exemption is necessary, the point I am making is if facility A is unable to receive grain for whatever reason, so one bypasses it and moves on to receival point B does one have to notify the Transport Commission?

Hon. PETER DOWDING: No, one does not. It comes back to the plain meaning of the clause.

I am reinforced in my view by the notes with which I have been supplied for the Committee discussion. In many cases the bin in that nearest town or railway siding may not be open, it may be full, or not receiving that type of grain. Perhaps Mr Gayfer has a copy of this.

Hon. H. W. Gayfer: I can assure members I have not.

Hon. PETER DOWDING: For whatever reason the carrier at present has no option but to bypass that bin, and in doing so lose his exemption. This amendment is aimed at overcoming that anomaly and will make the

exemption apply to the next available bin which can receive the grain. If one had a reasonable belief that those facts were correct, one's exemption would carry one through to the nearest other place. I do not think Mr Stretch need have any reasonable concern about the wording of that clause.

Hon. W. N. STRETCH: I thank the Minister. I can assure him it is not my concern but that of my constituents.

Hon. Peter Dowding: That is why it has been corrected.

Hon. W. N. STRETCH: Has it been fully corrected? As long as section 5 remains in the parent Act, it provides the burden of proof for an exemption still to lie on the person claiming it. The Minister should also amend the parent Act, while he is about it, to remove the burden of proof.

Hon. H. W. GAYFER: I believe the Minister has explained the situation. If the driver of the truck has reasonable grounds to believe that a bin is not able to receive a particular grain, then we have to accept what the Minister has told us—by quoting from official papers—as being correct. After all, the Minister's words in *Hansard* are acceptable in law and anything that the Minister says to calrify it must be accepted by a judge or whoever is trying a case as being virtually gospel. I accept what the Minister is saying.

Hon. W. N. STRETCH: I agree with Hon. Mick Gayfer. The reason I raised this matter was to have it clearly recorded as part of this debate so that in future if a carrier is stopped on the road and asked why he is delivering a load to B when A could have taken it, the driver's word that he was unable to deliver to A, for whatever reason—

Hon. Peter Dowding: No, for the reasons stated in the Bill.

Hon. W. N. STRETCH: We are now getting to the nitty gritty of the whole matter. If an inspector has reason to believe that a truck is delivering for whatever reason to another receival point, has that inspector then the right to go to the CBH bin, climb on the roof and say he could have got another seven tonnes in there?

Has he the right to ask the driver of the truck or the owner of the grain to provide onus of proof that in his belief the receival point could not take the grain? In a court of law it comes down to the question of who will be believed—the driver of the truck, the receival officers of CBH, the owners of the grain, some other authority, the Minister for Transport, or the Commissioner of Transport. Who decides which course of action to take?

Hon. E. J. CHARLTON: The fact is that when a cartage contractor goes to his receival point, it is not up to the contractor, the fellow who owns the grain, or the person who is responsible for it to be received. That point is up to the receival officers who must decide whether the grain can be received and if it can, it must be delivered. I would like the Minister to comment and reinforce that point. It is not up to an inspector or anyone else to have a look at the top of the bin, it is up to the operator to say whether the bin should receive the particular commodity at such and such a time. That should be recorded as the basis of any future litigation taken by the transport operator.

Hon. PETER DOWDING: I would just remind members that this clause provides for an exemption which did not exist before. It does not impose an obligation; it actually provides an exemption which did not exist before this amendment.

The exemption stipulates that an obligation to deliver is extended only to the facility that is closest and can receive the grain. That is all the clause does. It does not say that one has to deliver to the nearest facility; it says that one should deliver to the nearest facility that is available for receival. I cannot really take it any further than that. What is said is that it is not up to the Commissioner of Transport or the prosecution to establish which bin was not available for receival. It is up to the driver, if challenged in a court of law, to establish that he was complying with the law and to establish that he took the grain to the nearest bin available for receival. If he went to a facility that was some distance past the nearest facility, he must establish why he did not go to the nearest facility. That does not mean that he had to leap onto the top of the bin and measure whether it could have taken the grain; it means that he has to have some reasonable ground for believing that the nearest facility was not available, which implies that he went firstly to the facility or rang it or received notice on behalf of the facility's operators, or a whole host of possibilities which led him to a position that he would have to present the grain somewhere else.

I come back to the point raised by Hon. W. N. Stretch; that is, the exemption did not exist prior to this clause.

Hon. W. N. Stretch: For which we are very grateful.

Hon. PETER DOWDING: This leaves the onus on the operator to establish that he was complying with the Act and he has to establish that he went to the nearest facility that was available. That requires him to present some sort of information to the court as to why he was under the apprehension that a particular facility was the nearest one available. I do not think it is appropriate for me to give legal opinions, but we all know the circumstances under which people can form honest and reasonable, but mistaken, beliefs.

Hon. H. W. GAYFER: With the Minister's profound reasoning, he may be able to inform me if I have missed a point in this Bill that enables a weighbridge operator or an officer of the Transport Commission, if in doubt at any time, to check if the grain was delivered at a particular spot. Can he demand entry into either the books or the particular bin? That point has been raised by Hon. W. N. Stretch and while I admit that this provision is something that has not existed before, I am concerned if in fact it means that without a warrant a transport officer can go into a bin. I want that clarified for my own information, because we have had trouble with this before and I know that we shareholders of the company are particularly sensitive to the fact that somebody may be allowed to walk into either the weighbridge office to do a check-up, or the head of the bin to look at the grain for himself in order to see whether someone has been telling the truth.

Hon. Peter Dowding: The clause extends no such powers.

Hon. W. N. STRETCH: I accept all that the Minister says except the onus of proof clause. That throws the rest of his comments away because when he began his remarks he said that providing the carrier had reasonable grounds to believe that he was not able to deliver he could shoot past the bin and go on to the next one. To me a reasonable ground would be that there was half a mile of trucks lined up waiting to unload. It might look ridiculous to the Minister but it is very much a fact that when one is out there in the middle of harvesting operations these things slow one down when one is facing a great volume of grain. It is an important factor. What Hon. Mick Gayfer and I are saying is that it is best to know who has the final authority; whether it is the receival point which cannot take the grain, or whether one accepts the word of the weighbridge officer, or whether it is up to the driver's judgment.

Hon. PETER DOWDING: We are looking at a situation which imposes a requirement on parties to deliver to the nearest facility. That is what the law says at the moment. What is being said under this clause is that one can deliver to the nearest facility that is available for receival. I do not interpret that as meaning there is a bit of a queue. I interpret the clause to mean, rightly or wrongly, that the facility is available. As Mr Gayfer outlined and as I outlined during my second reading speech, the Committee knows that I have been provided with the sort of circumstances that have been contemplated in the drafting of the legislation. If the member wishes me to run through them all over again, I will.

Hon. W. N. Stretch: Do you accept the word of the receival officer?

Hon. PETER DOWDING: There are so many possibilities as to how one might come to that sort of conclusion. One might come to the facility and the officer employed by the receiver might say that the facility is not available to receive that grain. The position is that the operator can take the matter to court if he is challenged.

I cannot take the matter much beyond that. A sign could have been placed in a prominent position or there could have been a fire at the facility. I can think of a number of signals, communications, or messages. The point is that the operator has to establish, if he is challenged in the court, what the circumstances were. They may have been completely unknown or they may have been obvious.

I am sorry that I cannot take the position further. I think the more we talk about it the more we raise all sorts of spectres of situations that do not arise. We are not talking about a series of factual alternatives. We are talking about what the amendment does. This amendment gives the ability to the operator to go to another facility where that operator can establish, by any one of a number of reasons and mechanisms, that the first facility was not available for receival.

Hon. W. N. STRETCH: I thank the Minister for his explanation. He has virtually said that if the receival facility makes it clear that it cannot receive grain, that is the end of the story.

Clause put and passed.

Clauses 52 to 75 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. Peter Dowding (Minister for Employment and Training), and passed.

ACTS AMENDMENT (RESOLUTION OF PARLIAMENTARY DISAGREEMENTS) 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) [11.06 p.m.]: I move—

That the Bill be now read a second time.

Before explaining this important Bill, some background is necessary to promote a fuller understanding. The two Houses of Parliament are bound to disagree with each other from time to time. This requires an effective mechanism for conflict resolution. Without that, the two Houses cannot act constructively. Tasmania and Western Australia are exceptions among the Australian States in having no constitutional mechanism for the resolution of disagreements between the Houses of Parliament. Where an impasse occurs, as it has up to this time on nearly all of the parliamentary and electoral reform legislation brought into this Parliament, there is no solution except to keep repeating what has already been proven to be unsuccessful.

Section 46 of our State Constitution which places some restrictions on this House with respect to money Bills, states that the two Houses are otherwise equal in power but does not include arrangements to deal with disagreements. It is this fundamental inadequacy that this Bill is designed to make good. But the Bill is a result of a long process which commenced with the victory of the Australian Labor Party at the 1983 State election.

The Acts Amendment (Parliament) Bill 1983 set out the general and specific reasons why the Western Australian Constitution should contain effective mechanisms for the resolution of parliamentary disagreements. A crucial set of figures quoted in 1983 must now be revised. At that time two deadlocks existed between the Houses.

Since then the behaviour of the Opposition in this House has reaffirmed its historical party political bias. So far in this Parliament deadlocks have occurred over eight Government Bills. Over the past 32 years this House has blocked but one Bill from a non-Labor Government but no less than 49 Bills proposed by Labor Governments. The record shows that the Legislative Council has found that the idea of an impartial House of Review is almost impossible to separate from party politics and it is in this context that we must envisage the operation of the proposed conflict resolution mechanisms.

The 1983 Parliament Bill proposed that in relation to all money Bills, the Government should have the option to ask for the Governor's assent if the Legislative Council had rejected such a Bill or otherwise had failed to pass it in a form acceptable to the Legislative Assembly within a period of one month. In relation to other Bills the 1983 Bill proposed that a Bill could create a deadlock if the Legislative Council rejected, failed to pass, or made amendments unacceptable to the Legislative Assembly and after an interval of three months, this pattern was repeated.

Two alternative procedures were proposed to resolve a deadlock. The Legislative Assembly could resolve that the dispute be decided by the electors voting at a referendum or the Governor could be asked to dissolve both Houses of Parliament simultaneously. If after the double dissolution election the Legislative Assembly again passed the Bill which caused the deadlock, the Bill would have been presented to the Governor for assent.

These sensible proposals were refused even a second reading by the members opposite. Like nearly all the divisions which have brought about the nine deadlocks in this Parliament, malapportionment of enrolments enabled the representatives of a minority of electors to reject the Bill. In the division 12 Ayes representing 44.6 per cent of electors were defeated by 18 Noes representing only 39.1 per cent of electors. There is something seriously wrong with our Parliament when a minority of electors can be represented here by a majority of members whose party was soundly defeated in the voting at the previous election. This distortion of democracy has been made worse by

the fact that the members opposite were preventing the people from voting on the issue at a referendum.

During the debate on the 1983 Parliament Bill the Opposition repeatedly said that far-reaching reforms should be the subject of consultation and compromise. The rejection of the Parliament Bill showed that the Opposition was itself unwilling to initiate a process of consultation, but the Government took the requests for consultation seriously. Perhaps that was a mistake. Nevertheless, even at this late hour, the Government stands ready to consult and discuss with the Opposition or with any concerned citizens.

One form the Government's willingness to consult took was the decision to appoint a Royal Commission so that the process or working out these proposals would be in open forum for all the community to see. The Royal Commission, appointed in July 1984, was charged with the duty to inquire into and report on two questions—

(1) Should the laws of this State prescribe a means of overcoming or resolving deadlocks or disagreements between the Legislative Assembly and the Legislative Council in relation to proposed legislation?

(2) If so, what method or methods for overcoming or resolving such deadlocks or disagreements should be prescribed?

The Royal Commission was chosen as a way in which the Government could provide all interested persons and groups with the opportunity to state their preferred solutions. The long history of conflicts between the Houses pointed to the need for an impartial and independent view from outside Parliament.

In mid-February 1985 the report of the Royal Commission into parliamentary deadlocks was released by the Government for public comment. I do not know whether there was any substance in the rumour at that time that the Liberal Party had made a secret submission to the Royal Commission. However, several things were immediately clear. Firstly, the Leader of the Opposition had like other people suggested alternative terms of reference to the Royal Commission. The response given in paragraph 43 of the Royal Commission's report indicates that the methods, procedures and answers would in effect have been the same had the suggested alternative terms of reference been applied.

Secondly, it is clear from the range of views expressed in submissions to the Royal Commission that even though the State Opposition refused to participate in any meaningful sense, other competent people contributed conservative points of view. The Royal Commission did receive submissions representing a broad spectrum of opinion from complete abolition of this House through to no change at all, and has therefore facilitated the process for which it was designed.

Not relying solely on what people chose to submit to him, Professor Eric Edwards actively researched the background to the problem and in volume 2 of the report he amassed a wealth of additional information relevant to the inquiry.

After considering the report, noting the range of views that had been submitted, and that the recommendations represented a compromise position, Cabinet gave approval on 9 April 1985 for a Bill to be drafted. Professor Edwards' recommendations were to be followed, and in outline these were—

(1) With regard to Supply Bills—a suspensory veto along the lines of section 5A of the Constitution Act of New South Wales should be prescribed.

(2) With regard to other Bills—including constitutional amendments—a method based on section 57 of the Commonwealth Constitution should be prescribed.

These recommendations fall far short of what the Government would prefer; namely, the same mechanisms that operate to resolve deadlocks between the House of Lords and the House of Commons in the British Parliament. The two recommendations of the Royal Commission are now translated into the Bill before us and both involve compromise by the Government. Financial management involves all aspects of the Budget: Loan Bills, tax Bills, and Bills for ordinary annual services. It was the interdependent nature of the components of a Budget and British precedent that led the Government in the 1983 Parliament Bill to propose that the Legislative Council should have the same one-month suspensory veto for all money Bills.

For the Government to now agree that the one-month suspensory veto be limited only to Bills for ordinary annual services is a compromise. A deadlock over a money Bill which is not for ordinary annual services will have to be settled by the slow double dissolution method

and this could mean a wait of over six months for what a Government sees as essential financial measures.

Furthermore, the double dissolution and joint sitting steps of the mechanism proposed for all other Bills preserve extensive power for this House and throw the problem back into an electoral system built on the rotten foundations of gerrymander and malapportionment.

The whole point of the appointment of the Royal Commission was to seek out some effective solution that could be accepted by all parties as a reasonable compromise.

It should now be clear that this Bill is the result of a long evolutionary process and its present form is a testimony to that process and to the competence of the people involved.

The real substance of the Resolution of Parliamentary Disagreements Bill is in amendments which expand section 46 of the Constitution Acts Amendment Act. Section 46 deals with relations between, and the relative powers of, the Houses. This corresponds with the arrangement of sections 53 to 57 of the Commonwealth Constitution. The mechanisms must make special arrangements which adapt the normal procedures of law-making to fit in with the varied arrangements which facilitate the political input to the process.

Following closely the recommended model in section 5A of the Constitution of New South Wales, the Bill proposes in clause 11 that if the Legislative Council rejects a Bill appropriating revenue or moneys for ordinary annual services of Government, or requests unacceptable amendments to such a Bill, or fails to return such a Bill to the Legislative Assembly within one month after receiving it, the Legislative Assembly may direct that the Bill be presented to the Governor for Royal Assent. The content of such a Bill which becomes the subject of such a direction may not be altered except to include any amendment previously requested by the Legislative Council.

The phrase "ordinary annual services" is used in preference to "the ordinary annual services" to make clear that the disagreement resolution mechanism is intended to be applicable to a Bill that appropriates money for only a part of the ordinary annual services. A mini-Budget is an example. Traditional prohibitions against "tacking" provisions other than those dealing with ordinary annual services are incorporated in the proposed new section.

The New South Wales Parliament has not found it necessary to resort to the provisions of section 5A of its Constitution since its enactment in 1933 and this indicates that a second Chamber can perform its function adequately without using the power to refuse Supply. Even if a Government was forced to wait for one month to secure appropriation for ordinary annual services, the proposal ensures that this House cannot ultimately force a Government to resign because it cannot pay its employees and meet its normal ongoing expenses.

In the final analysis, this House will not be able, through refusing Supply, to bring about the dissolution of the Legislative Assembly alone. Since the Legislative Assembly cannot dismiss the Legislative Council alone, this proposal creates a more even balance between the powers of the Houses.

Professor Edwards reported in paragraph 180 that—

> With regard to Supply Bills, I reach my answer with assurance.

The necessity of Supply for the survival of a Government and the implications of political use of power over that lifeline were summarised by Professor Edwards when he said in paragraph 182—

> the contents of a Supply Bill ("tacking" apart) are not likely to be an issue. The denial of supply by the Council is but a way of forcing the Government to resign and, as a practical consequence, the Assembly to an election.

Professor Edwards recommended a different method to resolve a disagreement over Bills other than for ordinary annual services. In paragraph 192 he said—

> With any other Bill there is not usually the same urgency. The disputes are generally over policy matters, and a rejection of the Bill by the Council will not force the Government to resign or the Assembly to an Election.

Based on section 57 of the Commonwealth Constitution, the Bill proposes that in certain cases, if the Houses disagree twice over a Bill originating in the Legislative Assembly, the Governor-in-Council may dissolve both Houses of Parliament simultaneously. A disagreement arises over a Bill if—

> the Legislative Council rejects the Bill, or does not return the Bill to the Legislative Assembly within two months of receiv-

ing it, or passes, but by a simple majority only, a Bill that must be passed by an absolute majority; or

the Legislative Assembly records that it will not make or accept an amendment to the Bill requested or made by the Legislative Council.

At least three months must elapse between the time when the Bill is transmitted to the Legislative Council on the first occasion and the time when it is passed by the Legislative Assembly on the second occasion. This second occasion must be in the same or the next session of Parliament. Some of the lengthy uncertainty that is possible in section 57 is reduced by setting the first date of transmittal of a Bill to this House as the date for the commencement of the three-month interval between the two parliamentary phases of the mechanism.

If the Government wishes to advise a double dissolution in respect of a disagreement it must do so within three months after the emergence of the disagreement. It cannot do so within six months before the date of the expiry of the term of the Legislative Assembly.

Following section 57 further, if a disagreement persists after a double dissolution election as a result of yet another rebuff by the Legislative Council of the Bill passed by the Legislative Assembly, the Governor may convene a joint sitting of both Houses. Such a joint sitting may consider the Bill in its final form before the joint sitting plus any amendments made or requested by one House and not agreed to by the other. An absolute majority of all the members for the time being is required to pass any amendments or Bills at a joint sitting. If Bills are passed by an absolute majority at a joint sitting they shall be taken to have been duly passed by both Houses of Parliament.

Commonwealth experience with the provisions for a joint sitting indicates that these events are likely to be infrequent. In fact there has only been one joint sitting as a result of the operation of section 57. But a joint sitting of the Houses of this Parliament for other purposes is not unusual. I understand there have been two celebratory occasions in 1929 and 1982. In addition, the Houses of our State Parliament have sat together for the purpose of electing people to fill casual vacancies in the State's Senate seats on six occasions in the past.

At a joint sitting the relative strengths of the two Houses are important factors and in clause 2 it is proposed to entrench the historically determined strength of the Legislative Assembly as compared to the Legislative Council. Since the creation of two Houses of Parliament in Western Australia the number of members of the Legislative Council has never exceeded three-fifths of the number of members of the Legislative Assembly.

The proposed section 46B is not identical with section 57 of the Commonwealth Constitution. One adaptation addresses a serious weakness of section 57 which does not envisage the Senate doing nothing about a Bill. In 1975 the Federal Budget was simply deferred. The Resolution of Parliamentary Disagreements Bill therefore proposes that a disagreement can arise if the Legislative Council has failed to return the Bill to the Legislative Assembly within a period of two months of receiving it.

Together with the three months that must elapse between the first transmittal of the Bill to the Legislative Council and the second passing of the Bill by the Legislative Assembly, the shortest period in which a Legislative Assembly could bring about a disagreement with a non-cooperative Legislative Council is five months. Of course, if both Houses were intent on having a disagreement this could occur in a little over three months and at the other end of the time scale a disagreement could conceivably take two full sessions of Parliament to emerge.

Persuaded by argument that Bills should not be "stale" and that it should not be possible to "stockpile" Bills awaiting an auspicious moment for a double dissolution, Professor Edwards recommended an adaptation of section 57. Rather than place a restriction on the number of Bills, the constraint of a time limit beyond which a disagreement cannot be used to justify a double dissolution was recommended. He said in paragraph 198 that—

A Government should within three months of the second rejection of a Bill be able to decide whether the Bill is sufficiently important to warrant a double dissolution.

Another adaptation of section 57 permits the proposed joint sitting to consider amendments which have been requested but not agreed to. Apart from the fact that the word "requested" is more appropriate to our State Constitution, disagreements over money Bills other than

Bills for ordinary annual services may be resolved by the mechanisms in proposed section 46B. The Legislative Council may request amendments to such Bills under the existing section 46 and the adaptation will allow these requests to be considered.

Other adaptations of section 57 accommodate the requirement that in Western Australia certain measures require an absolute majority. For example, Bills proposing changes to certain sections of the Constitution or to the Electoral Districts Act are in this category.

Proposed section 46C acknowledges the importance of the time at which a Bill is transmitted or returned to one of the Houses. A House cannot avoid its responsibility to receive a communication from the other House by simply not sitting.

In drafting this Bill, a solution had to be found to the problem of the duration of terms of members of this House after a double dissolution. As the 1984 fair representation Bill showed, Government policy is unequivocally in favour of members of the Legislative Council serving two terms of the Legislative Assembly which ensures that elections for both Houses can always be simultaneous. However, Professor Edwards in paragraph 172 reported that he felt his terms of reference prevented him from considering the idea of simultaneous elections. In view of the absence of any recommendation relating to the problem of the duration of terms after a double dissolution, the Government has chosen a proposal which maintains the existing arrangements as far as that is possible. No matter when a double dissolution election occurs, the proposed arrangements in clause 5 will reduce or extend the terms of members of the Legislative Council to expire on 21 May after a term based on three or six years. Subsequent elections will be held early in each third year as at present.

If a double dissolution election occurs after 31 January and before 1 September, Legislative Council terms will expire in three and six years from 22 May in that year. If the double dissolution election occurs after 31 August but before the next 1 February, Legislative Council terms will expire in three and six years from the next 22 May.

This proposal means that the duration of terms immediately after a double dissolution could be up to three months shorter or nine months longer than three years. As members will be aware, this is the present situation for the Legislative Assembly and the proposal dovetails neatly with these existing arrangements. It ensures that State elections will normally occur early in the year and that both Houses are likely to enjoy a fuller term after a double dissolution than the Commonwealth counterparts.

But the absurd situations surrounding the fixed date of 22 May remain. At normal elections we may still see repeats of the 1983 spectacle of defeated councillors sitting and voting here while their elected replacements had to wait until 22 May before taking their seats. I wish that Professor Edwards had felt that he was able to consider the possibility of simultaneous elections; but since he did not, the Bill proposes a workable version of the fixed terms concept.

Clauses 7 and 8 propose changes to the voting entitlements of the Presiding Officers in both Houses. When the votes on the floor of the Assembly look as though they will be equal on an important measure which requires an absolute majority, a member can cause the measure to lapse by not voting. Because the absence of that member removes the equality of votes, the Speaker is denied a casting vote and the measure therefore fails to achieve the required absolute majority. It is an example of where a rule is inadequate because it invites this cynical exploitation by an Opposition. The Bill proposes that the Western Australian Presiding Officers have similar voting rights to the President of the Senate. That is, they may have a deliberative vote only on all measures and when the votes are tied, the question is resolved in the negative.

Like all other members here, the Speaker and the President each represent a group of electors and these people have as much right to have their view recorded on all measures as any other group of electors. This fact and the unfortunate consequences of the present rule in a House with an uneven number of members indicates the need for reform.

At various places in the Constitution Acts Amendment Act, the Electoral Act, the Parliamentary Superannuation Act and the Salaries and Allowances Act, amendments are proposed that are consequential to the possibility of a double dissolution. There are no new principles involved in these adjustments.

I anticipate that some members of the Opposition may reassert their claim that Conferences of Managers already provide a means of overcoming parliamentary disagreements. Although the Standing Orders are made poss-

ible by the Constitution they are not a part of it and they are adopted by the two Houses independently of one another. Professor Edwards considered whether the Standing Orders relating to Conferences of Managers were laws or not and concluded in paragraph 38—

> I would be taking a very flaccid view of my terms of reference if I read them as precluding me from continuing with the inquiry because I was persuaded that the Standing Orders could be described as laws and that Conferences of Managers could be regarded as a means of settling deadlocks between the Houses.

A Conference of Managers is entered voluntarily by each House and even the unanimous decision of a conference is not binding on either House. Conferences occur only over disputed amendments, which means that there is no way at present of resolving a conflict between the Houses if one House flatly rejects or refuses to consider a Bill. A conference is really just a formal arrangement which at present exists to permit the formal discussion of certain types of disagreements. Whether there are or are not constitutional provisions for the resolution of disagreements, formal arrangements for full discussions which seek to find some workable solution are an essential part of the process of resolving disagreements. No change is therefore proposed to the idea of the Conference of Managers. The Bill proposes additional mechanisms that guarantee a parliamentary disagreement can be resolved even when a Conference of Managers has failed.

The Acts Amendment (Resolution of Parliamentary Disagreements) Bill represents the refined result of much consideration which includes the historically significant Royal Commission into the question. Constructive moves in the past to refer the problem of disputes between the Houses to an outside judicial authority had unfortunately not been followed up until 1984.

The preference of the Government is for terms of the Legislative Council to be two terms of the Legislative Assembly and for disagreements to be settled using the British model in which the House of Lords has the power to cause a delay of up to 12 months; but the Royal Commission did not choose that pathway. The recommendations made by the Royal Commission represent a compromise position which relies on tried and tested constitutional models elsewhere.

The indirect but fatal power presently held by this House over Supply is ameliorated to a delaying power which cannot force the Assembly alone to an election. In all other matters in dispute, the proposed mechanisms take the dispute back to the voters. Accountability is created in a Constitution which at present contains no laws for the resolution of the more or less inevitable disagreements.

The resolution of disagreements Bill proposes reform of our nineteenth century State Constitution to create a Parliament accountable to the voters for its actions in accordance with modern constitutional ideas.

By following the manner and form requirements of the Constitution the Government is proposing a referendum on this Bill.

It is intended that the referendum be held in conjunction with the next State election. If the Parliament passes the Bill later in this session, the election will fall neatly inside the six months within which the referendum must be held. In a very real sense the Parliament does not make this law. It is for the voters to decide whether or not they wish our State Constitution to contain these practicable and reasonable deadlock resolution mechanisms. The Government is prepared to place the question before the electors and, since they are the ultimate source of authority in our system of government, I trust that the Opposition members here will also be prepared to do the same.

I commend the Bill to the House.

Debate adjourned, on motion by Hon. G. E. Masters (Leader of the Opposition).

FINANCIAL ADMINISTRATION AND AUDIT 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) [11.37 p.m.]: I move—

> That the Bill be now read a second time.

The Financial Administration and Audit Bill is the result of a lengthy and comprehensive review of the Audit Act 1904 and the attendant Treasury Regulations.

The review, which was undertaken by a committee chaired by the Under Treasurer and comprising the Auditor General, Deputy Audi-

tor General and senior officers of Treasury and the Public Service Board, concluded that the present Act, which has remained substantially unaltered for over 80 years, did not adequately provide for the modern accounting, audit and financial management practices necessary to ensure a high level of accountability in the public sector.

Consistent with our policy for the efficient management of the State's finances, the Government has keenly supported the work of the committee and is pleased to bring before Parliament this legislation, which will provide a sound and modern framework for financial administration.

The Bill has been prepared to replace the Audit Act and to make substantial improvements in the law relating to financial management and year-end reporting within the public sector. At the same time the Bill maintains the role of the Auditor General with respect to the audit of the Treasurer's accounts and departmental operations, and reinforces his role as external auditor of statutory authorities.

I do not intend to dwell in detail on the content of the Bill as the Government has had an explanatory memorandum printed, and this will be distributed.

I now turn to the main features on the Bill.

The Bill has been structured on a three-tier basis, whereby matters of principle are addressed at the Act level; regulations will contain matters of principle below the level appropriate for legislation and will take up the discretionary powers of the Treasurer; and a third level, termed Treasurer's Instructions, will be prescriptive as to the detailed practices and procedures required in the operations of departments and statutory authorities.

The Treasurer's Instructions will, amongst many other things, include the specification of accounting and annual reporting standards and, by their nature, will be capable of responding to new developments and changes in financial administration and audit as they occur.

In Australia, efforts are currently being concentrated through the Public Sector Accounting Standards Board to develop a proper and consistent framework of accounting standards relevant to both the Federal and State public sectors. Our officers of the Treasury and the Audit Department are working closely with this board and other professional bodies to ensure that our financial administration benefits from developments as they emerge, in keeping with the thrust of the Bill now before the House.

Perhaps the most significant aspect of the Bill is the strengthened requirement for accountability by departments and statutory authorities. This is accomplished by charging designated officers, boards of management or their equivalent with responsibility for the services under their control and requiring them to prepare and submit an annual report on the finances, efficiency and operations of their organisations.

The Bill introduces the concept of permanent heads of departments as being "accountable officers" and boards of management of statutory authorities being "accountable authorities", with each being responsible, in a very specific manner, to their Minister for the financial administration of the bodies under their control.

Inherent in the thrust for improved accountability is the requirement to report on the discharge of responsibilities and to do so in a timely manner.

At present many departments and statutory authorities are under no obligation to prepare annual reports, and amongst those that are there is considerable inconsistency in the standard of presentation and content. Under the provisions of this Bill, each department and authority will have to prepare an annual report, which will need to meet prescribed standards in regard to financial statements and operational reporting, as well as contain performance indicators as measurements of efficiency and effectiveness.

In addition the Bill places time constraints on reporting, so that annual reports are submitted to Ministers within two months of financial year end and, in turn, Ministers are required to table reports in Parliament within 21 days of receiving the Auditor General's opinion on the financial statements and performance indicators.

Another important aim of the Bill is to modernise the keeping of and reporting on the Treasurer's accounts.

The existing legislative framework provides for a Consolidated Revenue Fund, a General Loan Fund, and a Trust Fund.

The essential elements of this three-fund approach will be continued under the financial administration and audit legislation, although

it is proposed to change the title of the General Loan Fund to "General Loan and Capital Works Fund".

The new General Loan and Capital Works Fund approach provides for the drawing together of the variety of funding sources which fund the capital works programme and continues the practice of recent years to advance estimates of expenditure for the General Loan Fund within the context of a capital works programme.

The Bill also provides for the continuation of the Trust Fund accounts established under the Audit Act, but is more prescriptive in that it defines the accounts which may be established and requires the preparation of a trust statement for each account, detailing aspects such as the name and purpose of the account and specifying requirements in respect of the administration, investment and keeping of accounting records.

Overall these requirements will greatly strengthen control over accounts forming part of the Trust Fund.

The existing Treasurer's advance arrangements will be formalised under the Bill, by the establishment of the Treasurer's Advance Account as a statutory account, to record drawings from the public bank account for those purposes.

The authorisation for Treasurer's advance will be contained in an annual Treasurer's Advance Authorisation Act, which will specify both the monetary limit to which the Treasurer can draw moneys from the public bank account and the purpose for which the Treasurer's Advance Account may be applied. Members should note the change that is intended here, wherein the monetary limit prescribed within the Act will be an authorisation, as opposed to the current practice of seeking an appropriation in both the Supply and Appropriation (Consolidated Revenue Fund) Bills.

Payments from the Treasurer's Advance Account will be chargeable against Consolidated Revenue Fund or General Loan and Capital Works Fund, pending parliamentary appropriation in the following financial year. The Treasurer's Advance Authorisation Act will lapse at 30 June of each year.

For the new Treasurer's advance arrangements to commence operating from the beginning of next year, it will be necessary to introduce a Treasurer's Advance Authorisation Bill prior to that date.

The annual statements on the Treasurer's accounts will also be subject to time constraints on reporting and are to be completed and submitted to the Auditor General by 31 August.

The Treasurer's accounts will continue to be maintained on a cash basis and will be supplemented by the reporting of revenue uncollected, expenditure outstanding, amounts written off and losses through theft and default. The latter information is currently reported to Parliament by the Auditor General. On the receipt of the Auditor General's opinion on the financial statements, the Treasurer will be required to table the financial statements and the Auditor General's opinion in both Houses of Parliament within 21 days.

Although this Bill introduces a number of significant changes in accountability, reporting and audit, it is important to recognise that it retains the basic principles of the Westminster system of Government, whereby Parliament authorises the spending of moneys from the public purse, the Executive is responsible for the spending of moneys in accordance with Parliament's approval, and the Auditor General is empowered to examine and report to Parliament upon the Executive's actions.

The requirements in respect of Supply and appropriation, now contained within the Audit Act, have been embodied within division 4 of the Bill. In this regard, a safeguard is placed over expenditure in respect of the Consolidated Revenue Fund and General Loan and Capital Works Fund, by specifying that no money shall be withdrawn from the public bank account for expenditure in respect of those funds, except after the granting of Supply under an appropriation Act.

Similarly, provision is continued for automatic Supply where, before the end of a financial year, Supply is not granted under the Supply Act.

The present Audit Act does not contain provisions to take account of the transfer of functions between departments and between ministerial portfolios during the course of a financial year. Accordingly, the Bill establishes machinery provisions to enable the Treasurer to transfer the unexpended portion of any appropriations between items and divisions in the event of a reallocation of functions.

The Bill has been structured so that the statutory authorities listed in schedule 1 will be subject to its provisions, the regulations and the Treasurer's instructions.

This measure has three broad implications in that it—

(i) places the same probity requirements on statutory authorities as on departments;

(ii) as a consequence of amendments to their enabling Acts, places on statutory authorities the standard Financial Administration and Audit Bill provisions concerning the preparation of estimates, keeping of accounts, the form of the financial statements, auditing of accounts by the Auditor General, and tabling of reports in Parliament; and

(iii) removes the need to proceed with a separate Annual Reporting Bill.

A number of activities, funds, committees, councils and boards are created within legislation and are administered by certain statutory authorities and departments. These activities have been termed "related bodies" for the purposes of the Bill, and the statutory authority or department which exercises control or a significant influence over such a body will have the reporting responsibility for it.

Related bodies are not detailed in schedule 1, but will be specified within Treasurer's instructions, which will also direct the level of reporting to be discharged.

In preparing this legislation, the opportunity has been taken, as far as possible, to have the new Act embrace all matters of financial administration. Accordingly, the Bill takes up the provisions of the Public Moneys Investment Act 1961-1981, which Act will be repealed under the consequential Acts amendment Bill which I will introduce shortly.

Although the provisions dealing with the manner and with whom the Treasurer can invest public moneys remain substantially unchanged, the Bill introduces certain amendments to provide a wider scope for investment, which reflects developments in financial markets since the Act was last amended in 1981.

In framing these amendments, care has been taken to ensure that the new avenues of investment maintain the same prudent level of security as those already authorised.

For example, the Bill extends the definition of a bank to include all State banks, whereas the current Act only recognises the Rural and Industries Bank of Western Australia and those banks authorised under section 5 of the Banking Act of the Commonwealth. The inclusion of all State banks will widen the scope for investment without reducing the level of security, given that these banks are guaranteed by their respective State Governments.

In addition to Commonwealth and Western Australian Government-guaranteed securities, the Bill now also provides for investment in securities guaranteed by any State Government, bank accepted or endorsed bills of exchange, and negotiable, convertible or transferable certificates of deposit issued by a bank.

The Bill continues the arrangements established in the 1981 amendments whereby investments may also be made by advancing moneys on deposit, in accordance with an approved offer and acceptance procedure and against security to a registered dealer in the short-term money market.

It is proposed however that, in addition to the new securities already mentioned and those permitted under the existing Act, letters of credit confirmed or guaranteed by a bank be also authorised as security which can be taken against deposits with dealers.

All these securities maintain the prudential standards established under the Public Moneys Investment Act and only securities which are Government guaranteed or bank backed are introduced as new forms of investment in this Bill.

I now turn to part III of the Bill, which specifies the role of the Auditor General, his responsibilities to provide audit coverage and to issue opinions and reports.

The Bill maintains the independence of the Auditor General, from both the Executive and the Parliament, in his role as the external auditor of the accounts of Government, and provides a base for the occupant to discharge his oath to faithfully, impartially, and truly execute the office and perform the duties required according to law.

The Auditor General's existing strong statutory powers necessary for the conduct of audits are continued. He is entitled to full and free access at all reasonable times to information, documents, records, money and property. Banks and financial institutions are required to provide information on accounts maintained. Power is also provided for the Auditor General to call for persons and papers and to examine persons on oath.

The excessively prescriptive and outdated audit requirements of the Audit Act have not been continued. Whereas the present Act is

transaction oriented, modern auditing practice is now systems based, with the concern being on the adequacy and proper operations of the system.

The Bill reflects this change, by expecting the Auditor General to exercise his professional judgment and charging him with auditing the accounts in such manner as he thinks fit, in accordance with recognised auditing standards and practices and having regard to the character and effectiveness of the internal control and internal audit of the organisation.

It should be noted that the Bill extends the audit function beyond financial compliance and empowers the Auditor General at any time to audit the effectiveness of systems designed to achieve or monitor programme results, and conduct investigations into such financial matters he considers necessary, including examinations of the efficiency and effectiveness of departments and statutory authorities or parts thereof. This provision complements the new requirement for the Auditor General to form an opinion as to whether departmental and statutory authority performance indicators are accurate and valid.

The Bill appoints the Auditor General as auditor for all the statutory authorities included in schedule 1. An effect of this provision is that a number of statutory authorities not previously subject to audit by the Auditor General, are now brought under his surveillance.

The Auditor General is required under the Bill to issue an opinion each year on the Treasurer's annual statements and the financial statements and performance indicators of each department and statutory authority, and the responsible Minister must table these opinions together with the annual report of the bodies concerned. In addition, the Bill provides for the Auditor General to draw to the Treasurer's attention any matters which in his opinion are of sufficient importance to justify doing so.

As auditor of the accounts of Government for the Parliament, the Auditor General has a responsibility to also report to the Parliament. The Bill provides for such a report at least once in each year, being additional to the opinions which he is to issue on each audit. This report is to cover such matters arising from his powers, duties and functions under the Act that in his opinion are of such significance as to require reporting in such manner.

Within the powers granted to the Auditor General for the conduct of audits, provision exists for the appointment of officers of the Public Service or some other person, whether corporate or unincorporate, to undertake aspects of audits and report to him. This will allow the Auditor General to enter into agency arrangements with private auditors; however, responsibility for forming and issuing an audit opinion still resides with the Auditor General.

In a notable extension to the powers of the Auditor General, the Bill now provides for the Auditor General to audit the accounts of persons or bodies which have received grants or advances from Government for a specific purpose and to ascertain whether those moneys have been expended in accordance with the purposes for which they were provided.

Finally, part III of the Bill provides for the Audit Department to be retitled the Office of the Auditor General and for the Governor to appoint a registered company auditor to audit the financial statements of the office. The new title more correctly describes the organisation which supports the function of the Auditor General and is consistent with other States.

To conclude, I again emphasise the importance of this Bill to the financial management of the public sector in this State. The framework it intends to create will place our financial administration on a sound footing, with flexibility to readily adapt to the needs of the future.

Passage of the Bill in this sitting will allow the necessary proclamations and regulations to be made for the legislation to take effect from the commencement of the financial year 1 July 1986.

I commend the Bill to the House.

Debate adjourned, on motion by Hon. V. J. Ferry.

ACTS AMENDMENT (FINANCIAL ADMINISTRATION AND AUDIT) 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. PETER DOWDING (North—Minister for Employment and Training) [11.54 p.m.]: I move—

That the Bill be now read a second time.

The Acts Amendment (Financial Administration and Audit) Bill is required to amend or repeal certain Acts as a consequence of enacting the Financial Administration and Audit Bill.

The 161 Acts requiring amendment or repeal are referred to in schedule 1 of this Bill. The Bill impacts existing legislation in three broad areas by—

(1) amending legislation which—

(a) establishes the statutory authorities listed in schedule 1 of the Financial Administration and Audit Bill;

(b) is administered by departments and incorporates accounting, financial reporting and audit requirements; and

(c) creates funds related to departmental activities;

by repealing existing accounting, reporting and audit provisions and linking the legislation to the appropriate accountability, financial reporting and audit requirements prescribed with the Financial Administration and Audit Bill. Generally, no amendment has been made to sections within existing legislation which specify unique accounting and reporting requirements beyond those contained in the Financial Administration and Audit Bill, except for the purposes of consistency;

(2) amending Acts where reference to the Audit Act 1904 or to wording covering such matters as the Public Account and General Loan Fund are rendered inaccurate or invalid as a result of provisions within the Financial Administration and Audit Bill; and

(3) amending the Financial Agreement Act 1982 and the Public Works Act 1902 and repealing the Public Moneys Investment Act 1961 and Sale of Government Property Act 1907.

The measures proposed in respect of the first two categories are fairly self-explanatory; however those intended in the last area perhaps require some further explanation.

The amendment proposed for the Financial Agreement Act is in recognition of the fact that the Sale of Government Property Fund, previously administered under that Act, no longer exists. This also makes the Sale of Government Property Act redundant, and therefore the Bill seeks its repeal.

The repeal of the Public Moneys Investment Act is of course, a consequence of the Financial Administration and Audit Bill incorporating provisions relating to the investment of public moneys.

In respect of the Public Works Act it is proposed to delete sections dealing with service wide capital works estimate preparation and associated year-end reporting. This is necessary, as under the Financial Administration and Audit Bill the Treasurer will be responsible for the preparation and presentation to Parliament of the capital works programme with accountable officers and accountable authorities being responsible for year-end out-turn reporting.

Finally, the Bill also contains savings and transitional provisions in respect of financial years of departments and statutory authorities which end on a date other than 30 June and in relation to the estimates to be prepared by statutory authorities under section 42 of the Financial Administration and Audit Bill.

As mentioned earlier this Bill is consequential to the measures proposed in the Financial Administration and Audit Bill. As such, its passage in this session would allow for the smooth introduction of those measures as from 1 July 1986.

I commend the Bill to the House.

Debate adjourned, on motion by Hon. V. J. Ferry.

ADJOURNMENT OF THE HOUSE: SPECIAL

HON. D. K. DANS (South Metropolitan—Leader of the House) [11.56 p.m.]: I move—

That the House at its rising adjourn until Wednesday, 16 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) [11.57 p.m.]: I move—

That the House do now adjourn.

Standing Committee on Government Agencies: Resignation of Members

HON. N. F. MOORE (Lower North) [11.58 p.m.]: I regret the hour, but I want to say a couple of words about the decision of three members of the Government not to continue to serve on the Standing Committee on Government Agencies. I want to make my thoughts known as a member of this committee and somebody who feels very distressed about what has happened today.

This committee has been a very good committee since its inception; it has done what I consider to be some excellent work. It has been going for three or four years. The Chairman (Hon. John Williams) has done a magnificent job in getting the committee through its formative stages to the situation it has reached where it is doing a worthwhile and in-depth inquiry into a Government agency. The situation now is that three members have decided to resign and are not to be replaced by members of the Labor Party. In a sense this will mean the committee will no longer have general acceptance in the community as it will be a one-party committee. While it can still do useful work, I doubt that its reports will have the same impact they would have if it were a bipartisan committee.

This evening I received a copy of a media statement put out by Hon. Kay Hallahan, as spokesman on behalf of the three members who withdrew. I cannot for the life of me understand why Hon. Kay Hallahan would speak on behalf of the three members, as she is the shortest serving member of the three, and Hon. Bob Hetherington was Deputy Chairman of the committee. Be that as it may, I find it disturbing to read the sort of nonsense contained in this media statement.

The statement suggests that the committee has become politicised. It consists of members of Parliament, so it is a political committee. Until the report on the Urban Lands Council every report and recommendation it has made has had the unanimous support of all members.

The Urban Lands Council report contained several recommendations on which there was a split down the middle on party lines. The committee did not take a vote on these matters. Instead, it resolved not to require the chairman to make a casting vote, but simply left it on the basis that half the members believed one thing and the other half believed another. It was reported as three members supporting one line and three members supporting another. Had it been a political committee it would have made a decision and requested a casting vote from the chairman which would have resulted in a majority decision of the committee. It did not take that action, but took the action I have described.

It was a sensible approach to take because it showed that on the committee there were two different points of view on certain subjects, but it did not decide to impose the will of three members over the other three members by using the casting vote of the chairman.

I also make the point that in that report the committee took the view that the Government was going to continue to keep the Urban Lands Council and it made recommendations based upon that assumption. What it did was useful work in respect of what this Government might do about the future of the Urban Lands Council.

In my view what the committee did in regard to the Urban Lands Council was not a political exercise. It was an exercise which showed that a committee of this Parliament could take a course of action which not only indicated different points of view, but which also enabled both points of view to be reported to the Parliament.

The DEPUTY PRESIDENT (Hon. D. J. Wordsworth): Order! I believe that the member can speak on the adjournment, but not on the Urban Lands Council, which is the subject of an Order of the Day. The member cannot speak about an Order of the Day.

Hon. N. F. MOORE: Thank you Mr Deputy President. Members will be pleased to know that the Deputy President's ruling will reduce my speech significantly. It will apply also, of course, to the Government's contraceptive Bill, which is also before the committee.

The statement that has been put out by Hon. Kay Hallahan said that the final straw came when this particular legislation was referred to the committee. The "final straw" suggests that these three members laboured under a set of adverse circumstances on this committee, that they were continually outvoted on party political lines, and that this had been going on year after year. It suggests they have been wearing the burden of the Liberal Party having a majority on the committee and that they could not get their own way.

I remind honourable members again that this particular report—the one to which I am not allowed to refer—was the first occasion on which there had been a difference of opinion of

that committee on party lines. We now have a statement that the final straw—the straw which broke the camel's back—came when another piece of legislation was referred to the committee.

I could be unkind and talk about the timing at which the final straw was reached. This piece of legislation was referred to the Standing Committee on Government Agencies two weeks ago. Since then members of the committee have conducted inquiries throughout Australia into the activities of a particular type of Government agency. It seems strange to me that these three members found it necessary to wait until their return from that inquiry to work out when the final straw was reached.

Hon. V. J. Ferry: Did they visit the Eastern States?

Hon. N. F. MOORE: I was not going to refer to that. I am sure that the Treasurer would have been happy had they made their decision before the inquiry.

I am not suggesting that the three members were totally involved, but that the Parliamentary Labor Party made a decision to embarrass the Legislative Council by taking this action in respect of one of its committees. If one reads this statement it can be clearly seen that the Labor Party is seeking to give the impression to Western Australians that somehow or other this committee is a manifestation of the majority that the Opposition has in this House. However, it has picked the wrong vehicle to use.

I know that the members from the Labor Party who are members of the committee will agree with me that the committee has worked extremely well and, in fact, it has produced some very worthwhile reports. Currently it is in the middle of an extensive and intensive report into the Lotteries Commission. What will happen now? We will now have five Liberal members and one National Party member on the committee. If the Government does not like the decisions it makes it will say that it is an Opposition committee and it does not have to take any notice of it.

When I came into this Parliament I was told by members on this side of the House, then the ALP Opposition, that this House should have a decent committee system. We have a report which Hon. Vic Ferry and Hon. Jim Brown chaired which recommended a committee system for this Parliament. Regardless of the numbers in the House, they made their recommendation on the current numbers in the House. It is a good report and I hope that one of these days it will be implemented.

What has happened tonight, with the resignation of three members of the committee, will put the committee back years, because there is no way in the world that members like me who take committees seriously will become involved. It will be a waste of time.

The Press statement released today is a political stunt. I am sure it was engineered by the Premier because it has his stamp all over it. I am sorry that members of the Labor Party have had to resign from the committee. I am sure they did not want to. I hope they will reconsider their decision in order that this committee can be re-formed on the basis of its being a joint parliamentary committee so that it can get on with the job it was appointed to do.

HON. KAY HALLAHAN (South-East Metropolitan) [12.08 a.m.]: I would like to respond to the comments made by Hon. Norman Moore. It is rather incredible to me that we on the Government side of the House constantly make the point that the whole question of committees in this House—while it is so poorly elected—creates an enormous amount of problems for Labor Party members serving on committees. When it comes to the point that the Government's legislation is referred to committees, is amended or is rejected by this House, there comes a time when we do reach the last straw. Whether Hon. Norman Moore can see that in his time constraints as a last straw, I do not know but that is what has happened.

I have tried to explain to the members of the Opposition outside this House how strongly and genuinely we feel about the injustice at the way in which this House is elected. It will be a continuing festering sore. I have made the statement before in this House and I will make it again, and if members opposite choose to ignore it I can only say that they will receive other surprises along the way in regard to interactions in this House.

Hon. N. F. Moore: It is on your head. You will get some surprises.

Hon. KAY HALLAHAN: The malapportionment of this House commenced in 1832 and it still continues. When this House is elected properly the Labor Party will be prepared to look at a very good committee system in which to take part in the same way as Hon. Norman Moore can see himself seriously taking part. I do not want to denigrate that

member's contribution to this debate in any way, but the fact of the matter is that that is the reality.

While the Opposition insists on ignoring those realities that will be the result. It gives nobody any pleasure to see a system continue in a way that is quite untenable. The fact is that there has been an attempt to make it work. Government members have taken part. It has caused us severe embarrassment on many occasions. That will not happen from here on in respect of the Standing Committee on Government Agencies. The fact is that the chairman has a casting and deliberative vote.

Hon. N. F. Moore: It has never yet been used.

Hon. KAY HALLAHAN: That was brought to our attention in order to get the report on the ULC to completion. The Opposition may have been quite unaware of the fact, but Government members on that committee were very close to resigning over that report.

Hon. P. G. Pendal: We believe that.

Hon. KAY HALLAHAN: I am very pleased that somebody on the Opposition can believe something. I have mentioned the position of the Government members.

Land: Mandurah

I address another matter in the adjournment debate tonight. I refer to a speech made in this House by Hon. Ian Pratt on 25 September. In that speech he made reference to correcting a mistake that he had made in his speech during the Address-in-Reply debate. It related to two of his constituents and to land which they wanted to acquire from the Lands and Surveys Department. There still remains in *Hansard*, the record of this House, quite serious inaccuracies in the member's delivery to the House. I do not know whether that was intentional. I am not reflecting on whether the member simply did not get straight the facts from his constituents—

Hon. I. G. Pratt: You could be embarrassed when you find out what has actually happened in *Hansard*, couldn't you?

Hon. KAY HALLAHAN: I can only go on what is before me on 25 September.

Hon. P. G. Pendal: Are you the official corrector?

Hon. KAY HALLAHAN: I am disturbed with the misrepresentation and the lack of recognition of the work of the member for Mandurah. For that reason I want to spell it out. First, when the Marshalls bought the block of land it was already zoned commercial and the portion given up for parking had been given up by the previous owner. Thus the Marshalls were not giving up land in that sense. The Marshalls had paid the previous owner $20 000 above the agreed price as they believed that they would get back the portion given up by the previous owner for a much lesser amount than that figure. Apparently some figure was mentioned to them when they were actually in the process of purchasing that land, so they paid a higher figure than probably was the fair market value. However, that was their negotiation and their business.

The Marshalls then applied for a rezoning of the block from commercial to residential. I do not think the member clearly understood that. The Marshalls should have expected to pay the fair market value for the portion of the land that they wanted to acquire as they had not given up anything. I make that point. I have no doubt the people in the Mandurah area will follow the debate. It may be clearer to them from a reading of *Hansard*. The Marshalls had not given up that land.

Hon. I. G. Pratt interjected.

Hon. KAY HALLAHAN: Would Mr Pratt like to say who directed him to make his correction?

Hon. I. G. Pratt: Finish—I am quite happy to correct you after you have finished making a fool of yourself.

Hon. KAY HALLAHAN: I do not think for one moment that a member of this House who is making a clarifying or correcting speech is making a fool of herself. Probably only a person such as Hon. Ian Pratt would suggest such a thing.

The member for Mandurah made very strong representations to the Minister for Lands and Surveys about the situation of the Marshalls. He then arranged for those people to meet the Minister and $35 000 was the fair market value put on the land. Given the earlier negotiations and the fact that the Marshalls had paid a higher price—the Minister was apparently receptive to their points—and given the fact that the member for Mandurah apparently put to the Minister a fairly persuasive case, the amount that the Marshalls actually paid was $15 000. I think Hon. Ian Pratt was a little confused on this point. We all forgive inaccuracies. They come in and people sometimes give us figures which are not spot on. However, it seems to me that the member

wanted to make a political point, because at the end of his speech he said that the principle was the same and that the department had a windfall gain at the expense of the landholders. The fact of the matter is that the landholders came out of it $20 000 better off in that discreet dealing with the Lands and Surveys Department because of the representation of the member for Mandurah. That point needs to be clarified in this record. If Hon. Ian Pratt would like to refute that, I would be very interested to hear his comments. I suggest to the member that he make it very clear that he puts accurate information before the House on this occasion.

HON. I. G. PRATT (Lower West) [12.16 a.m.]: It is very unfortunate that Hon. Kay Hallahan has put me in the position of having to criticise *Hansard* for what in fact was an honest mistake on its behalf. I would not have had to do so had she bothered to check with me first, as Mr Read had the decency to do. The member has now put the matter in the political arena. I had no more to say after I had made a correction. What actually happened was that I quoted the correct figures. A *Hansard* reporter took them down incorrectly. I corrected the figures. The next day I was out of my office. That was the day I stood in this House to apologise to the House and to put before it the correct figures. A member of the *Hansard* staff rang my office saying that I had corrected my speech but that there was an error in it and asked me to ring back. I was out of my office all day that day and I was very busy for a couple of days. When I got back to the House I was approached by *Hansard* on the same matter. I said that I had not made a mistake in the correction to the way in which the *Hansard* reporter had taken it down. The figures were correct. The final figure was $15 000, not $20 000. The *Hansard* reporter apologised to me and said that the figures would be corrected in the bound issue.

Far from giving the wrong figures, as Hon. Kay Hallahan has said, I gave the correct figures. They will come out correctly in the bound edition of *Hansard* and I have the apology of *Hansard* for its error.

Hon. Kay Hallahan: Did they write the whole last sentence?

Hon. I. G. PRATT: The honourable member wants to know. I am telling her. If she keeps quiet for a while, I will tell her. I know that she is extremely embarrassed about it, but she will have to wear it because she is wrong. She has been wrong from the start and will be wrong when I finish. No amount of interjecting will get her out of the hole she has dug herself into.

Hansard changed my figure from $15 000 to $20 000. I corrected it. The *Hansard* reporter looked at the figures and misunderstood the context. The reporter intended to do the right thing. I cannot understand why the error was made as I did not make a long or exhaustive speech. I just quoted three sets of figures and finished by saying that the Lands and Surveys Department had still had a windfall profit of $15 000.

Hon. Kay Hallahan wants to take issue over whether it was a windfall profit of $15 000. Of course it was a windfall profit. The Lands and Surveys Department outlaid no money. It did nothing at all to gain that land. Thus it had to be a windfall profit.

Hon. Kay Hallahan: Rubbish!

Hon. I. G. PRATT: The honourable member may not know what a windfall profit is. It is a profit one makes with no outlay. It just happens. If the honourable member does not understand that much economic theory she should go and learn economics, because it is not good enough that she should come into the House and talk in the manner in which she has when she does not understand what she is talking about and criticises me for her lack of understanding of basic economics.

The honourable member suggested that I did not understand what went on with this subdivision. For her information, I have had a long and deep involvement with town planning. I was chairman of a town planning committee at a time when my shire was the fastest developing shire. I also served on a district planning committee which was involved in the broadbrush planning of the corridor, so I know a little about town planning and the procedures involved in it. For the honourable member to suggest that I do not know what happened in that situation shows her lack of understanding not only of town planning, but also of people and those involved in town planning. She lacks the understanding to know what went on within the Mandurah Council. I am aware of what went on there.

Hon. Kay Hallahan: So what has that to do with this little factor in here?

Hon. I. G. PRATT: It has plenty to do with it. Again, for the member to ask that question demonstrates her lack of understanding. I will explain it to her. It may delay the House while

we get through to this little lady, but I think she needs a lesson in town planning and we will give it to her, as she has asked for it.

The original owners of this property applied for commercial zoning. A condition of that zoning was that a 12-metre strip on each side of the block should be provided for parking to service that commercial development. The owners decided not to go ahead with that commercial development. They decided to put the property on the market. The constituents that I am representing in this matter—I have a lot further to go with my representations—decided that they would like that particular property not for commercial purposes, but for residential purposes. Thus the land that had been transferred to the Lands and Surveys Department specifically for use as parking for servicing a commercial area would no longer be required for that purpose.

The constituents discussed the proposal on rezoning with the town planning section of the local shire. People like Hon. Kay Hallahan do not understand what they are talking about.

Hon. Kay Hallahan: That is rubbish.

The DEPUTY PRESIDENT (Hon. D. J. Wordsworth): Order!

Hon. I. G. PRATT: The town planner of the Mandurah Shire Council suggested to the ratepayers that they should apply to get this parking land back. The Lands and Surveys Department had no moral right to the land because it was not to be used as parking to service a commercial development. As a result the town planning department of the Mandurah Shire Council contacted the Lands and Surveys Department and discussed it at officer level. Unfortunately there is no written record. As it happened, the Lands and Surveys Department said that was fair enough, the land was not needed for parking, and it should be returned to the title. One may wonder whether the honourable member understands what the word "title" means.

Hon. Kay Hallahan: Come on. Don't do yourself a disservice, just get on with it.

Several members interjected.

Hon. I. G. PRATT: To continue with the honourable member's lesson in town planning and probably a lesson in attitudes to people doing the job of servicing as well, the next thing that happened was a letter was written. An agreement was reached in principle that the land could be returned.

In the middle of all this, before the land had actually been purchased, the previous owner found out and said that the land was taken from him. It still had a value. That is basically a normal sort of attitude.

The offer and acceptance papers were drawn up but they were not in order. There was a loophole. The man was told that if he was able to get that land back—and the indications at that stage were that the land was coming back—there would be a charge for the land because it had not been paid for by the department. The understanding was that the land would come back free.

The people I represented at that stage had a chance to say to the original owners, "If you want extra consideration for that land which was required for parking, we will not go ahead with the bill." They talked about it and as a result sent a completely new set of papers with the offer at a higher figure.

As it transpired, they heard later from the Lands and Surveys Department that it wanted $35 000 for this piece of land. The lady speaking to me said it was $50 000 and there is an explanation for her confusion. That is the figure I had.

Eventually it was discussed with two sets of people. First Richard Shalders discussed it with the then Minister, Ian Laurance, and they arrived at approximately the same figure as Mr Read and Mr McIver. So there was no great breakthrough by John Read. It happened that while this was progressing there was a change in Government and these people went to their local Legislative Assembly member who processed the matter. From discussions I have had with the previous member and the previous Minister, they would have obtained this price anyway, which I find unacceptable, no matter who happens to be in Government, Liberal or Labor.

It has been suggested to me by a number of people, but I will not name them in case I cause the Government further embarrassment, that this was all a rip-off by the previous owner. There was no rip-off by the previous owner who was asked for a sum of $20 000, I believe—I am speaking from memory. I think he received $20 000 extra. It was not a rip-off. The people who bought the land could have said they did not want to go on with the purchase. They have assured me that in the circumstances everybody, except some people in the Lands and Surveys Department, thought they

would have the land returned free because it had no monetary value attached to it. So at that stage nobody ripped anybody off.

Where the rip-off started was when the Lands and Surveys Department decided to have a nice little windfall, a profit of $35 000 for nothing. It had done nothing to deserve it. It had outlaid no money; it had done absolutely nothing. It claimed $35 000. Perhaps Richard Shalders was able to convince Ian Laurance it should be $15 000. Perhaps John Read was able to convice Ken McIver it should be $15 000, but it is $15 000 too much. It is a rip-off by a Government department.

Hon. Kay Hallahan: That is rubbish.

Hon. I. G. PRATT: It is not rubbish, because the department got the land for one reason, and that was for parking. As soon as that reason ceased to interest the Government it had no right to that land. The land should have gone back to the original owner who had given it free in the first place.

Hon. Kay Hallahan: That is a silly argument.

Hon. I. G. PRATT: The only reason one gives land free to the Government is because it is needed for a specific purpose, for a specific development.

Hon. Kay Hallahan interjected.

Hon. I. G. PRATT: The member seems to think it is okay for the Government to get land from people for nothing, but is not all right for the people who are the inheritors or the purchasers of that title to get it back free from the Government. That demonstrates the different method of thinking between Labor socialists and Liberal enterprise people.

As an enterprise-oriented person I believe people are as important as Governments. Although some people in the Labor Party might find that concept hard to swallow, I sit with it very comfortably and will continue to do so.

I have not finished with this issue. I have discussed it with the owners and explained that I will seek an *ex gratia* payment from the Government for that amount of money, because the Government ripped off those people. The Government had no right at all to the land. I am sure Hon. Fred McKenzie agrees with me because he is a person who understands the need to represent the plight of people we represent. If this had happened to some of his constituents I am sure he would be standing here saying what I am saying.

I was going to handle this matter quietly. I will mention now that John Read came to me wanting to discuss the matter quietly, and I did so. Since then I have not gone public on it at all apart from coming into the House and correcting an honest mistake.

Hon. Kay Hallahan: It was not corrected properly.

Hon. I. G. PRATT: It was corrected in the House. I have an apology from *Hansard* for trying to double-think me on it.

Hon. P. G. Pendal: Draw her a picture.

Hon. Kay Hallahan: I am not a visual person.

Hon. I. G. PRATT: The member does not have to tell me that. She came to this place with the idea of trying to make political mileage from something she did not understand and the details of which she did not have. She did not have the courtesy to do what John Read did and come to me to speak about the matter quietly. She has created a situation where she has not only embarrassed herself but will also embarrass John Read in his electorate. If that is what she wants to do to her members in marginal seats, so be it.

I treated John Read with the same respect with which he treated me. I notice that he must have been aware of what was to happen tonight because he was at the back of the Chamber listening to Hon. Kay Hallahan's speech.

My conscience is clear. I will do what I have to do on behalf of constituents in my electorate. If it embarrasses other members of Parliament, bad luck for them.

I support the motion for the adjournment of the House.

Question put and passed.

House adjourned at 12.32 a.m. (Wednesday)

QUESTIONS ON NOTICE

MINISTERS OF THE CROWN

Conference Participation

234. Hon. NEIL OLIVER, to the Leader of the House representing the Minister for Agriculture:

Further to the answer to question 204 of Tuesday, 8 October 1985—

(1) Is it normal Government practice to print and distribute invitations listing the Minister as a major participant without first obtaining approval?

(2) Who was directly responsible for the preparation and printing of the programme?

(3) As Parliament was in session why was the member for Mundaring also not consulted prior to his name being included on the programme?

(4) In what capacity and for what purpose was the member for Mundaring listed as a speaker on the programme?

(5) As a member representing the electorate why did I not receive an invitation but a programme on 19 September?

Hon. D. K. DANS replied:

(1) No.

(2) The Department of Agriculture and the Rural and Allied Industries Council.

(3) The member for Mundaring was consulted.

(4) As Chairman of the parliamentary Select Committee inquiring into the grape growing industry.

(5) The Rural and Allied Industries Council advises that invitations were included with the programme.

PRISONER

Raymond Mickelberg: Dangerous

235. Hon. P. H. LOCKYER, to the Minister for Prisons:

(1) Is Raymond Mickelberg considered a dangerous prisoner?

(2) Has the Director of Prisons or any of his officers undertaken in writing to both Raymond and Peter Mickelberg that they were not to be separated in prison prior to June 1986?

(3) Is it a fact that Peter Mickelberg is shortly to be transferred to the Canning Vale Prison?

Hon. J. M. BERINSON replied:

(1) The prisoner is rated maximum security.

(2) No.

(3) No.

TRANSPORT

Westrail: Cost Recovery Levels

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

I refer the Minister to his answer to question 217 of 26 September and ask—

(1) Through what mechanism is Westrail seeking equity in cost recovery levels?

(2) What proposals has it put forward to achieve equity?

(3) In what ways does Westrail believe that road services have any cost recovery advantages over rail services?

Hon. PETER DOWDING replied:

(1) and (2) Westrail has made submissions to the interstate commission on interstate road user charges and is also participating in a transport strategy committee study of the road user charges. It has made proposals for the restructuring of its accounts so as its own costs are the same as the private sector.

(3) Some studies indicate that heavy road freight vehicles are not meeting their fair share of road costs. For example, figures taken from the 1984 national road freight industry report indicate that road user charges for trucks over four tonnes recover only 39 per cent of their road costs. These matters are being investigated by the bodies mentioned above.

COURTS: FAMILY COURT

Access: Mr Malcolm Hart

237. Hon. P. G. PENDAL, to the Attorney General:

(1) Has the Family Court granted access to a Mr Malcolm Hart to see his child at certain times on Fridays and Sundays?

(2) Is he aware that access is allegedly denied by the wife and has been on 17 successive occasions?

(3) Has there been an order issued by the Fremantle Local or Police Courts, restraining Mr Hart from visiting the premises where the child resides?

(4) If so, what court or order has precedence—a State Family Court or a Police and/or Local Court?

Hon. J. M. BERINSON replied:

(1) and (2) The Federal Family Law Court prohibits publication of accounts of proceedings which identify those involved.

I am therefore unable to publicly confirm or deny the existence of an order of the Family Court of Western Australia.

I am prepared to advise the member privately on his confirmation that he has Mr Hart's authority to receive the answers.

(3) Yes.

(4) It is not appropriate to give legal advice by way of an answer to a parliamentary question.

TRANSPORT: RAILWAYS

Electrification: Cost

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

(1) Is it correct that the capital cost of electrifying the suburban rail system is no greater than re-equipping Westrail with new diesel rail cars?

(2) If so, will the Minister provide details of—

(a) the type of diesel rail cars which were considered for re-equipping Westrail; and

(b) the type of rail cars which would be used in the electrified system?

(3) Is it correct that natural gas will be used to generate electricity for the proposed electrified system?

(4) If so, where is it intended that the electricity will be generated?

Hon. PETER DOWDING replied:

(1) Yes.

(2) Details are given in the consultant's report, which has been tabled.

(3) and (4) The electrified system would draw power from the grid, for which a range of fuels is used, including natural gas.

HORTICULTURE

Grapes: Cuttings

241. Hon. NEIL OLIVER, to the Leader of the House representing the Minister for Agriculture:

(1) Further to question 150 on 18 September, were all rootstock orders for the following varieties fulfilled in the current season—

(a) 34 EM;

(b) Schwarzmann;

(c) Ramsey?

(2) If answer to (1) is "No", what was the shortfall by varieties and what action is proposed to overcome supply?

Hon. D. K. DANS replied:

(1) Question 150 applied to cuttings only.

All requests for cuttings of the three varieties used for rootstocks—Ramsey, 34 EM, and Schwarzmann—were met. The numbers of rootlings of these three varieties that were supplied and the shortfall in supply were—

	Supplied	Shortfall
(a) 34 EM	11 000	4 000
(b) Schwarzmann	11 500	6 500
(c) Ramsey	6 600	11 000

Growers were offered cuttings to make up the shortfall and all their requests were met.

In 1986 the department expects to have available as rootstock rootlings—

(a) 34 EM	10 000
(b) Schwarzmann	10 000
(c) Ramsey	9 000

This is sufficient for some 26 ha of plantings.

(2) Not applicable.

CONTRACEPTIVES

Sales: Stores

242. Hon. P. H. WELLS, to the Leader of the House representing the Minister for Health:

(1) What provisions are there for the sale of contraceptives in areas where there is no pharmacy?

(2) How many people or stores have been authorised to sell products which normally can only be supplied by a pharmacy?

Hon. D. K. DANS replied:

(1) None at present. However, the Contraceptives Amendment Bill currently being considered by Parliament allows certain retail outlets to apply to the Contraceptives Advisory Committee for a licence to sell condoms. The committee will consider the applications and refer its recommendations to the Commissioner of Health for approval.

(2) 139. Where there is no pharmacy in the vicinity, stores can be granted licences under the Poisons Act to sell certain classes of medicines which are normally restricted to pharmacies.

POLICE

Central Fingerprint Bureau: Use

243. Hon. P. H. LOCKYER, to the Attorney General representing the Minister for Police and Emergency Services:

(1) Does the WA Police Force make use of the Central Fingerprint Bureau for fingerprint comparison?

(2) If so, was the fingerprint allegedly identified on one of the three cheques used in the so called Mint swindle sent to the Central Fingerprint Bureau?

Hon. J. M. BERINSON replied:

(1) No, the function of the Central Fingerprint Bureau is to record and/or authenticate criminal records for Australian Police Forces. It is not a resource for comparison of crime scene fingerprints.

(2) Not applicable.

TRANSPORT: AIR

Kalgoorlie Airport: Upgrading

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

(1) Does the Minister support the proposal of the Mayor of Kalgoorlie for the Kalgoorlie airport to be upgraded to the status of an international airport?

(2) If so, what action is contemplated to achieve this upgrading?

(3) If not, why not.

Hon. PETER DOWDING replied:

(1) to (3) The whole question of the upgrading of Kalgoorlie airport is the subject of in-depth consideration at present. Extensive discussions are ensuing, primarily involving the Commonwealth Department of Aviation, the aviation industry, and the Boulder Shire Council. Any attempt to prejudge the outcome of those discussions would be inappropriate at this time. Suffice it to say, the Government will stand behind that which is best for the eastern goldfields, its industries, and its people.

TRANSPORT: AIR

Policy: Review

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

(1) Does the Minister agree with the Commissioner of Transport that WA aviation policy be reviewed?

(2) If so, what action has been or will be taken to instigate such a review?

Hon. PETER DOWDING replied:

(1) and (2) The Commissioner of Transport's suggestion was for a review of aviation policy on third level aviation routes. The Government has not as yet made a decision on the matter.

TRANSPORT: BUSES

Bunbury: Tenders

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

(1) Which companies tendered for the Bunbury bus service?

(2) Who are the principals of the successful tenderers, South West Coast Lines?

(3) Will the new service be involved in any school bus operations.

Hon. PETER DOWDING replied:

(1) South West Coach Lines
Loves Bus Service
Westrail.

(2) D. B. and L. B. Adams.

(3) Yes.