THE PRESIDENT (The Hon. L. C. Diver) [4.50 p.m.]: Before putting the question, honourable members, I would like to reaffirm the remarks of the Leader of the House, the Leader of the Opposition, Mr. Logan, and Mr. Willesee.

As your President, I always admired the attitude adopted in debate by our late colleague, Fred White. With a penetrating mind and a sense of purpose, he used to launch himself into debate, and when it was pointed out to him that his line of discussion was not relevant, he never continued with it. He immediately acknowledged that he was wrong. What a gift for any man to have! And to think that he is taken from us. It is very sad indeed.

If a young man coming into Parliament had asked me to nominate someone whom he could copy as a Member of Parliament, I would have nominated Fred White because I have seen him not only in the House but also outside it, and the manner in which he applied himself was truly in the interests of those he represented and, particularly, of the State of Western Australia.

I hope his widow and children will not come to any great harm in the days ahead, and I am sure they have many friends in this House.

Honourable members, will you please be upstanding and observe two minutes' silence in tribute to our late colleague.

Question passed, members standing.

ADJOURNMENT OF THE HOUSE: SPECIAL

THE HON. J. DOLAN (South-East Metropolitan—Leader of the House) [4.54 p.m.]: I move—

That the House at its rising adjourn until 2.30 p.m. tomorrow (Wednesday).

House adjourned at 4.55 p.m.

Legislative Assembly

Tuesday, the 23rd October, 1973

The SPEAKER (Mr. Norton) took the Chair at 4.30 p.m., and read prayers.

QUESTIONS (21): ON NOTICE

1. AUDITOR-GENERAL'S REPORT

Reference to Departments

Mr. MENSAROS, to the Treasurer:

What were the reasons for the recent Treasury practice not to forward copies of interim audit reports to the departments concerned as commented upon by the Auditor-General on page 6 in his 30th June, 1973 report?

Mr. J. T. TONKIN replied:

It has been, and still is, the practice of the Treasury to forward copies of audit reports to the departments concerned.

The Auditor-General's comment simply arises from a minor delay in recent months in forwarding some audit reports to the departments concerned. This delay resulted from the transfer to another position of the officer previously engaged on this work and the subsequent time taken to obtain a replacement.

2. TEACHERS' TRIBUNAL

Appeal

Mr. MENSAROS, to the Minister representing the Minister for Education:

As a decision has now been made by the tribunal upon the Teachers' Union appeal against the latest salaries determination, could he give information whether that part of the appeal which was seeking that any betterment of the determination should only apply to Teachers' Union members has been upheld or rejected?

Mr. T. D. EVANS replied:

The tribunal dismissed this section of the appeal.

3. GOVERNMENT AND NON-GOVERNMENT SCHOOLS

Starting Times and Holidays

Mr. MENSAROS, to the Minister representing the Minister for Education:

Could he already give the starting times and times of school holidays for—

(a) Government;

(b) non-Government,

primary and secondary schools in 1974?

Mr. T. D. EVANS replied:

(a) 1st Term—11th February-10th May;

2nd Term—27th May-23rd August;

3rd Term—9th September-20th December.

(b) Information relating to the non-Government schools is not available at the Education Department. All non-Government schools do not have common opening dates.

4. LICENSING COURT CHAIRMAN

Provision of Motorcar

Mr. MENSAROS, to the Attorney-General:

(1) Is the Chairman of the Licensing Court provided with a motor car from the pool of official Government cars?

(2) If so, when was this benefit first extended to him?

(3) If (1) is "No" is it intended to provide a motor car in the near future?

Mr. T. D. EVANS replied:

(1) The Licensing Court had the use of a car from the Government pool until the 11th October, last.

(2) From 8th June, 1973.

(3) A Holden Premier sedan has now been purchased for the use of the Licensing Court, replacing the former system of using a pool car.

5. HOUSING

Tenancy Transfers: Policy

Mr. O'NEIL, to the Minister for Housing:

(1) Is the State Housing Commission policy relating to listing tenants for transfer after a two-year occupancy period under review, or has a decision been made regarding this policy?

(2) If it has been decided to alter the policy, will he give details?

Mr. BICKERTON replied:

(1) Yes, continually.

(2) I am at present studying certain recommendations made by the commission.

6. HOUSING

Swan Electorate: Building Blocks and Programme

Mr. BRADY, to the Minister for Housing:

(1) Is the State Housing Commission holding any real estate at Hazelmere or East Midland for building purposes?

(2) Can he advise if any houses are to be built in the Midland, East Midland or Koongamia areas in the next or current year?

(3) Are any plans being made for building single unit flats for benefit of pensioners and those wishing to obtain flats in the Midland, East Midland, Koongamia and Hazelmere area?

(4) Could he state the policy for building homes in the eastern districts of the metropolitan area by the State Housing Commission?

Mr. BICKERTON replied:

(1) The commission holds—

Four half-acre lots in Hazelmere, which are not suitable for use in their present subdivisional form;
Approximately 50 acres consisting of 202 one-quarter acre allotments at North Midvale, which will be redesigned and which require deep sewerage and drainage;
Approximately 677 broad-acres in the East Midvale-Wexcombe locality, which is zoned rural;
and—
Approximately nine acres at Koongamia, which require comprehensive drainage and sewerage.

(2) As there is sufficient turnover in existing accommodation in the Lockridge-Midland localities to satisfy family applicants, no new construction is planned for the current financial year.

(3) The commission intends to call tenders in December, 1973, for a project to provide 16 units of pensioner accommodation in the Bassendean locality.

(4) In the consideration of annual building programmes, the commission firstly takes into account the accommodation becoming available in the turnover of its existing housing stocks, as well as the availability of private housing to meet the needs of applicants.

The commission regards estates extending from Belmont-Bassendean-Lockridge to Midland localities as being suitably placed to applicants working in the eastern districts of the metropolitan area.

7. HIGH SCHOOL AT LANGFORD

Establishment

Mr. BATEMAN, to the Minister representing the Minister for Education:

In view of the extensive development taking place in the Langford area, together with the fact the department already has purchased a site for the building of a high school in this particular area, will he advise when it is anticipated the building of the school will take place?

Mr. T. D. EVANS replied:

It is not possible at this stage to give any definite date for the commencement of a high school at Langford. Planning in terms of an establishment of a high school will depend upon enrolment growth at Thornlie high school and the

new high school to be built at Lynwood in 1975 and to be established temporarily in 1974 on the Cannington school site.

8. PATCH THEATRE

Performances at Schools

Mr. GRAYDEN, to the Minister representing the Minister for Education:

(1) In view of the Minister's reply to question 6 on Thursday, 13th September, 1973, in which he stated that Patch Theatre was not debarred from performing in schools, how does he explain the existence of a letter from the Director-General of Education which indicates to Patch Theatre that it no longer has the opportunity to present drama to schools?

(2) In order to clarify the situation for headmasters, will he state the exact position which applies in respect of this matter?

Mr. T. D. EVANS replied:

(1) There is no evidence of a letter having been sent recently to the Patch Theatre. The Member may care to provide the details.

(2) The Education Department subsidises the National Theatre group and this group is thus endorsed. However, performance by other groups is at the discretion of the headmaster or principal according to the educational needs of the school.

9. RAILWAYS

Takeover by Commonwealth: Negotiations

Mr. HUTCHINSON, to the Premier:

(1) Has his Government discontinued the negotiations and discussions at all levels on the matter of Commonwealth acquisition of the W.A.G.R.?

(2) If so, will he explain whether the discontinuance means—

(a) that his Government no longer intends to proceed with the handover; or

(b) that the matter merely stands in abeyance?

(3) If not, will he explain at what stage the negotiations have reached?

(4) What is the last date on which discussions or negotiations were held between Ministers and/or officers?

(5) When is it anticipated that the next meeting will take place?

Mr. J. T. TONKIN replied:

(1) No.

(2) Answered by (1).

(3) After extensive exploratory discussions, Commonwealth and State officers are drafting a paper for both Governments identifying the many complex issues which will need resolution if it is decided to proceed.

(4) The last meeting was held in Canberra at the Department of Transport on 22nd August, 1973.

(5) Further discussions have been delayed as a result of other more urgent work in the Department of Transport. It is hoped they will resume in November, 1973.

10. HOUSING

Outstanding Applications, and Right to Purchase

Mr. RUSHTON, to the Minister for Housing:

(1) By how much is the Commonwealth Government's allocation for Western Australian housing less this year than last year?

(2) What is the reason for this reduction?

(3) How many applications for State Housing Commission accommodation are at present outstanding in—

(a) the metropolitan region;

(b) country areas,

for—

(i) rental accommodation;

(ii) purchase accommodation?

(4) Will he please inform me of the time delays now applying for allocation of the various categories of commission accommodation in the different zones in the metropolitan region and country areas?

(5) How many units of rental accommodation have been completed by the commission in each of the last three years?

(6) How many units for rental does the commission expect to build from the Commonwealth allocation this year?

(7) Is the right of the rental tenant to purchase his home now to be disallowed?

(8) If (7) is "Yes" will this apply—

(a) to new rental agreements; or

(b) to previously arranged rentals?

(9) If answer to (7) is "No" what policy is to apply?

Mr. BICKERTON replied:

(1) and (2) There were no Commonwealth/State Housing Agreement type of repayable financial advances to the States in the financial years 1971-1972 and 1972-1973. However, in anticipation of

a new housing agreement, the Australian Government, in January, 1973, made a special repayable advance of $400,000 at 4% Interest for the specific purpose of building dwellings for needy families.

(3) (a) (i) *7,011 (including 1,548 duplicate applications).

(ii) 3,487.

(b) (i) *2,679 (including 112 duplicate applications).

(ii) 253.

* A recent analysis of applications revealed that, after allowing for wastage, declines, and the housing of emergent applicants, the residual applicants requiring commission accommodation is about 50% of those held.

(4) Metropolitan region—

Rental		Purchase
1-14 months	....	18-36 months

Country areas—

Rental		Purchase
1-24 months	....	6-24 months

There are some applicants listed for both rental and purchase homes in the Metropolitan Region, who have been waiting longer than these periods because the Commission has not been able to satisfy their personal choice of location and type of house.

(5)

	Metropolitan Region Units	Country Units
1970-1971	1,964	480
1971-1972	1,035	325
1972-1973	754	198

(6) 550-600 units from the Commonmonwealth repayable advance made under the Housing Agreement, 1973. In addition, applicants will be offered vacant dwellings, anticipated to be of the order of 3,200.

(7) Not if it is a single detached dwelling.

(8) and (9) Eligible applicants living in non-saleable dwellings will be able to apply to purchase single detached dwellings to be built under the State Housing Act or the new Housing Agreement, 1973 conditions and on a wait-turn-basis.

11. TIMBER RAILWAY SLEEPERS

Production: Employees and Value

Mr. BLAIKIE, to the Minister for Forests:

(1) Would he please advise the number of timber mills in the State and persons employed that are—

(a) dependent upon sleeper production;

(b) general purpose mills but with some sleeper production?

(2) Since 1968 what has been the—

(a) value to the Western Australian timber industry;

(b) value of revenue earned for the State by way of royalties, freight charges, etc.,

in each year for sleepers supplied to the Commonwealth railways?

Mr. H. D. EVANS replied:

(1) (a) 12 sawmills (7 Crown land and 5 private property) dependent mainly on sleeper production.

Total of 60 people employed.

(b) 50 general purpose sawmills (39 Crown land and 11 private property) with some sleeper production.

Total of 1,436 people employed.

(2) (a)

		Approx. $
1967-68	....	1,453,000
1968-69	....	964,600
1969-70	....	1,052,000
1970-71	....	737,600
1971-72	....	555,700
1972-73	....	508,300

(b)—

	Royalty Based on average royalty rate approx.	Freight Charges Only 2 years available from W.A.G.R.
	$	$
1967/68	201,300	....
1968/69	141,300	....
1969/70	135,000	....
1970/71	95,700	....
1971/72	74,400	107,997
1972/73	64,500	119,414

I would like to add, by way of clarification to the answers given, that the answers to part (2) are based on the number of sleepers inspected.

The value to the timber industry is based on the price per sleeper and, as it would take weeks of work to calculate the royalty from each inspection certificate, the annual average royalty was used. As indicated by the heading, only the two years for which the freight figures were available from the W.A.G.R. have been quoted.

12. AUCTIONEERS

Scale of Fees

Mr. BLAIKIE, to the Attorney-General:

(1) Is it the intention of the Government to increase scale of fees payable by auctioneers—

(a) immediately;

(b) after proclamation of Auction Sales Act, 1973?

(2) If "Yes" to (1) (a) or (1) (b), would he give detail of increased fees for each class of license?

Mr. T. D. EVANS replied:

(1) No.

(2) Answered by (1).

13. FRIENDLY SOCIETIES PHARMACIES

Increase in Number

Dr. DADOUR, to the Minister for Health:

Does he intend to introduce legislation during the present session to increase the number of friendly society pharmacy outlets?

Mr. DAVIES replied:

The Government expects to take such action.

14. FREMANTLE HOSPITAL

Additional Beds

Dr. DADOUR, to the Minister for Health:

(1) What is the earliest date, and how many, additional beds will be available at Fremantle Hospital?

(2) When will each of the 150-bed wings facing South Terrace be ready for occupation?

Mr. DAVIES replied:

(1) It is anticipated that a block containing 60 beds and other services to be erected on land east of Attfield Street will be completed and ready for occupation about the middle of 1975.

(2) The first 150 bed block is scheduled for completion by 1978. No date has been scheduled for the second 150 bed block.

15. ROLEYSTONE SCHOOL

Classrooms

Mr. RUSHTON, to the Minister representing the Minister for Education:

(1) Will he confirm the Roleystone primary school parents and citizens' association estimation that the school will need two demountable classrooms to accommodate the students at the commencement of the 1974 school year and another at the beginning of the second term?

(2) If he disagrees with this estimation, will he advise me his department's estimate of classroom requirements for next year?

(3) Will he now immediately initiate the necessary planning and have a half-cluster primary school installed at this school by the end of the first term in 1974?

Mr. T. D. EVANS replied:

(1) and (2) The August enrolment of 245 is adequately accommodated in six permanent rooms and one demountable room. With an estimated enrolment of 256 for 1974 based on an intake of 46 grade one and an outgoing grade seven of 35, there should be a staffing allocation of 7.4 teachers. This will require an additional demountable classroom for the start of 1974.

(3) Funds for 1973-74 have been fully committed and it is anticipated that a further half-cluster will be provided in the 1974-75 financial year.

16. TOWN PLANNING

Coastal Areas: Report on Usage

Mr. RUSHTON, to the Minister for Town Planning:

(1) Has the committee charged with the responsibility of examining the present usage of our coastal areas and recommending future preservation and development of the strip, made its report?

(2) If so, will he please table the report?

Mr. DAVIES replied:

(1) No committee has, to the best of my knowledge, been charged with the task to which the Member refers.

I might add there is a Conservation through Reserves Committee which is examining, under the Environmental Protection Authority, the whole of land use including coastal areas throughout Western Australia. I am not quite certain to which committee the honourable member is referring.

(2) Answered by (1).

Mr. Rushton: It has been in existence for three years.

Mr. DAVIES: Perhaps the honourable member would give me greater details.

17. TOWN PLANNING SCHEME

Kelmscott: Cost of Development

Mr. RUSHTON, to the Treasurer:

(1) How much is owing to the Treasury for the M.R.P.A. Improvement Plan (Kelmscott) No. 4 development?

(2) What rate of interest is being charged?

(3) Is this interest to be passed on to the cost of developing future blocks within this scheme?

(4) What is the Treasury's estimated commitment for developing the remainder of this scheme?

(5) What is the Treasury's timetable and planning for finalisation of this scheme?

(6) What has been the cost of developing each block to date?

(7) Will he let me know the estimated cost per block of completely servicing the remaining land?

Mr. J. T. TONKIN replied:

(1) $327,370 at 30th September, 1973.

(2) 8%.

(3) The extent to which accumulated interest is to be charged against future stages of the scheme is currently the subject of discussions between the M.R.P.A. and the Treasury.

(4) There is no commitment to provide finance for the remainder of the scheme. Each stage is considered on its merits.

(5) The Treasury does not administer the scheme, but it is understood that no firm timetable has been laid down by the M.R.P.A. for completion of the remaining stages.

(6) $1,615 per lot.

(7) Estimates of the cost of servicing the remaining land have not been taken out.

18. TOWN PLANNERS

W.A.I.T. Course, and Registration

Mr. RUSHTON, to the Minister representing the Minister for Local Government:

(1) Has he received a request from the graduates and undergraduates association in town and regional planning (W.A.I.T.) seeking recognition of their local qualifications in any legislation to register planners?

(2) Does the Government intend to introduce legislation in this session of Parliament to require planners to register?

Mr. HARMAN replied:

(1) A submission has been received on behalf of town planning graduates and undergraduates (W.A.I.T.) based on anticipated requirements of regulations respecting qualifications of planners. These regulations have not yet been formulated and will be dependent on the amendment of the Local Government Act now before Parliament.

(2) No.

19. HOUSING

Rental Homes: Eligibility

Mr. O'NEIL, to the Minister for Housing:

(1) What is the current eligibility for State Housing Commission rental assistance for each of the prescribed areas of the State?

(2) What is to be the new level of eligibility for each such area under the new Commonwealth and States Housing Agreement?

(3) Will those applicants now not deemed to be eligible be removed from the Commission's waiting lists?

(4) Approximately how many such applicants fall into this category?

(5) If these applicants are not to be removed from Commission lists, how is it proposed to provide housing for them?

(6) Will all the Commission Housing rental stock be allocated subject to the new levels of eligibility or will the new levels apply only to those houses built under the new agreement?

Mr. BICKERTON replied:

(1) The eligibility under section 6, subsection (2) of the State Housing Act is currently $109.14 per week plus district allowance as determined by the Industrial Commission for the several areas of the State, to which is added $1.92 for each dependent child under 21 years of age. It is exclusive of overtime.

(2) Eligibility under the Commonwealth/State Housing Agreement will be 85% of national average weekly earnings for the preceding December quarter. This is for a family of husband, wife and two children, and is increased by $2.00 a week for each child beyond the second. It is exclusive of overtime. By agreement with the Federal Minister, the eligibility is increased to 120% of national average weekly earnings for the north-west of the State, and 110% in other remote areas not within the South-West Land Division.

(3) No.

(4) Of the order of 10% of applicants currently listed would be above the eligibility under the Housing Agreement.

(5) From housing constructed under the State Housing Act, and from unrestricted vacancies from existing housing stock.

(6) The Housing Agreement requires 25% of vacancies arising from housing stock built under previous

Commonwealth/State Housing Agreements to be allocated to applicants eligible under the new agreement.

20. HOUSING

Rents: Review

Mr. O'NEIL, to the Minister for Housing:

(1) What policies have been followed since the change of Government in respect of—

(a) rent revaluations generally; and

(b) rent revaluations on change of tenancies of vacated houses?

(2) Have these policies differed substantially from those previously followed just prior to the change of Government?

(3) What were the losses in the State Housing Commission rental account for each of the last six years available?

(4) Is the announced rent review to be conducted in respect of—

(a) all State Housing Commission rental accommodation;

(b) only those built under the new agreement; or

(c) both?

(5) Was not the purpose of obtaining Commonwealth loan funds for housing at 4% interest aimed at maintaining the lowest rent possible and, if not, what were the purposes?

Mr. BICKERTON replied:

(1) The same as were followed by the previous Government.

(2) Answered by (1).

(3)—

	C/State	S.H.	Combined
	$	$	$
1967/68	†146,058	*†199,000	†345,058
1968/69	‡302,808	†399,148	†96,340
1969/70	‡687,744	†109,880	‡577,864
1970/71	‡706,626	†39,777	‡666,849
1971/72	‡961,108	†46,029	‡915,079
1972/73	‡1,800,653	†53,161	‡1,747,492

* Not available. Estimate only. † Profit. ‡ Loss.

(4) These matters are still under investigation.

(5) Yes.

21. HOUSING

Loan Fund Allocation: Reduction

Mr. O'NEIL, to the Minister for Housing:

(1) Would he confirm or deny that the allocation of Commonwealth loan funds to the State Housing Commission for the 1973-74 financial year (not including finance for housing of Aborigines) is to be approximately $13 million as compared with $15.4 million in 1972-73, this representing a reduction of about 15½%?

(2) Would he confirm or deny that of all the States, Western Australia is the only one to receive less funds this year than last year, and that in round terms the following increases are expected—New South Wales, 31%, Victoria, 37%, Queensland, 25%, South Australia, 8%, Tasmania, 82%?

(3) If the information in (1) and (2) is correct, will he specifically state the reasons for the reduction?

(4) If my information is not correct, will he advise details of States' allocations?

(5) Is it a fact that the allocation of funds to the Home Builders Account (i.e., to be sub-allocated to building societies, etc.) follows a similar pattern in that in Western Australia there is to be a reduction of $3.7 million (approximately 59%) whereas in all other States there are to be increases ranging from, South Australia (approximately 11%) to Tasmania (approximately 57%)?

(6) If the information in (5) is correct, will he explain the reason for the reduction in Western Australia; if not, will he provide correct figures?

(7) Who finally determines the amount of—

(a) Commonwealth loan funds to be used for housing out of the total funds for works and housing; and

(b) such funds to be sub-allocated to building societies, etc.?

Mr. BICKERTON replied:

(1) The allocation to Western Australia for 1973-74 under the Commonwealth/State Housing Agreement is $13 million. This is part only of the capital funds available to the commission and cannot be compared with the $15.4 million which likewise was part only of the capital funds available in 1972-1973. The full picture will be revealed when the Treasurer introduces the capital Budget and Loan Estimates.

(2) The Member's information is broadly correct.

(3) Broadly, to cater for the situation where eligibility under the Housing Agreement is below that under the State Housing Act, it is necessary to revert to the practice followed for many years of drawing part of capital requirements under the Housing Agreement, and part

from State resources. There is not necessarily any reduction in total funds available to the Housing Commission.

(4) Answered by (2).

(5) There will be a reduction in new funds allocated to home builders account which will be of the order of $2.4 million.

(6) This is consequential on the position explained in (3). The State Grants (Housing) Act required 30% of all welfare housing funds (which were all State funds) to be allocated to home builders account, whereas the new agreement requires not less than 20% and not more than 30% of advances under the agreement to be so allocated.

(7) (a) The State Minister for Housing.

(b) The State Minister for Housing within the limitations of the agreement.

QUESTIONS (4): WITHOUT NOTICE

1. LAND ACQUISITION

Commonwealth Government's Decision: Tabling

Sir CHARLES COURT, to the Premier:

If the copy of the question I intend to ask was received by the Premier in a condition whereby it was rather extensively altered in handwriting, this was due to a misunderstanding. I am not sure whether the Premier has received the corrected copy. My question is—

(1) (a) Is he in a position to make available to the House the conditions regarding Commonwealth assistance for land acquisition by the States as agreed to by State Ministers with the Federal Minister and as reported in this morning's issue of *The West Australian* under the heading "States agree on land price stabilisation"?

(b) If so, will he table or otherwise advise the House of the conditions?

(c) If not, when does he anticipate being able to make the conditions available to Parliament?

(2) (a) Does the arrangement that has been arrived at between the State Ministers and the Federal Minister mean that the Government will want to withdraw one or more of the three land Bills currently before the Parliament with a view to replacement legislation or are major amendments envisaged?

(b) If major amendments are envisaged, what is the nature of these amendments?

(3) When does he expect that the debate will be resumed on the three land Bills either in their present or their replacement and/or amended form?

Mr. J. T. TONKIN replied:

(1) (a) to (c) In reply to the Leader of the Opposition, it is the intention of the member for Dale to ask somewhat similar questions of the Minister for Town Planning and, in reply to those questions, the Minister for Town Planning will table certain papers.

(2) (a) and (b) Amendments will be made as necessary and in light of the agreement, when finalised.

(3) Once the agreements are signed on behalf of the Australian Government.

2. HOUSING

Aborigines: Accommodation Provided, and Policy

Mr. RUSHTON, to the Minister for Housing:

(1) Since the commission assumed the functional responsibility for housing Aborigines in July, 1972, how many of these people has the commission accommodated in the—

(a) metropolitan region;

(b) country areas?

(2) How many Aboriginal people have been housed in each of the metropolitan shires?

(3) Is he, and his department, experiencing the same dislocation of the Aboriginal family life and of the general community life in our metropolitan urban communities as reported to be the experience of the Federal Government and the Minister for Social Security, Mr. Hayden, in another way through their policies?

(4) Are extensive objections being received throughout our urban areas to the way the housing of Aboriginal families is being emplemented?

(5) Does the Government intend to continue the present policy?

(6) If the Government intends to modify the policy would he advise me in which way these changes are to be implemented?

(7) How many homes for Aboriginal families are to be made available in this financial year in the—

(a) metropolitan region;

(b) country districts; and

(i) by purchase; and

(ii) by construction?

Mr. BICKERTON replied:

(1) to (7) I received some notice of this question—it arrived at my office at 12.00 noon today. I therefore ask the honourable member to place the question on the notice paper as it was impossible to obtain the information in the time available. I ask members who require information in connection with my portfolios to give me at least some notice of the question.

Mr. Rushton: I would just like to comment that the question was actually asked at 9.00 a.m. this morning.

3. LAND LEGISLATION

Government Policy

Mr. RUSHTON, to the Minister for Town Planning:

(1) Will he advise the House the general principles reported to be agreed to for land acquisition by the States using Federal money?

(2) Does the Government now intend to withdraw the three land Bills before the House and/or—

(a) bring forward new legislation in this session of Parliament;

(b) modify and amend the Bills before the House?

(3) Has he agreed to accept the policy of leasehold land tenure for urban areas?

Mr. DAVIES replied:

I received notice of parts (1) and (2) of this question at about 10.30 a.m. The answers are as follows—

(1) I have the following papers for tabling—

(a) A summary of State Ministers' attitudes following the meeting in Melbourne on the 28th September, 1973. Unfortunately the New South Wales Minister was not present at this meeting because of the airline strike. I believe this is the statement to which reference was made earlier.

(b) The opening remarks by The Hon. T. Uren (M.P.) to the meeting of Australian Government and State Government Ministers held in Melbourne on the 22nd October, 1973.

(c) The Press report which was issued following that meeting.

(2) Amendments to the existing Bills will be made as necessary once the final statements of purpose, etc., have been signed by the Australian Government.

(3) It is this part of the question which appears to be causing the honourable member concern. I am pleased to say that the Commonwealth Government has agreed that the homes shall be held on a freehold basis, subject to the report of Mr. Justice Else-Mitchell. This proposal has been accepted by all State Ministers. Members will notice in the documents I seek to table that even flats and home units owned by a number of people will be held by them on a form of freehold. I seek your permission, Mr. Speaker, to table the three documents.

The documents were tabled (see papers Nos. 425 to 427).

4. GOVERNOR

Appointment

Sir CHARLES COURT, to the Premier:

On the Premier's return from Sydney it was reported that he said Her Majesty was not aware of the nomination for the Governorship and that apparently some delay had occurred at the Foreign and Commonwealth Office in Britain. In view of the importance of this matter and the uncertainty presently existing, has the Premier been able to take any action to expedite the final submission of a name to Her Majesty so that an announcement can be made?

If not, can he indicate the time likely to elapse before an announcement can be made?

Mr. J. T. TONKIN replied:

I discussed this matter with the Secretary to Her Majesty (Mr. Hesseltine), who was able to inform me that up to the time of

Her Majesty's leaving Britain, no recommendation had been received by her. He therefore concluded that the delay had occurred at the Foreign Office. He said that Her Majesty had received one mail bag from Britain since she has been in Australia and the recommendation was not in that. A further mail bag was expected yesterday.

If the recommendation was received yesterday, Mr Hesseltine undertook to convey to me the result of Her Majesty's consideration of the recommendation. I told him that I was concerned about the delay as one newspaper had already published an opinion about the recommendation, and that it is most desirable that the Government should be in the position to make an announcement as early as possible. Mr. Hesseltine undertook to check on the position immediately he returned to Britain. I believe no further action is necessary, having regard for that undertaking.

APPROPRIATION BILL (GENERAL LOAN FUND)

Message: Appropriations

Message from the Lieutenant-Governor received and read recommending appropriations for the purposes of the Bill.

Second Reading

MR. J. T. TONKIN (Melville—Treasurer) [4.58 p.m.]: I move—

That the Bill be now read a second time.

I table the Estimates of expenditure of the General Loan Fund for the year ending the 30th June, 1974.

The General Loan Fund Estimates, 1973-74, were tabled (see paper No. 428).

Mr. J. T. TONKIN: The main purpose of this measure is to appropriate from the General Loan Fund the sums required to finance certain capital expenditure, details of which are given in the tabled Loan Estimates.

Moneys paid into the General Loan Fund consist of new borrowings approved by the Australian Loan Council, repayments to the fund of sundry advances made in previous years, and grants from the Commonwealth for general capital purposes.

The amount available for 1973-74 is $86,315,000, comprising new borrowings of $54,587,000, loan repayments of $9,420,000, a grant from the Commonwealth of $18,858,000, and an unexpended balance in the General Loan Fund at the 30th June, 1973, of $3,450,000.

New arrangements for financing tertiary education and welfare housing will result in expenditure from the General Loan Fund being less in 1973-74 than the amount of $95,488,000 expended from that fund during last financial year.

In 1972-73, the Loan Council approved an aggregate borrowing programme for "Works and Housing" out of which an allotment was made for housing in the same way as other expenditures.

Beginning in 1973-74, the Australian Government will provide for advances for welfare housing outside the Loan Council arrangements and, as a result, this year's borrowing programme for State works will be $13,000,000 lower than it would otherwise have been.

At the June, 1973, Premiers' Conference, the States accepted the Australian Government's offer to take over full responsibility for financing tertiary education from the 1st January, 1974. However, this will not result in financial benefit to the States as the amounts of expenditures of which they will be relieved, are to be deducted from the funds that they would otherwise have received.

The reduction in the 1973-74 State Loan Council programme following the transfer of financial responsibility for tertiary education is $2,700,000.

The changed arrangements with respect to housing and tertiary education complicate comparisons between 1972-73 and 1973-74.

Perhaps the best way to relate the figures is to deduct from last year's actual general loan expenditure of $95,488,000, the sum of $1,822,000 spent on tertiary education institutions, and to compare the resultant figure of $93,666,000 with proposed expenditure this year of $86,315,000 plus $13,000,000 for welfare housing.

This total estimated expenditure on works and housing in 1973-74 of $99,315,000 is therefore $5,649,000 higher than the corresponding expenditure in 1972-73 after exclusion of last year's outlay on tertiary education.

An alternative presentation of the figures is to compare last year's expenditure of $95,488,0000 with a total for 1973-74 of $102,015,000, being proposed expenditure of $86,315,000 from the General Loan Fund, $13,000,000 from the Commonwealth advance for welfare housing, and the adjustment for tertiary education of $2,700,000. On this basis of comparison, the increase in this year's programme is $6,527,000.

It is to be noted that although the Commonwealth capital grant for 1973-74 is $25,806,000, only the sum of $18,858,000 is being taken into the General Loan Fund. The balance of $6,948,000 is being

held in reserve to cover the estimated deficit in 1973-74 on the Consolidated Revenue Fund.

Before I turn to speaking on the Estimates, I propose to refer briefly to other funds which will be available in 1973-74 for capital purposes.

In addition to approving the annual works and housing programmes of the States, the Loan Council approves an aggregate annual borrowing programme for the larger State semi-governmental and local authorities.

Larger authorities are now defined as those borrowing more than $400,000 in a year. Smaller authorities are those borrowing $400,000 or less.

The borrowing programme approved by the Loan Council for semi-governmental bodies and local authorities whose individual annual raisings exceed $400,000 is $33,233,000 for 1973-74, which is $926,000 less than the amount borrowed last financial year.

This reduction results from the non-recurrence in this year of a special additional allocation in 1972-73 of $3,000,000, which is partly offset by a general increase of $2,074,000 in the total borrowing programme for 1973-74.

The distribution of the 1973-74 borrowing programme is shown in an attachment to the Estimates.

The Loan Council also agreed at its June, 1973, meeting that the policy adopted in recent years of not placing any overall limit on the borrowings of smaller authorities would again be continued in 1973-74.

The aggregate loan raisings of these smaller borrowers in 1972-73 was $20,556,000 and the estimate for 1973-74 is $21,221,000.

State authorities in this category are expected to raise $7,120,000 in this financial year to assist the financing of their works programmes. Details are also shown in an attachment to the Estimates.

Commonwealth Specific Purpose Payments of a Capital Nature

These payments by the Australian Government are not subject to Loan Council approval and because they are fully described in the Commonwealth publication "Payments to or for the States" I do not propose to deal with them in any detail.

Certain of these advances are paid to the State for direct transmission to various authorities such as the Main Roads Department, the Rural Reconstruction Authority, the several tertiary education institutions, and the independent schools; and for this reason they are not included in the detail set out in the Estimates.

Other payments to the State form part of the funds available to finance the works programmes detailed in the Estimates and these have been listed under appropriate headings. The total of the sums so listed is $19,857,000 for 1972-73 and $40,114,000 for 1973-74.

Included in the payments for this year is the Commonwealth advance for housing of $13,000,000 to which I referred earlier in this speech.

Other new arrangements commencing this financial year which will attract Commonwealth capital assistance, and the estimated payments to the State in 1973-74 are—

	$
School dental scheme	650,000
Community health facilities	536,000
Mental health, alcoholism and drug dependency services	590,000
Sewerage works	3,800,000
Upgrading urban public transport	1,688,000

There will also be substantial increases in Commonwealth capital grants for technical training—$62,000—Government schools—$3,248,000—and Aboriginal advancement—$2,676,000.

There are other proposals for the provision of funds by the Commonwealth for programmes that are yet to be finalised and which are subject to the conclusion of agreements between the Governments as to conditions and procedures to be followed. The programme for land acquisition in urban areas is in this category.

In cases where the total of funds to be made available to the State is not yet firm and details of the programmes are not available, they have not been included in the Estimates.

Internal Funds

Internal funds of certain State instrumentalities are also an important source of finance for capital works. Depreciation funds, cash balances, and profits are the main items.

It is expected that expenditure which is to be financed in 1973-74 from these sources will total $59,292,000 compared with $38,868,000 in 1972-73. Details are given in the Estimates.

Other Funds

Contributions from mining companies and property developers for the provision of Government services and loans raised by local authorities for specific works also add to funds available for capital works.

Amounts spent last year from these sources totalled $11,894,000, and expenditure this year is expected to total $12,322,000.

Works Programme 1973-74

With the funds available from the sources I have described, a works programme of $232,695,000 is to be carried out this year, financed as follows—

	$
Proceeds of Commonwealth loans	54,587,000
Commonwealth General Purpose Capital Grant	18,858,000
Loan repayments	9,420,000
Balance in General Loan Fund at the 30th June, 1973	3,450,000
Borrowings by State authorities listed in the Estimates	34,652,000
Commonwealth specific purpose payments	40,114,000
Internal funds	59,292,000
Other funds	12,322,000

Last year, a programme of $197,768,000 was carried out with finance from similar sources and so planned expenditure in 1973-74 represents an increase of $34,927,000, which is 17.7 per cent. above the outlay in 1972-73.

Expenditure from the General Loan Fund

Of the total finance required for the planned works programme, an amount of $86,315,000 is to be supplied from the General Loan Fund for the purposes listed in the Estimates.

In past years, it has been the practice for the Treasurer to speak at some length on the various items contained in the Estimates in order to supply members with more detail of the various undertakings.

On this occasion, the Estimates are being presented in a totally different form which gives much more detail of the works being carried out and, also, the source of finance for these works.

In the past, the Estimates have dealt only with that part of the State's capital works programme financed from the loan fund and have therefore provided very limited information on works to be undertaken during the year and the way in which they were to be financed. Members have had to rely on the Treasurer's speech and, not infrequently, on questions to obtain details of the works programme.

I have always considered this to be an unsatisfactory situation and I am pleased to say that we have now moved to provide Parliament with full details of the State works programme.

Members will find proposed expenditure for the current year set out under appropriate headings and, in most cases, for specific works. In addition, comparable detail or actual expenditure in the previous year is provided.

The funds to be employed to finance the programme set out under each main head of expenditure are also shown and the amount to be provided from the General Loan Fund and which is subject to appropriation, is identified.

I am sure this new informative presentation will be welcomed by members and that the document will now be of greater interest to the Press and the public.

Because of this change in presentation of the Estimates, it is unnecessary for me to speak on all items of proposed expenditure and I shall, therefore, confine my remarks to some features of particular interest.

Education

An expanded programme of school buildings is to be undertaken this year.

Work will commence on four new high schools in addition to the five schools currently under construction and a sum of $8,584,000 is to be spent on additions and improvements to existing high schools.

New primary schools are to be built at eight centres in the outer metropolitan area; seven now under construction will be completed, and additions and improvements to existing primary schools will be carried out at a cost of $5,680,000.

The Government's concern to improve secondary education facilities in remote areas is exemplified by the commencement of a new high school at Kambalda and the upgrading of the Wyndham and Norseman Junior High Schools. All are to be air-conditioned.

The building programme for the Bentley technical complex is to continue, including commencement of a food service and hotel management training facility. Provision has been made to spend $1,391,000 on additions to other technical schools.

Other projects include the construction of vocational training centres at Port Hedland and Manjimup.

The provision of funds by the Commonwealth for upgrading schools will enable combined halls and gymnasiums to be built at six senior high schools which will fill a long awaited need. In addition, library-resource centres are scheduled for seven country junior high schools and 32 primary schools.

Hospitals and Health Services

The diagnostic and administration block at the Perth Medical Centre is prominent among new hospital projects to be commenced this year. The total cost of this project to completion is expected to be $7,315,000.

The special diagnostic unit is a vital part of the Perth Medical Centre complex and will incorporate all facilities necessary for the comprehensive investigation of patients referred for diagnosis.

The escalating cost of providing inpatient accommodation is of concern to the Government and the public, and it is expected that this unit will do much to avoid the need for persons requiring diagnosis of their illness to be admitted as inpatients.

The building will also provide administrative offices, and house medical records and the social work department.

A phased programme of development at Fremantle Hospital will be continued by the provision of a new kitchen and cafeteria, and a new 60-bed ward block. The latter, which is due for completion by mid-1975, will do much to alleviate the current bed shortage at that hospital.

Extensions to the casualty department should be completed by March next year, further relieving the pressure on the hospital.

Provision has also been made for design work to go ahead on the next phase of extensions which will provide a new outpatient department, and a major ward and services block.

Work is also to commence this year on the Western Australian School of Nursing to be located near the Perth Dental Hospital. The school, which is to be administered by an independent management committee, will provide for the needs of Royal Perth Hospital and Government hospitals in relation to both basic and more advanced nurse education programmes.

The completion this year of major extensions to Royal Perth Hospital is a major step forward in correcting what was a growing deficiency in facilities for the treatment of accident and emergency cases.

The additions, which have involved expenditure of $5,500,000, will provide 139 beds and other needed facilities including special theatres, a central sterile supply department, and laboratories.

Funds are to be provided this year for design work to proceed on a proposed diagnostic centre and outpatients clinic.

With the assistance of the Australian Government, a new dental therapists training school will be ready for use at Mt. Henry early next year. The school will enable the Public Health Department to train the additional therapists needed for the proposed expansion of the School Dental Service.

Also with the aid of funds provided by the Australian Government, a new concept in community health care is about to be introduced to this State. Planning is well advanced for the construction of community health centres at Mandurah and Busselton. The Busselton centre will be adjacent to the proposed new hospital on which design work will be commenced this year.

The centres will provide facilities for the provision of primary medical and dental care by private practitioners together with facilities for paramedical, child health, and mental health services.

Mental Health Services' Bentley Clinic, though not a large project, is of special interest in that it is the first step in an overall programme to provide outpatient clinics on a regional basis. The clinics will remove the need for people requiring consultation and basic treatment to travel long distances.

They will also enable general practitioners to maintain contact with their patients by providing professional services in their own areas.

A radio-frequency heating generator for the treatment of cancer is being acquired for the W.A. Institute of Radiotherapy.

The basis of treatment is the application of heat which is generated locally in the body by combining up to 12 intense microwave radio beams in such a manner that up to three litres of tissue in any part of the body can be raised to varying temperatures for varying periods of time.

Clinical evaluations of this treatment at several German and United Kingdom centres unanimously agree that many cancers regress with one or more applications of heat. It is described as being safer than surgery, X-ray therapy, or cytotoxic chemicals.

The Director of the Institute of Radiotherapy, Dr. Holt who, I might say, is amongst the most highly qualified radiotherapists in Australia, if not in the world, has described the treatment as one of the major advances in cancer therapy and he believes that there are many patients in Western Australia who would benefit from its use.

Dr. Holt estimates that 200 patients per annum in Western Australia would be suitable for treatment by the machine. He has said that the treatment will completely relieve symptoms of advanced cancer —something which no other method in his 20 years' experience in specialising in the treatment of cancer has been able to do. In his opinion it will revolutionise X-ray therapy practice.

To use Dr. Holt's own words, he said that more than 800 patients over a period of three years have been given this hypothermal treatment. Such treatment has been carried on in Edinburgh, and Dr. Holt has actually spoken to patients who received this treatment and who now appear to be fit and well.

Equipment to administer this treatment has been developed by a German firm and production of a series of units is now in progress. At my request Dr. Holt visited

Hamburg to inspect and operate the equipment. He has wholeheartedly and unreservedly recommended that Western Australia purchase one of these machines. Italy has lodged a firm order for three of the machines to be installed in Rome.

I regard the acquisition of this equipment as a major step in the treatment of cancer and I have therefore taken action for its installation in the institute at the earliest possible date.

In the words of Sidney Carton in *A Tale of Two Cities* by Charles Dickens, "It is a far, far better thing that I do than I have ever done".

Urban Public Transport

A total of $2,800,000 is proposed for expenditure this year on projects which the Australian Government is prepared to support under the urban public transport improvements programme. Under the proposed arrangements, the State is to contribute one-third and the Commonwealth two-thirds of the funds required to implement approved projects.

The aim of the scheme, which will extend over several years, is to improve the comfort and convenience of capital city public transport in an attempt to arrest the decline of patronage and reduce the pressure of private cars on city roads.

Each project has been subjected to careful scrutiny by the Bureau of Transport Economics and the benefits to be derived have been weighed against the costs.

The programme makes provision for the replacement of all M.T.T. buses over 20 years old and 50 new buses will be purchased this year as the first step towards achieving that objective.

A bus-only access road is to be constructed to connect Fitzgerald Street directly to the central bus station by way of a signal-controlled level crossing over the railway at that point. This short cut is expected to reduce significantly travelling time for buses coming into the city from northern suburbs.

A pedestrian bridge is proposed to connect the bus station with the south side of Wellington Street to avoid the need for bus patrons to cross Wellington Street traffic. The most effective design of the pedestrian overway requires that arrangements be concluded with the owners of property opposite the bus station to permit access through their property and discussions as to how the overway can best be integrated with site redevelopment proposals are now proceeding.

Other projects to be undertaken under the urban public transport improvements programme include replacement of the existing timber jetties and ferry terminal buildings at Barrack Street and Mends Street and the construction of three suburban bus transfer stations.

Water Supplies, Sewerage and Drainage

Substantial progress will be made this year with the programme to overcome the backlog of sewerage in the metropolitan area. In an unprecedented level of activity, sewer reticulation work is in progress or will soon begin in 27 localities throughout the metropolitan area.

With the aid of funds made available by the Australian Government, it will now be possible to complete the main gravity sewer through to Morley by early 1974 instead of almost a year later as originally scheduled. Progress of this main sewer is the key to providing sewerage facilities to a large population living in established northern suburbs as far as Midland and Midvale.

The South Dandalup dam and the main linking it to the metropolitan area will be completed this year. With water already filling the dam and the main due for completion in December, the supply could be tapped this summer if necessary.

The continued rapid growth of iron ore shipments from Port Hedland has emphasised the need for major improvements to that town's water supply and $1,500,000 will be spent this year on installing new bores at the Yule River, 40 miles from Port Hedland, and enlarging the supply main. The funds required for the current year's programme are to be supplied by the Mount Newman Mining Co.

An extensive programme of work on improving country town water supplies includes the provision of a new storage dam and bitumen catchment at Jerramungup and the installation of a new supply to Ongerup from Mills Lake.

State Electricity Commission

Prominent items in the State Electricity Commission's programme are progress payments and installation costs of the two 200 megawatt generator units and associated steam plant being installed at Kwinana. These two units, which will have the greatest capacity of any plant installed within the S.E.C. system, will involve total expenditure of $15,000,000 in this financial year.

Installation of the units will complete the current contract for the development of the Kwinana power station.

A combined pumped storage and water conservation scheme was investigated by the commission last year in conjunction with the Metropolitan Water Board. Currently the Snowy Mountains Engineering Corporation has been engaged to carry out site investigation and to prepare a detailed proposal for a multi-purpose scheme on the Serpentine River.

Other Items

I propose to comment on only a few other items of general interest as further information which may be required on any particular work can be obtained from the responsible Minister. These are as follows—

A start will be made this year on a six-storey combined railway headquarters and passenger terminal at East Perth. The overall cost of this building will be about $6,000,000 and expenditure of $1,150,000 proposed for this year is to be met from the proceeds of the sale of railway land.

Over $3,000,000 will be expended this year on the construction of stage II of the police headquarters on the Causeway site. The building will be ready for occupation early in 1975 and will house the commissioner's office, the C.I.B., the Firearms Branch, and the Liquor and Gaming Branch. A modern communications centre will also be provided in the building.

The first move towards the construction of a modern maximum security prison to replace Fremantle Prison will be made this year with the commencement of work on the Canning Vale site.

This year the Fisheries and Fauna Department will commence a staged programme to acquire land in the Benger Swamp area as a wildlife sanctuary for waterfowl, particularly the rare freckled duck. The department will also purchase land adjoining the Tutanning fauna reserve, to extend this well-known marsupial sanctuary.

A new office building is to be constructed by the State Shipping Service to replace the old offices and store in Short Street, Fremantle. Preliminary discussions have been held with the Fremantle City Council on a proposal to demolish the old building backing Pioneer Park and permit the park to be extended to the Short Street frontage. This development should enable the council to provide additional parkland in the heart of the city and generally improve the appearance of one of the older parts of Fremantle.

Conclusion

In addition to appropriating moneys from the General Loan Fund for the services of the year ending the 30th June, 1974, the Bill provides for the grant of supply to complete requirements for this financial year.

Supply of $30,000,000 has already been granted under the Supply Act, 1973, and further supply of $56,315,000 has been allowed for in the Bill now under consideration.

This total of $86,315,000 is to be appropriated for the purposes and services expressed in a schedule to the Bill.

As well as authorising the provision of funds for the current year, the measure seeks ratification of amounts spent during 1972-73 in excess of the Estimates for that year. Details of these excesses are also given in a schedule to the Bill.

I commend the Bill to members and, in so doing, draw attention to the fact that the Estimates have already been tabled.

Debate adjourned, on motion by Sir Charles Court (Leader of the Opposition).

INDUSTRIAL ARBITRATION ACT AMENDMENT BILL

In Committee

Resumed from the 11th October. The Chairman of Committees (Mr. Bateman) in the Chair; Mr. Harman (Minister for Labour) in charge of the Bill.

Clause 45: Amendment to section 74—

Progress was reported after the clause had been partly considered.

Mr. HARMAN: We were previously discussing demarcation disputes and the Deputy Leader of the Opposition questioned why it was necessary to make any changes to the special board. There have been some cases which indicate that there should be changes in representation on the board so that an equitable consideration may be given.

The amendment proposes that the commission—not the Minister or anybody else—will constitute a board which will be conducive to an equitable investigation and determination on a particular question. Apparently there have been some cases where, an employer having shown an interest, the commission, under the present Act, has set up a special board, the representation of one half of which constitutes the employers and the other half the industrial unions.

In a demarcation dispute involving two unions it has been found that the union opposing the applicant union will side with the employer which means there is a representation of two to one. If the chairman votes with the applicant union there is no opportunity for a decision to be reached.

The amendment proposes to allow the commission to set up a board which will be equitable in a case such as I have just mentioned, and the question can then be determined. The chairman of the special board, who will be a commissioner, will have an opportunity to determine the question after listening to arguments presented from both sides.

Mr. O'NEIL: It is true I had asked the Minister to give me an interpretation, quite frankly, of the need for the proposed change. I do not think he has convinced me that the situation which exists at the moment warrants change. The Minister

said there have been some occasions when certain things have happened and I would like him to be more specific and explain them to me.

I think he also indicated that when the Industrial Commission sets up a board to discuss a demarcation issue the chairman would be a commissioner and I wonder whether, in fact, that is correct. If I am correct and the Minister's statement appears, then, to be inaccurate, I think we on this side must stand by our previous decision and my previous indication that we will oppose the clause. I propose to read the provisions as they exist in the parent Act.

It is a pity we have to do this so frequently but we do lose our train of thought because of the number of times this legislation appears before us. We ought to relate the present position which is covered by section 74 of the parent Act. The section reads as follows—

> 74. (1) Where it appears to the Commission that a question has arisen as to the right of workers in specified callings to do certain work in an industry to the exclusion of the workers in other callings, the Commission may, on application made by any industrial union of workers or industrial union of employers, constitute a Special Board to determine such question.

That is perfectly clear and I think all members present would know, in general terms, the meaning of a demarcation dispute. To continue—

> Such board shall consist of a chairman and such number of other members as the Commission may fix, and—

The section goes on to give a guideline for the establishment of the board, as follows—

> (a) if in the opinion of the Commission employers are interested in the question, one half of such other members shall be representatives of employers, and the other half shall be representatives of the industrial unions of workers engaged in the said callings;
>
> (b) such of the callings as the Commission considers to be directly interested in the question shall be represented on the board by an equal number of representatives of employers (if in the opinion of the Commission employers are interested in the question) and representatives of the industrial unions of workers concerned.

I do not think the Minister has clearly explained the reason for changing that basic concept. He has mentioned that, in fact, there have been some cases where wrong decisions have been made; or that is the implication. He also stated that the chairman would be a commissioner, but I do not think he will be.

Mr. Harman: Who becomes the chairman now?

Mr. O'NEIL: I think the commission can appoint any person it desires.

Mr. Harman: Has he not usually been a commissioner?

Mr. O'NEIL: I do not know. I cannot recall experiencing any difficulties with this particular section during the six years I was Minister for Labour. That is why I ask the Minister to be precise in his reason for the proposed change.

Mr. Harman: How many times do I have to explain the reason?

Mr. O'NEIL: I have asked two specific questions: What are the occasions when difficulty has occurred—because the Minister gave that as one of the reasons—and, secondly, I would like him to be specific as to whether or not the chairman of the board would be a commissioner of the Industrial Commission? It is proposed to take away the present guidelines which must be used to establish a demarcation dispute board and replace them with the concept to be constituted under proposed new subsection (1a), which reads as follows—

> (1a) A Special Board constituted under subsection (1) of this section shall consist of a Chairman and such number of other members as the Commission may fix.

I doubt whether the chairman is usually a commissioner because the commission can consist of a single commissioner sitting alone. In those circumstances he is called a "Commission", otherwise, it is a "Commission in Court Session" which consists of not less than three members.

Proposed new subsection (1a) states that the board shall consist of a chairman and such number of other members as the commission may fix. Why not say that the board shall consist of a commissioner and others? Proposed new subsection (1b) reads as follows—

> (1b) In constituting a Special Board and fixing the number of members of the board the Commission—
>
> (a) shall have regard for whether employers are interested in the question to be determined by the board; and
>
> (b) shall allow for representation on the board on a basis which, in the opinion of the Commission, will be conducive to an equitable investigation and determination of that question.

I suppose, in essence, one could not argue with what appears to be something that is reasonable. In other words, the Parliament is saying to the industrial commissioner who, for the purposes of this section, is called "the commission", that when he establishes the board he is to make certain that the representatives on it are selected in such a way that there is a reasonable chance of arriving at a reasonable result. That is fair enough, but it leaves a great deal of discretion to the industrial commissioner. It is also fair enough that Parliament ought to set the guidelines in legislation such as this.

This is what has existed before and now it is to be changed. I have not heard what I believe to be a reasoned argument from the Minister with regard to this change.

I want to be precise and I will repeat my queries for the third time. Will the Minister give the Committee some examples as to where difficulties have occurred? Will the Minister confirm that there will always be a commissioner as chairman of this board? Will the Minister not concede that the chairman need not be a commissioner? If so, will the Minister give the reasons for his statement to the effect that it is most likely the chairman of the board will, in fact, be an industrial commissioner?

Mr. HARMAN: I am not trying to mislead the Committee. After discussion with my departmental officers I have been given to understand that the chairman of the special board will be a commissioner, as has been the case in the past. It is quite possible, I suppose, that other people may have been appointed as chairmen—perhaps the Industrial Registrar or somebody of that nature. I am willing to concede that is possible. I queried this point and the information given to me is that the chairman of the special board will be a commissioner. I will endeavour to ascertain the exact position and, at a later stage, inform the Committee whether this is or is not the case.

All we are asking in respect of the other question is, as I have repeatedly said, that the commission should have the authority to allow for representation on a board which, in the opinion of the commission, will be conducive to an equitable investigation. I made the point that half the representatives on the special board could comprise employers and the other half could comprise two unions. One of those unions may be a captive union in the sense that it has always had an arrangement with the employer. Along comes another union—or a member of another union—and the claim is made that the members of the other union should be doing that particular job. Consequently, a demarcation dispute arises.

How would it be possible to conduct an equitable investigation when the captive union could side with the employer? The applicant union would then be outnumbered two to one.

This brings me to my next point. If a determination is to be made the chairman must be able to decide the issue, one way or the other, by his vote. As I have said, in this example the employer and the captive union, together, would outnumber the applicant union two to one. The chairman of the special board would not have the opportunity to determine the matter.

I cannot quote precise instances for the benefit of the Deputy Leader of the Opposition. This is the situation, as it has been explained to me. We are not asking the Parliament to bring the Government or anybody else—such as unions or employers —into this. All we are asking—and I think it is fair—is that the commission shall allow for representation on the board which will provide for an equitable investigation and a final determination.

Mr. O'NEIL: I appreciate that this is the last opportunity I will have to speak to this clause. I want to use an unparliamentary expression and say we have heard a "supposititious" argument from the Minister. He has said that if—and because—certain things may happen a provision is being written into the law.

The member for Mt. Hawthorn would be the first to recognise that, if it is necessary to amend the law, it is encumbent upon the Minister so doing to bring forward facts. I have heard that statement so often in the Parliament and I am glad to see the member for Mt. Hawthorn is on my side. This certainly has not got through to the present Minister.

I asked the Minister to tell me specifically of the examples which existed and which have occasioned the Government to give consideration to amending this part of our industrial law. The Minister said that he understood certain things had happened to occasion the amendment. I am quite sure the member for Mt. Hawthorn would not agree that the Minister's argument is a good one. The member for Mt. Hawthorn is smiling, and obviously he agrees with me. There is absolutely no logic in an argument which uses "if" or "because". I have said previously that if an aunty were built differently she would be an uncle. That does not mean to say she is, nor that we need to amend aunties.

If the Minister brings down specific legislation which will make a radical change in a provision which has not occasioned any difficulty in the past he must give specific reasons. The Minister has said, in effect, that when the commission appoints a commissioner as the chairman of the board he ought to be able to determine the structure of the board so that it arrives at the sort of decision he wants, even though that is supposed to be a fair and accurate decision.

Mr. Harman: I never said that.

Mr. O'NEIL: No, but the proposed paragraph says that the commission—

> (b) shall allow for representation on the board on a basis which, in the opinion of the Commission, will be conducive to an equitable investigation and determination of that question.

That is fair enough. However it follows automatically from the provision that, if the commission were determined to make a decision in a certain way, the amendment gives it the right to structure the board, which makes the recommendation or determination, in the way it wants to structure it. On the other hand, we, the Parliament, have laid down in the Statute guidelines in respect of the formation of this particular board—and that is the way it ought to be. I am not saying that any of the commissioners—as I know them—would, in fact, structure such a board to give a decision in the way they felt it ought to be given. The fact remains that under the provision proposed by the Government this could be possible.

Mr. Harman: The Deputy Leader of the Opposition is presupposing.

Mr. O'NEIL: I am developing the Minister's suppositious argument.

Mr. Harman: The commissioner would be appointed before he heard the evidence.

Mr. O'NEIL: The Minister is now implying that the commission, when it appoints a chairman, is going to appoint itself as chairman. Mr. Minister, it is not possible to have it all ways!

First of all, let us be certain as to who will be the chairman of the board. The Minister told the Committee, first off, that it would be a commissioner. The Minister's interjection indicates that the commissioner would be appointed before he heard evidence and, although the Minister did not do so, I know he was going to continue and say the commissioner would make his own rules. Do not tell me that a commission, which determines that a board is necessary, does not know the background.

Mr. Harman: I was interrupted to some extent. Would the Deputy Leader of the Opposition repeat that?

Mr. O'NEIL: The Minister's interjection was something to the effect that the commissioner would be appointed before he heard the evidence. Do not tell me that before the commissioner makes a decision—

Mr. Harman: What I said was—

Mr. O'NEIL: Perhaps it is just as well we are in Committee and the *Hansard* reporters do not need to report our comments in detail. At any rate the Minister is unclear as to who will be the chairman of one of these demarcation boards. The Minister is also unclear as to what the reasons are for changing the provision which currently exists.

I think he accepts that the commission is to be given the right to structure the board in order that it will produce what it considers to be a fair and equitable result. I am pointing out, just as the Minister did in respect of certain things which might happen, that in this we create a danger.

Many Statutes contain provisions laying down guidelines along which certain commissions, boards, and so on shall carry out their functions, and it is fair enough for the Parliament of the day to make a determination on this particular matter. I hark back to the point that we are not talking essentially about an argument between management and labour in that sense. We are talking about a dispute between one union of workers and another union of workers in which the employer could be vitally concerned. The Minister talks about captive unions and so on. That is not my particular concern. Those are, once again, suppositions on his part.

I simply want to indicate that the explanations given are not satisfactory from our point of view. We have not been convinced that there is any factual basis for making such an amendment to the law. In fact, we on this side would have been much happier had we known that all these provisions had been discussed by all sections involved in industrial law—management, labour, and the Government. We know, however, that is not the case. We know this Bill has been considered by the contracting parties on one side only. Therefore, unless the Minister can give us valid and adequate reasons, we must oppose these provisions, if only on that ground.

It is quite clear that a number of other provisions facilitate the administration of the law and obviate much of the red tape for the unions of both employers and employees. We have shown our support for provisions of that kind, but a provision such as this, which we know has not been discussed with one of the parties which will be represented on the board, must be regarded with suspicion unless the Minister can give us facts concerning the recommendation which has been made to him.

Perhaps I should go further and ask the Minister who made that kind of recommendation: Which captive union, or other union or individual, became involved to such an extent that the Government decided to amend a piece of industrial law which has stood the test of time?

The CHAIRMAN: The honourable member has two minutes more.

Mr. O'NEIL: In the absence of a satisfactory explanation, we will oppose the clause.

Mr. HARMAN: The Deputy Leader of the Opposition made reference to the point that in preparing this Bill the Government

consulted with one party only. I must admit I was not around when the Bill was being prepared but, since receiving this responsibility, I have looked back through the records and from what I can ascertain it seems both sides—management and labour—were consulted. I do not think it is correct for the Deputy Leader of the Opposition to say or give the impression to this Chamber that the Government consulted one party only. From what I was able to ascertain, it consulted both sides. Naturally, the Government gives consideration to all the submissions that are made.

Mr. Rushton: With whom did the Government consult other than with the unions?

Mr. HARMAN: The Employers Federation.

Mr. Rushton: To the best of your knowledge?

Mr. HARMAN: It did.

Mr. O'Neil: Are you certain the Employers Federation was consulted in respect of amendments to the Industrial Arbitration Act?

Mr. HARMAN: That is my understanding.

Mr. O'Neil: We ask the question: is it your understanding or is it a fact?

Mr. HARMAN: It is my understanding from going back through the records.

Mr. Rushton: Would you ascertain this?

Mr HARMAN: Some of these matters were raised at a meeting of the Minister for Labour's advisory committee.

Mr. Rushton: If you find that is not so, will you let us know?

Mr. HARMAN: I will inform the Chamber as soon as I establish whether or not the Employers Federation was consulted. Whom else should the Government consult?

Mr. Rushton: If it has not consulted the Employers Federation, would you agree to stay your hand?

Mr. HARMAN: I will tell the honourable member at the appropriate time whether or not the Government did discuss the proposed industrial legislation with the Employers Federation.

The CHAIRMAN: Order! Would the Minister speak a little louder, please? I am sure the *Hansard* reporter is having difficulty in hearing you, because I am.

Mr. HARMAN: Section 74 of the Act is being amended by clause 45 of the Bill. Section 74 of the Act says—

> 74. (1) Where it appears to the Commission that a question has arisen as to the right of workers in specified callings to do certain work in an industry to the exclusion of the workers in other callings, the Commission may, on application made by any industrial union of workers or industrial union of employers constitute a Special Board to determine such question. Such board shall consist of a chairman and such number of other members as the Commission may fix, and—
>
> (a) if in the opinion of the Commission employers are interested in the question, one-half of such other members shall be representatives of employers, and the other half shall be representatives of the industrial unions of workers engaged in the said callings;
>
> (b) such of the callings as the Commission considers to be directly interested in the question shall be represented on the board by an equal number of representatives of employers (if in the opinion of the Commission employers are interested in the question) and representatives of the industrial union of workers concerned.

Subsection (2) then reads—

> (2) The chairman and other members of any such board shall be appointed by the Commission, but the Commission in making such appointments shall give effect to nominations made in the prescribed manner by the parties concerned.

The final subsection, subsection (3), reads as follows—

> (3) The determination shall be adopted by the Commission for the purposes of any award or order made by the Commission.

Mr. O'Neil: If the Minister were to read that section as carefully as he read it slowly, he would see that the nominations to the board and as the chairman are to be in the form prescribed.

Mr. HARMAN: I realise that. Our proposal is to amend section 74 as follows—

> (a) by deleting the passage commencing with the words "Such board" in line eight of subsection (1) and ending with the word "concerned" being the last word in paragraph (b) of that subsection; and
>
> (b) by adding after subsection (1) subsections as follows—
>
> (1a) A Special Board constituted under subsection (1) of this section shall consist of a Chairman and such number of other members as the Commission may fix.

(1b) In constituting a Special Board and fixing the number of members of the board the Commission—

(a) shall have regard for whether employers are interested in the question to be determined by the board; and

(b) shall allow for representation on the board on a basis which, in the opinion of the Commission, will be conducive to an equitable investigation and determination of that question.

Sir Charles Court: Are you going slowly for the benefit of *Hansard* or for your own edification?

Mr. HARMAN: Well, the *Hansard* reporter was having difficulty in hearing me, so I have decided to speak more slowly.

Mr. Bertram: He is doing a good job too.

Mr. Rushton: You would not know.

Sir Charles Court: He is just giving you a little rest.

Mr. HARMAN: I have endeavoured to point out the logic of our proposed amendment. It is true that I have been unable to provide the Committee with recent examples to prove the desirability of this type of amendment.

Mr. O'Neil: Perhaps you could do that during the tea break.

Mr. HARMAN: If I get that far.

Mr. O'Neil: You have only two minutes to go. We have decided to help you.

Mr. HARMAN: I am hoping that the Deputy Leader of the Opposition will see the logic in the argument that when a board is composed of an equal number of representatives of employers and the two unions who are parties to a dispute, it has occurred that the union which is not the applicant union has sided with the employer. Let us say that a particular board is composed of four members. One member will represent the employers, the second will represent the captive union, the third will represent the applicant union, and of course, the fourth member is the chairman.

Sitting suspended from 6.15 to 7.30 p.m.

Mr. HARMAN: During the tea suspension I made some inquiries and I found that this section of the Act has been used in very few cases of demarcation disputes.

Mr. O'Neil: How many?

Mr. HARMAN: Very few.

Mr. O'Neil: One?

Mr. HARMAN: No, more than one case.

Mr. O'Neil: Two?

Mr. HARMAN: This seems to indicate that we are arguing over a small point. It is possible for the industrial commissioner to act as chairman, but usually the Industrial Registrar or the Assistant Industrial Registrar does that. So my original information was not quite correct.

One of the reasons that this section of the Act has not been used is that the applicant union would not receive a fair hearing, nor would it obtain a determination if the other union sided with the employer; and where the voting is two to one the decision of the chairman does not really make a difference. We are trying to make the situation equitable. We can see that the present provision has not much chance of success. It is not at present being used in demarcation disputes; they are being settled by conferences. Therefore the section should be amended as proposed so that it may be used in future.

Clause put and a division taken with the following result—

Ayes—22

Mr. Bertram	Mr. Harman
Mr. Bickerton	Mr. Hartrey
Mr. Brady	Mr. Lapham
Mr. Brown	Mr. May
Mr. B. T. Burke	Mr. McIver
Mr. T. J. Burke	Mr. Norton
Mr. Cook	Mr. Sewell
Mr. Davies	Mr. Taylor
Mr. H. D. Evans	Mr. A. R. Tonkin
Mr. T. D. Evans	Mr. J. T. Tonkin
Mr. Fletcher	Mr. Moiler
	(Teller)

Noes—22

Mr. Blaikie	Mr. Nalder
Sir Charles Court	Mr. O'Connor
Mr. Coyne	Mr. O'Neil
Dr. Dadour	Mr. Ridge
Mr. Grayden	Mr. Runciman
Mr. Hutchinson	Mr. Rushton
Mr. A. A. Lewis	Mr. Stephens
Mr. E. H. M. Lewis	Mr. Thompson
Mr. W. A. Manning	Mr. R. L. Young
Mr. McPharlin	Mr. W. G. Young
Mr. Mensaros	Mr. I. W. Manning
	(Teller)

Pairs

Ayes	Noes
Mr. Bryce	Mr. Sibson
Mr. Jamieson	Sir David Brand
Mr. Jones	Mr. Gayfer

The CHAIRMAN: The voting being equal, I give my casting vote with the Ayes.

Clause thus passed.

Clause 46: Amendment to section 77—

Mr. O'NEIL: This clause amends section 77 in two respects. The Minister will be pleased to hear that we find no reason to disagree with the first amendment. Section 77 relates to evidence in respect of matters being heard before the court or commission. If members read subsections (1) to (8) of section 77 they will note that reference is made only to the court, and under the Act the court is in fact the industrial court of appeal. However, upon reading subsection (9) of that section, one finds that the provisions of subsections (1) to (8) apply *mutatis mutandis* in respect of proceedings before the commission; so the rules apply to both the commission and the court of appeal.

The first provision in clause 46 deletes specific reference to those persons who may administer an oath. Section 77 (5) currently states that the court may take evidence on oath or affirmation, and for that purpose any member or the clerk of the court may administer an oath or affirmation. The provision is to be amended so that there is no specific reference to who may administer an oath or affirmation. We do not object to that.

However, we are concerned about the proposal to amend section 77 (8), which deals with books, papers, and other documents produced in evidence before the court. The subsection states that information contained in documents produced before the court shall not be made public without the permission of the court; provided that books, papers, or documents relating to any trade secret or to the profits or financial position of any witness shall not be inspected by any party without the consent of the witness. It is proposed to delete the greater part of that proviso so that it applies to trade secrets only

Currently the court itself—and by virtue of section 77 (9) the commission—may inspect the documents or the information placed before it which could contain matters of a private or personal nature to any of the parties. This information may be inspected with the permission of the party affected; so that is right. However, the Government proposes to remove the protection that any individual or any union of workers or union of employers has in respect of the disclosure of such documents relating to profits and financial position. I do not believe that is a fair and proper deal.

Mr. Harman: It still needs the permission of the court.

Mr. O'NEIL: I do not know that that is so. I draw the Minister's attention to the wording of the subsection once again. From it he will note that the court may inspect and may allow the parties to inspect, but none of this information may be made public without the permission of the court. It is a question of whether these books and documents are to be inspected or made public. The proviso applies to certain other matters as follows—

> Provided that such books, papers, and documents relating to any trade secret or to the profits or financial position of any witness or party shall not, without his consent, be inspected by any party.

I want to know why this provision has been inserted.

Mr. Hartrey: It is fairly obvious.

Mr. O'NEIL: If it is obvious I do not think it is fair.

Mr. Hartrey: It is not a revolutionary amendment.

Mr. O'NEIL: If it is not, let us leave the section as it is.

Mr. Hartrey: It will do what the Minister has said it will do.

Mr. O'NEIL: The Minister has not said anything yet; I am the only one that has said anything about this.

Mr. Hartrey: It has been recorded.

Mr. O'NEIL: If what he said has been recorded I may not have heard him at the time. Any matters relating to the financial position of a party before a court or industrial commission should not be made public without that party's consent. The member for Boulder-Dundas may well be right if we are referring to courts *per se*—that is, only the law courts—but at the beginning of my speech I clearly referred the Committee to subsection (9) of this section which extends the provision to hearings before an industrial commission, or an industrial commissioner.

So whilst this may be a fair and reasonable provision where a highly qualified judge of the Supreme Court—or even a lower court—may make determinations along a certain line, we must not forget that industrial commissioners are, in essence, not legal men. I agree they are men practised in the provisions of industrial law, but this is a provision relating to the giving of evidence. I indicate our objection to this provision, and I move an amendment—

> Page 19, lines 26 to 32—Delete paragraph (b).

Mr. HARMAN: I ask members to vote against the amendment. I do not know what the Deputy Leader of the Opposition is getting so upset about because the amendment in the Bill is simple and will not do anything drastic. Before any party can inspect documents belonging to another party he needs the permission of the court, and in those circumstances the court is the Industrial Appeal Court or, as the Deputy Leader of the Opposition suggests, the Commission in Court Session.

I cannot follow the reasoning advanced by the Deputy Leader of the Opposition, because if paragraph (b) is agreed to no-one will be harmed. This is a decision we have to leave to the court. As for the proviso, that relates to a trade secret only. The proviso merely seeks to keep the trade secret safe and secret. All we are saying, in relation to the financial documents used in the presentation of the case, is that the other party is to have an opportunity to look at those papers, subject to the permission of the court.

Mr. O'NEIL: I want the Committee to be absolutely clear on what we are talking about so once again I must refer to the provisions of the parent Act. On the first occasion I referred to them, with the exception of yourself, Mr. Chairman, the members of the Committee were not paying much attention. The whole of section

77 of the parent Act relates to evidence. Subsection (9) relates to evidence before the Industrial Commission as well as to evidence before the Industrial Appeal Court which consists of three judges. The Industrial Commission consists of three laymen; I say that for want of a better expression.

The current provision in the Act is that all books, papers, and other documents produced in evidence before the court may be inspected by the court. We see no objection to that. Also they may be inspected by such of the parties as the court permits. We agree to that so long as we have regard for the proviso which follows—

> . . . but the information obtained therefrom shall not be made public without the permission of the Court, and such parts of the documents as in the opinion of the Court do not relate to the matter at issue may be sealed up.

However, the remainder proviso in the present law is important. It has been provided that such books, papers, and documents relating to any trade secret or to the profits or financial position of any witness or party shall not, without his consent, be inspected by any other party.

Let us have regard for this. The court or the commission may inspect the documents so better to advise itself as to the matters before it. A great deal of the documents may be inspected by any party to the dispute before the court or commission, but the proviso is that the trade secrets or the profits or financial position of any party shall not be inspected by any other party—not the court—without the express permission of the party concerned.

The Government proposes that not only may the court examine the documents relating to the profits or the financial position of any witness or party, but other parties may also inspect them without the consent of the person proffering the documents.

Mr. Harman: That is subject to the court.

Mr. O'NEIL: It is not subject to the court.

Mr. Harman: And also to the parties as the court allows.

Mr. O'NEIL: That means they are to be inspected by the parties as the court allows. However, the proviso excludes two classes of documents; those relating to trade secrets, and those relating to profits or financial position.

In respect of all documents the court may examine them, including documents relating to trade secrets and financial position. Documents, other than those relating to the trade secrets or the financial position of any party or witness may not, at the present time, be examined without the consent of the person proffering the documents. However, the court may examine them; and if it so desires it can make the information public, in respect of all matters other than those covered by the proviso.

The Government recognises that documents relating to trade secrets are to be covered by the proviso; in other words, they can be examined only with the permission of the party which owns the trade secrets.

I am saying there must be an ulterior motive in the provision which states that the documents relating to profits or the financial position of any party, including trade unions or witnesses, may be subject to examination by any party except with the consent of the person who owns and proffers such documents to the court.

What is the reason for the change? We accept that documents relating to trade secrets are the property of the person owning the trade secrets, and such documents should not be disclosed to any other party without the consent of the owner.

For some reason, documents relating to the financial position of any party in a dispute—whether the party be an industrial union of workers, an industrial union of employers, or any witness—may be inspected by any party before the court or the commission.

Mr. Harman: Only as the court allows. That is what you do not seem to understand.

Mr. O'NEIL: The Minister appears to be wrong. The provision states that documents produced in evidence before the court may be inspected by the court and also by such parties as the court allows. However, the proviso states that such books, papers, and documents relating to trade secrets, or the profits or financial position of any witness or party, shall not without his consent be inspected by any other party.

The court may allow the examination of any documents at all, except those relating to trade secrets and financial position; but the proviso states they can be disclosed to any other party only with the consent of the owner of the documents.

Mr. Harman: We propose to delete from section 77(8) the words "profits or financial position". That means all books, papers, and other documents produced in evidence, some of which may include financial statements, may be examined.

Mr. O'NEIL: The Minister is saying that in respect of trade secrets the proviso still applies.

Mr. Harman: Yes.

Mr. O'NEIL: But any documents which disclose the profits or the financial position of any witness or any party must be made available to anyone who desires to examine them.

Mr. Harman: The provision does not say that, and you know it. All that it does say is that they may be examined as the court allows.

Mr. O'NEIL: If that is the case why did not the Minister seek to delete the whole proviso instead of amending it? The Committee is left in doubt as to the intention of the Government, and certainly the Minister is in doubt as to what the Government's proposal will achieve. In those circumstances I press my amendment.

Mr. HARTREY: The Deputy Leader of the Opposition says he is in doubt as to what the provision means.

Mr. O'Neil: I am not, but the Minister is.

Mr. HARTREY: I cannot see where the Minister is in any doubt, but if there is any doubt it should not be difficult to dissipate the doubt. I invite the Deputy Leader of the Opposition to look at section 77(6). No proposition has been put forward by the Government to amend this subsection. The subsection states—

> No evidence relating to any trade secret, or to the profits or financial position of any witness or party, shall be disclosed except to the Court, or published without the consent of the person entitled to the trade secret or non-disclosure.

The term "non-disclosure" means the right to prevent the financial affairs or position of a party from being made public. This particular subsection of the Act will not be amended by clause 46(b) of the Bill, with which we are now dealing.

The Deputy Leader of the Opposition said it was all right in the case of a court comprising judges, but not in the case of a commission which comprises laymen. It is not legal training which is needed to retain the secrets of other people; this is just a matter of common sense and honest decency. Surely the commission is as capable of being honourable as are the judges.

I admit, and so does the whole of the trade union movement, that the object of the 1963 amending Act was to denigrate the arbitration system. At that time the court was presided over by a judge, with the same status and qualifications as a judge of the Supreme Court. Sometimes, indeed quite often, it was presided over by a judge of the Supreme Court. However, since 1963 the position has changed, but that was by virtue of an amendment to the Act made by the present Opposition which was then in power; it was not the doing of the Labor Party.

Mr. E. H. M. Lewis: Do you see anything wrong with subsection (6) of the Act?

Mr. HARTREY: I see nothing wrong with it. I say that this subsection is the answer to the argument of the Deputy Leader of the Opposition.

Mr. E. H. M. Lewis: Do you think that subsection (8) is inconsistent with subsection (6)?

Mr. HARTREY: I do not know. There are in law other requirements besides the preservation of secrecy, which affect the administration of justice. There are times when secrecy ought to be safeguarded, but only when secrecy is not inconsistent with the object of the law itself. A person is not compelled by the law to incriminate himself. He is entitled by law to retain secrecy as to his innocence or guilt. He is not obliged to say anything.

One of the cardinal arguments in an arbitration dispute is the ability of the employers to pay. Their cry is always, "We cannot pay this wage increase". "We cannot give this reduction in hours", or "We cannot give this special concession of an extra day's leave". The answer is always that the employers cannot afford it. If they say they cannot afford it then the court is entitled to require them to produce their financial records to prove their statement.

Surely to goodness the party who was responsible for demanding the production of the evidence is entitled to see it; otherwise the witness cannot be cross-examined. If the evidence cannot be seen then the witness cannot be examined in order to ascertain whether or not the books are genuine or the evidence reliable. What is the good of a tribunal hearing evidence if it has no opportunity to decide whether or not that evidence is true?

Quite rightly and properly the parties to the dispute are entitled to see each other's documents and exhibits; but that is a different thing from making the documents and exhibits public to the world. There is still a penalty for publicly disclosing such documents without the consent of the person concerned. The penalty is a sufficient protection for the witness in this regard. It would certainly be absolutely unfair for a man to produce evidence to the tribunal itself without that evidence being produced to the opposition party which might know very well from other documents seen in financial journals that the information produced to the tribunal is not correct. But how is the opposition party able to give this information to the tribunal if the documents or exhibits are not produced to the opposition party?

This amendment in the Bill is a definite improvement to the Act in the interests of justice and without any detriment at all to either the witness or those people whose books are being divulged. Members must keep in mind that a search warrant is not being issued to enable a search to be made of the witness's home or office, or his accountant's office. I would certainly not support such a move. However, for the reasons I have given, I believe the amendment of the Deputy Leader of the Opposition should be opposed. The provision in the Bill is an improvement to the Act; there is no doubt about that. It is not unjust or unfair to anyone.

Mr. O'NEIL: The member for Boulder-Dundas referred to section 77 (6). We are talking about subsection (8), and perhaps they are related. The member for Boulder-Dundas told us that subsections (6) and (8) relate to the same thing. If this were so, why were the two subsections included?

Mr. Hartrey: They must relate to the same thing.

Mr. O'NEIL: Subsection (7) applies only to subsection (6) and not to subsection (8).

Mr. Hartrey: The whole Act applies to itself. The whole section must be read as one. You cannot take out one subsection.

Mr. O'NEIL: I am not doing so, but the honourable member did just that very thing.

Mr. Hartrey: You cannot.

Mr. O'NEIL: If subsections (6) and (8) relate to the same thing, why were they both included? One relates to evidence given and the other relates to documents presented to the court.

Mr. Hartrey: Documents are evidence.

Mr. O'NEIL: Why do not the provisions of subsection (7) apply also to subsection (8)? Subsection (7) specifically applies to subsection (6).

We are simply wasting the time of the Committee. The honourable member has in no way convinced me I am wrong and I therefore press my amendment.

Amendment put and a division taken with the following result—

Ayes—22

Mr. Blaikie	Mr. Nalder
Sir Charles Court	Mr. O'Connor
Mr. Coyne	Mr. O'Neil
Dr. Dadour	Mr. Ridge
Mr. Grayden	Mr. Runciman
Mr. Hutchinson	Mr. Rushton
Mr. A. A. Lewis	Mr. Stephens
Mr. E. H. M. Lewis	Mr. Thompson
Mr. W. A. Manning	Mr. R. L. Young
Mr. McPharlin	Mr. W. G. Young
Mr. Mensaros	Mr. I. W. Manning *(Teller)*

Noes—22

Mr. Bertram	Mr. Harman
Mr. Bickerton	Mr. Hartrey
Mr. Brady	Mr. Lapham
Mr. Brown	Mr. May
Mr. B. T. Burke	Mr. McIver
Mr. T. J. Burke	Mr. Norton
Mr. Cook	Mr. Sewell
Mr. Davies	Mr. Taylor
Mr. H. D. Evans	Mr. A. R. Tonkin
Mr. T. D. Evans	Mr. J. T. Tonkin
Mr. Fletcher	Mr. Moiler *(Teller)*

Pairs

Ayes	Noes
Mr. Sibson	Mr. Bryce
Sir David Brand	Mr. Jamieson
Mr. Gayfer	Mr. Jones

The CHAIRMAN: The voting being equal, I give my casting vote with the Noes.

Amendment thus negatived.

Clause put and passed.

Clause 47: Amendment to section 79—

Mr. O'NEIL: This clause contains two amendments to section 79 of the parent Act. The first amendment refers to part IVB of the Act and I think we have exhausted all argument on that. We do not agree there ought to be a new part IV and, therefore, that is sufficient reason for us to oppose the first amendment.

The second amendment relates to what is commonly called "speaking to the minutes". It is proposed to add the words "or an order". We see no reason why this addition should be made. With the proposed amendment, subsection (2) would read as follows—

> (2) The representatives of the parties concerned shall, at a time fixed by the Commission, be entitled to speak to matters contained in those minutes and the Commission may, after hearing those representatives, amend or vary the terms of those minutes before they are issued as an award or amendment of an award or an order, as the case may be.

It is true that in respect to speaking to an award there could be a need for some discussion and certain action as the subsection prescribes, but "an order" can be something as simple as the cancellation of an apprenticeship. There are many occasions when it is not necessary to follow the procedure of "speaking to the minutes". Since the two paragraphs are contrary to our beliefs we propose to vote against the clause.

Mr. HARMAN: I understand why the Opposition intends to vote against paragraph (a) of the clause; because it deals with mediation. The Deputy Leader of the Opposition has claimed that the arguments on mediation have been exhausted. I have given this matter much thought and the only argument advanced by the Opposition—if it can be claimed to be an argument—against the mediation and conciliation clauses is that the Deputy Leader of the Opposition believes the system will not work, and even if it does work that the mediators will be amateurs. That seems to be the basis of his argument.

I hope that as we get onto the mediation clauses I might be able to get the Opposition to adopt a more reasonable attitude. Mediation has been accepted by people involved in the determination and settlement of industrial awards.

Mr. O'Neil: Where?

Mr. HARMAN: I will get around to that, but not under the provisions of this clause.

Why should an order not be a subject on which parties may address the commission when, for all practical purposes, it has the force of an award? That is a simple thing and that is all we are asking.

The commission can make an order which, for all practical purposes, has the force of an award, yet the Opposition says, "No, you cannot have the parties addressing the commission on that."

Some of the arguments advanced by the Opposition have no reasoning behind them. The Deputy Leader of the Opposition mentioned awards made under the apprenticeship part of the Act and on which, perhaps, the parties would not want to go to the commission. However, where for all practical purposes an order has the force of an award, surely the parties should address the commission. There is nothing sinister about the proposal.

Clause put and passed.

Clause 48: Amendment to section 85—

Mr. O'NEIL: Again, we propose to vote against this clause. The amendment simply deletes a few words at the beginning of section 85 of the parent Act, and unless one carefully examined the result of the proposed amendment one would not appreciate its importance. The amendment will affect the commission's power to suspend or cancel the operation of an industrial agreement in part or in whole, and we have discussed this at some length on a previous occasion.

There must remain with the Industrial Commission the power to ensure the observance of the industrial agreements and awards registered with it. It is true that the Industrial Commission does not desire to have power to impose what could be regarded as harsh penalty provisions in industrial law; most of those provisions are administered by the industrial magistrate, or the Industrial Appeal Court in some circumstances. However, if either the employers or the unions flout the provisions of an industrial award, currently within the law there is provision for the matter to be heard before the Industrial Commission, and the commission can amend or vary the award in certain terms because of the breach of that award. One of the terms, of course, is the preference clause in industrial awards and agreements. It may be deleted but that does not occur frequently.

I have already pointed out to the Committee that the preference clause written into industrial agreements in this State is really a compulsion clause. It is a clause that grants compulsory unionism. I am glad we have the member for Northam in his seat tonight because on a previous occasion he referred to the hundreds—I think it was—of exemptions granted from union membership during the period we were in government. I suggest to him that if he checks with the reports of the Industrial Commission he will find that he was wrong.

Mr. McIver: Those hundreds, of course, referred to current moneys paid into the Consolidated Revenue Fund.

Mr. O'NEIL: Let us see if that is a fact. I have a table which I have prepared and checked, and I can assure members of its accuracy. It is worth while quoting.

This table is taken from the 8½ years of experience under the industrial law, as we know it. If members look at the reports of the Industrial Commission they will see the number of applications made for exemption, the number approved, the number rejected, the number withdrawn or lapsed, and, finally in each year, the number pending which carries over to the next year.

In 1963-64 there were 38 applications. I interpose to say that in 1963-64 the Act had been in operation for only six months. It was proclaimed to come into operation as at the 1st January, 1964, having passed the Parliament in 1963. Of those 38 applications, 17 were approved, 21 were rejected, and none was withdrawn or lapsed. In that year all of them were dealt with. In 1964-65 which was the first full year of the operation of the Act, there were 93 applications for exemption from union membership. Of these, 47 were approved, 13 were rejected, 23 were withdrawn or lapsed. Again, in that year none was carried over.

In 1965-66 there were 84 applications. Of these, 44 were approved, one was rejected, 33 were withdrawn or lapsed.

Point of Order

Mr. HARTREY: To what extent does this relate to the subject we are discussing at the moment?

The CHAIRMAN: There is no point of order.

Committee Resumed

Mr. O'NEIL: For the benefit of the member for Boulder-Dundas I would be in breach of Standing Orders only if I were to depart too far from them. The provision we are discussing is a lead-in to the powers of the Industrial Commission. If we look at section 98A of the Act to which the amendment refers we will see that one of the powers of the Industrial Commission is to amend or vary the terms of industrial agreements. It also has the power, which is sometimes exercised, to see that the terms of the awards and agreements entered into are observed.

I indicated earlier that I did not have the opportunity to reply to the member for Northam who referred to the number of exemptions which had been granted under this particular section. To proceed, in 1965-66 there were 84 applications. Of these, 44 were approved, one was rejected, 33 were withdrawn, and six were carried over to the next year. In 1966-67 there were 76 applications, including the six which had been carried over from the previous year. Of these, 45 were approved, none was rejected, 31 were withdrawn,

and none was carried over. In 1967-68 there were 171 applications. Of these, 42 were approved, one was rejected, 128 were withdrawn or lapsed, and none was carried over. In 1968-69 there were 116 applications. Of these, 56 were approved, none was rejected, 52 were withdrawn or lapsed, and eight were still under consideration and were carried over. In 1969-70 there were 137 applications including the eight which had been carried over from the previous year. Of these, 56 were approved, none was rejected, 75 were withdrawn or lapsed, and six were carried over. In 1970-71 which, in fact, included part of the first year of office of the present Government, there were 134 applications including the six which had been carried over from the previous year. Of these, 52 were approved, none was rejected, 60 were withdrawn or lapsed, and 22 were carried over. In 1971-72, which was the first full year the present Government was in office, there was the highest number of applications for exemption from union membership. In all, there were 187 applications including the 22 which had been carried over from the previous year. Of these, 77 were approved, none was rejected, 84 were withdrawn or lapsed, and 26 were carried over and would have been covered in the financial year which has just ended.

Mr. Taylor: Although the numbers were up, the attitude of the commission had not changed.

Mr. O'NEIL: The member for Northam made the accusation that, whilst we were in government, hundreds of people were granted exemption from union membership and that these exemptions had contributed hundreds—if not thousands—of dollars to Consolidated Revenue. The whole history, if members analyse it, is that in 8½ years there has been a total of 994 applications for exemption. Of those, 436—or 43 per cent.—have been approved; 36—or .36 per cent.—have been rejected; and 486—or 48 per cent.—have, in fact, been withdrawn or lapsed. If anyone can tell me that the provision for granting exemption from union membership is not a fair and reasonable one and is being abused, I am a monkey's uncle. The member for Boulder-Dundas will be pleased in that I will now return to the clause.

Mr. Hartrey: I am.

Mr. O'NEIL: As I have mentioned, the purpose of the clause is to delete from section 85 the words—

> Except to the extent mentioned in section ninety-eight A of this Act and subject

This provision in fact leads into taking away from the Industrial Commission some relatively minor powers, in my view, to ensure that the commission can insist upon the observance of industrial awards and agreements entered into before the commission. For that reason, we oppose clause 48.

Mr. HARMAN: Clause 48 is consequent on clause 52, the purpose of which is to delete section 98A of the Act. To that extent it is necessary to vote for clause 48 which, in effect, deals with section 98A.

Section 98A deals with the punitive powers of the commission, which we propose to delete from the legislation.

Mr. RUSHTON: I wish to put forward a point of view to the Minister who stated that the purpose of the provision is to take away the powers of the commission under certain circumstances. I would like to refer him to the words of one of his supporters, Mr. Coleman, who is Secretary of the Trades and Labor Council. Mr. Coleman was recounting his experiences from his travels overseas. On his return he said it was essential that shop stewards should not dominate our system in Western Australia.

It can be inferred from his remarks that we should not reduce the powers of the commission. Mr. Coleman made the statement from his own experience. Some time ago I was challenged on this statement which it was said Mr. Coleman had not made. It was made and was reported in the *Daily News* of the 2nd May, 1972.

Mr. Harman: What did he say?

Mr. RUSHTON: I know the Chairman is tolerant and I will read to the Committee what Mr. Coleman did say. It should be placed on record. He said—

> The British shop steward is a "god" in the industrial relations system of that country, according to Trades and Labor Council secretary Jim Coleman.
>
> It was he who negotiated with the management in each factory and it was his strength and bargaining ability which determined what wages would be for the workers he represented.
>
> It was intrinsic in such a system that the more militant shop stewards got higher wages than those who were more conservative bargainers, Mr. Coleman said.

I make the point that if there is a breaking down in the powers of the commission, as the Minister advocates, we will finish up with a situation whereby this type of person dominates. There will be anarchy and what Mr. Coleman says is a warning. The article continues—

> [The militancy of some British workers when they migrate to Australia has been attacked in the past by many people and has been acknowledged by Mr. Coleman.]

He agrees these people could be a pest in our industrial system. The article continues—

> Mr. Coleman said it was obvious that such a system of wage fixation would result in great variances between workers doing the same job and having the same technical skill but working in different factories or in different parts of the country.
>
> He felt that this system had resulted in complete chaos in Britain.
>
> "The system of wages is based on the strength of individual shop stewards," he said. "There is no adequate regulation of wages and conditions."

I raise this matter only because our friend who was taken to hospital today disputed the fact that Mr. Coleman ever said it, but it highlights what the Government is attempting to achieve with all these amendments. It is creating a situation which would be against the interests of workers, and I raise the matter for that reason.

Mr. HARMAN: I wish to reply to a couple of points made by the member for Dale. As I remember the debate which took place when the member for Dale commented on what Mr. Coleman said about shop stewards, he was challenged to present the evidence. He has presented the evidence, but what Mr. Coleman was saying referred to the industrial situation in England, not in Western Australia.

Mr. Rushton: He did not want it brought here.

Mr. HARMAN: He did not say that. He was talking about the industrial situation in England, where the shop steward may be a god; I do not know. He was not referring to this country. During this debate we have had a great deal of argument about shop stewards. As I remember it, the member for Dale was endeavouring to tell the Chamber that shop stewards were terrible people, we should not have them, and so on, because of what Mr. Coleman said. But Mr. Coleman was referring to the shop steward in England, not the shop steward in Western Australia.

The second point is that under clause 52 we will be debating the repeal of section 98A of the Act, and if the member for Dale can tell me when in recent years the Industrial Commission has used its punitive powers to effect, I would like to know about it.

Clause put and passed.

Clause 49: Section 86 repealed—

Mr. O'NEIL: The innocuous-looking amendment contained in clause 49 simply says—

> Section 86 of the principal Act is repealed.

We therefore need to know what section 86 of the principal Act is all about.

Occasions can arise when an industrial award is agreed upon or decided upon and registered with the Industrial Commission, yet an employer or a small group of employers can be unaware of the fact that such a negotiation has taken place and such an agreement has been arrived at. Such employers are generally caught by what is known as the common rule. In other words, if such an employer employs a member of a union which is a party to the award or industrial agreement, he is bound by its provisions.

Currently, the Act makes a slight concession to those employers. I do not believe it is a very large concession and I want to know precisely why the Minister wants to get rid of it. The Committee should know what that provision is, relative to the right of parties not served to apply to be heard. The provision reads—

> 86. (1) Where an award has been made on the application of any of the parties referred to in paragraph (d), (e) or (f) of subsection (1) of section sixty-six of this Act, any employer on whom the award is binding, and who, prior to the hearing of the application, was not served with a copy thereof and with proper notice of the hearing may, by leave of the Commission, apply to the Commission for variation of, or addition to, any of the provisions of the award and on any such application the Commission may—
>
> (a) in respect of that employer, order that the award or any provisions thereof be varied or added to; or
>
> (b) make the order unconditionally or subject to such conditions or exceptions or both as the Commission thinks fit and without limitation of time or for a specified time.
>
> (2) Any employer who makes an application under this section shall serve within the time and in the manner prescribed, a copy of the application on each party to the award and any such party is entitled to appear and be heard on the hearing of the application but no such application may be made after a period of twelve months has elapsed—
>
> (a) since that award was made; or
>
> (b) since that employer became bound by that award.

I do not think that is an unfair provision.

Any employer who is likely to be bound by an award and who has not had notice served upon him may, by leave of the commission, make an approach to the commission. Firstly, he must have the leave of the commission to make the approach, and if he employs only one man

covered by that award I think the commission would tell him he would be wasting his time and the time of the commission by making such an appeal. The commission therefore has the initiative in the first place to agree to hear an application for variation of the award.

The commission may vary the award specifically for that employer under conditions which it lays down for any specified time, and there is a requirement further on that no such application may be made after a period of 12 months has elapsed. There is a further requirement that the affected employer shall serve upon the other parties to the award the details of what he proposes to do, and the other parties are given the opportunity to be heard before the commission.

I think that is a very fair proposition. I do not know whether the provision has been used on many occasions. It is entirely up to the commission to decide whether the issue is of such importance that the affected employer may proceed. As I have said, if there happened to be only one employee concerned and the employer was arguing about an increase of 10c a week for a period of six months, I think the commission might tell the employer it does not feel his case is sound enough to warrant an approach to the commission; but if a considerable number of employers, or a few employers with a considerable number of employees, have not been served with the original proposition and they feel they have a point of view to be stated, it is still up to the commission to allow them to be heard.

If the commission so allows, those employers must carry out the further processes of this provision and advise the unions and other employers concerned. They are permitted to be heard and the commission makes its determination under such terms and conditions as it deems fit. Once again, there is the proviso that if a period of 12 months has elapsed no such application can be made at any time.

I wonder whether the Minister can explain why it is proposed to take away such a relatively minor concession which has been granted to an employer who has had foisted upon him the terms and conditions of an industrial award about which he had no knowledge at all. In fact, the commission itself makes the determination whether or not the case is worth considering, and if the commission refuses to consider it I do not think the employer has a right of appeal to any other authority. It is left entirely to the discretion of the commission.

When the Minister considers what I have said and what it is proposed to remove from the Act, he cannot help but support me in this matter, unless he has an extremely sound reason for repealing this section. I again make the point that it is a minor concession. No action can be taken upon an approach by an affected employer unless the commission gives him the right of approach. Why take this provision out of the Act? If the Minister can say there have been innumerable cases where some employers with very few employees have caused the commission a great deal of work in hearing the cases, perhaps we may be sympathetic; but I doubt it.

Whether the appeal—or more correctly the presentation of the case—is to be heard, is at the discretion of the Industrial Commission. I am sure the Minister is sympathetic and will let me win on this one. I indicate that we propose to vote against the clause.

Mr. HARMAN: I agree with everything the Deputy Leader of the Opposition said.

Mr. Bickerton: He took so long to say it!

Mr. O'Neil: I had a win!

Mr. HARMAN: We simply desire to repeal section 86, and to include the provisions in—

Mr. O'Neil: Section 92—I know!

Mr. HARMAN: Yes, section 92. These safeguards will not be taken away with the repeal of section 86 as they will appear in section 92, as follows—

> (3) (a) The Commission may at any time review any provision of the award and may by order, subject to subsection (5) of this section, add to, vary or rescind that provision.
>
> (b) The power conferred on the Commission under paragraph (a) of this subsection, may be exercised on the application of any union, association or employer who is bound by the award.

I therefore ask the Committee to vote for the clause as it stands.

Clause put and passed.

Clause 50: Amendment to section 92—

Mr. O'NEIL: This clause contains four amendments. The Minister has already indicated that the provisions he seeks to repeal in section 86 are to be included in section 92. However, he did not mention that he proposed to amend substantially section 92 of the principal Act. Of course, we disagree with all the proposals to amend section 92. If it were as simple as he said, and that the repeal of section 86 simply provided a lead-in to the amendment proposed to section 92, perhaps we could go along with him. However, a number of proposals are mentioned here. It is intended to remove the right of the commission to prescribe a shorter period for the operation of the term of the award and to reserve the right of a party to apply to amend the award regardless of the term served.

We want to know the exact effect of this provision. We believe that the commission should have the right to use both powers in the same award, and not just one. In other words, simply by deleting

the word "and" the commission will be confined to one power only. The current provision reads—

(2) The Commission may, by its award—

(a) prescribe that any specified provision of the award shall operate for a period shorter than the term of the award; and

And then paragraph (b) reads as follows—

(b) reserve to any party to the award liberty to apply to the Commission to amend the award in respect to any specified provision.

By deleting the word "and" the commission can take either course—at least, that is my interpretation.

Mr. Harman: You have to put something in between.

Mr. O'NEIL: It is proposed to add a new paragraph. However, it seems to me that by deleting the word "and" the Minister will confine the commission either to specify that one section of the award shall operate for a different period from the award proper, or to reserve to any party to the award liberty to apply to amend the award in respect of any specified provision. The commission may do one thing or the other, but not both. This would be a restriction upon the members of the commission. The Minister may have an explanation, but I believe my interpretation is correct.

The other provision in this clause which causes us concern is in regard to retrospectivity. The amended subsection would read as follows—

(2) The Commission may, by its award—

(aa) give such retrospective effect to the whole or any part of the award as the Commission may consider equitable but not beyond the date upon which the Commission first took cognizance of the matter in respect of which the award was made; and ;

Mr. Hartrey: That is where the "and" comes in.

Mr. O'NEIL: Yes, the "and" is there. I must agree now with the member for Boulder-Dundas—perhaps I was wrong in my first contention. However, I still propose to vote against the deletion of the word "and" because I do not agree with the provision contained in proposed paragraph (aa). Members will agree that sometimes it is very difficult to see the overall effect of an amendment.

Mr. Hartrey: I agree.

Mr. O'NEIL: The question of retrospectivity has been a matter of contention between the present Government and the Opposition for some considerable time. I suppose as many arguments exist for retrospectivity as for those against it. However, I am sure the Treasurer, or the Assistant to the Treasurer, must be well aware of the difficulties encountered by the Treasury when a Bill is passed to increase the salaries of Government employees.

Mr. T. D. Evans: I remember the teachers' salaries case.

Mr. O'NEIL: I remember that, too. Decisions to reclassify teachers' salaries whilst we were in Government occasioned what could perhaps have been an embarrassing salaries bill for the Government. Retrospective salary increases can be very embarrassing, not only to Governments, but also to other employers. It is true that most employers with any business acumen at all will budget annually for their expenses programme. Once upon a time we could expect an annual wage increment of between 3 per cent. and 5 per cent. Currently, of course, this increment is running somewhere between 15 per cent. and 20 per cent.—that is the old bugbear of inflation.

I am aware that provision is made generally in the Estimates for a reasonable increase in salaries. However, when introducing the Revenue Estimates, the Premier said that the State was faced with a very substantial wage increase which caused some difficulties in producing a balanced Budget. This is very fair comment, of course. However, once we agree to the retrospective application of these provisions, we are placing business managements and Governments in a most invidious position. While it is possible to cater reasonably for expected increases as from a certain date, it is very difficult to do so with retrospective increases. We know that about the end of the calendar year the State basic wage and the national wage come up for consideration. Businessmen who follow the trends can make an assessment of the increase in the basic and national wage, but a retrospective application of wage increases will diminish their ability to do so.

There is another argument—and I think a very valid one—put forward with applications for wage increases as distinct from national wage case hearings brought before the Federal industrial courts.

Since the Commonwealth court has power to grant retrospective application of an award from the date upon which the court became cognisant of the dispute, frequently a prolonged argument occurs between the parties in dispute because the retrospectivity provision permits the argument to extend beyond what is a reasonable time. So often do we find, especially with unions registered under Federal jurisdiction, that a prolonged argument is carried on to such an extent that the union management loses control and strikes occur because decisions have not been made.

Very often the fact that no decision has been made is the fault of the arguing union because, knowing that it will be granted retrospective application of the award when it is brought down, the union does not care a great deal how long it takes to get the desired result.

Mr. Bertram: Did you say this happens in the Federal sphere?

Mr. O'NEIL: Yes, essentially in that sphere. Frequently this can be proved to be the cause of strikes.

Mr. Bertram: I think precisely the reverse situation applies in the State sphere.

Mr. O'NEIL: If the reverse of the situation is that we do not have industrial strikes in this State, I think that is what we should be aiming for.

Mr. Bertram: Don't employers using proper and ordinary devices delay the determination of issues in this State?

Mr. O'NEIL: I do not know; that is an argument in respect of which the member for Mt. Hawthorn may be able to produce proof.

Mr. Bertram: It would be an obvious procedure.

Mr. O'NEIL: Yes, but currently the Act contains provisions which enable intervention to take place.

I think where there is retrospective application of a decision the parties to the dispute have no incentive to keep the argument as brief as possible. So that is one argument against retrospectivity. When the Public Service Board was established it was given power to grant retrospective application to determinations. It is true that provision was introduced by the previous Government; but that does not mean to say I was necessarily in favour of it.

Mr. T. D. Evans: What about Cabinet solidarity?

Mr. Bickerton: Would it be a reasonable assumption to say that you are being ultra-pedantic in this matter for reasons better known to yourself?

Mr. O'NEIL: I do not think so. I am simply saying that there are many arguments against retrospectivity.

Mr. Bickerton: I do not mean only in respect of this clause. Obviously you must have some reason to prolong the debate. What is it?

Mr. O'NEIL: I am simply showing my gratitude to the Premier for not proceeding with a guillotine motion. I think it is important to have such discussions.

Mr. Bickerton: I think you are doing a good job. You must have been instructed to keep the debate going until your leader returns.

Mr. O'NEIL: No, my leader is in the building. As a matter of fact, if one wishes to argue about that—and I know the Chairman will not allow me to—I could say it would have suited me to deal with this legislation in one sitting.

Point of Order

Mr. H. D. EVANS: Mr. Chairman, how far can one diverge from a particular clause?

The CHAIRMAN: The debate has been conducted in a friendly atmosphere, so let us try to keep it that way. I think we will get on better if we all show a little tolerance.

Committee Resumed

Mr. O'NEIL: I think you would agree, Mr. Chairman, that were it not for the interjections probably I would have spoken for only half the time I have taken. Nevertheless, retrospectivity is an important issue. Certainly one of the major arguments against retrospectivity is that a prolonged argument may take place to the point where an industrial dispute occurs. It is quite evident that occurs in the Federal sphere. In deference to the Minister for Housing I will not persist with further argument on this clause. I do not intend to move the first amendment to this clause standing in my name on the notice paper because I have received an explanation of the provision by way of interjection. I move an amendment—

Pages 20 and 21—Delete paragraphs (c) and (d).

Mr. HARMAN: I am at a loss regarding this amendment. The Deputy Leader of the Opposition indicated his opposition to the retrospectivity provision, but he has not moved to delete it. Apparently he will ultimately support the proposition that the commission should have power to give retrospective effect to the whole or any part of an award as it may consider equitable. The Deputy Leader of the Opposition has now moved to delete paragraphs (c) and (d), but we have not heard his reasons for doing so.

With regard to the retrospectivity provision, we are simply saying that the commission may consider the matter; we are not saying that retrospectivity must commence from the time the application is made.

Mr. O'NEIL: I think probably there is an error in my amendment. I originally proposed to delete paragraphs (b), (c), and (d), but paragraph (b) has been missed. In order to indicate my complete opposition to the total clause, I seek leave to withdraw my amendment with a view to voting against the clause.

Amendment, by leave, withdrawn.

Clause put and a division taken with the following result—

Ayes—22

Mr. Bertram	Mr. Harman
Mr. Bickerton	Mr. Hartrey
Mr. Brady	Mr. Lapham
Mr. Brown	Mr. May
Mr. B. T. Burke	Mr. Moiler
Mr. T. J. Burke	Mr. Norton
Mr. Cook	Mr. Sewell
Mr. Davies	Mr. Taylor
Mr. H. D. Evans	Mr. A. R. Tonkin
Mr. T. D. Evans	Mr. J. T. Tonkin
Mr. Fletcher	Mr. McIver
	(Teller.)

Noes—22

Mr. Blaikie	Mr. Mensaros
Sir David Brand	Mr. Nalder
Sir Charles Court	Mr. O'Neil
Mr. Coyne	Mr. Ridge
Dr. Dadour	Mr. Runciman
Mr. Grayden	Mr. Rushton
Mr. Hutchinson	Mr. Stephens
Mr. A. A. Lewis	Mr. Thompson
Mr. E. H. M. Lewis	Mr. R. L. Young
Mr. W. A. Manning	Mr. W. G. Young
Mr. McPharlin	Mr. I. W. Manning
	(Teller)

Pairs

Ayes	Noes
Mr. Bryce	Mr. Sibson
Mr. Jamieson	Mr. O'Connor
Mr. Jones	Mr. Gayfer

The CHAIRMAN: The voting being equal, I give my casting vote with the Ayes.

Clause thus passed.

Clause 51: Section 92B added—

Mr. O'NEIL: This clause proposes to add a new section, to be known as section 92B, to the principal Act. It will make provision for unions, having an industrial coverage, to be joined as a party to certain awards. I would like the Minister to give us a better understanding of what the clause proposes. I have read the proposed new section a number of times and I indicate, firstly, that in order to make the provision less mandatory on the commission I will move an amendment to delete the word "shall" and insert the word "may".

I also indicate to the Committee that unless the Minister can give me a better explanation of the purpose of the provision we on this side of the Chamber will oppose the clause itself because it seeks to add a totally new section to the principal Act. I draw the attention of members to the wording of that new section 92B which commences at the bottom of page 21 and continues on to page 22 of the Bill.

In my opinion all the gobbledygook in that proposed new section appears to provide that if it so happens a number of workers at the moment are not covered by an industrial award or agreement; and they desire to become part of that agreement; and where the union satisfies the commission that this is so, all those workers are encompassed in the one award. However, not only does that happen, but also the very fact that they are so encompassed enables the award to be rewritten, or rearranged, and registered.

I cannot see the purpose of that provision. Therefore in case this clause is agreed to, and to ensure that the order is not mandatory upon the commission, I intend to move to delete the word "shall" and insert the word "may".

Mr. Harman: I will agree to such an amendment.

Mr. O'NEIL: I give the Minister warning that having accepted that amendment it does not mean I am any more enamoured of the total provision. I would still like to have an explantion from the Minister. In the meantime, I move an amendment—

Page 22, line 5—Delete the word "shall" and substitute the word "may".

Amendment put and passed.

Clause, as amended, put and passed.

Clause 52: Section 98A repealed—

Mr. O'NEIL: This clause seeks to repeal section 98A of the principal Act. We have had some discussion on this section, and I have indicated that whilst the Industrial Commission does not like what could be regarded as harsh penal powers, it certainly should have some capacity to ensure that industrial awards and agreements entered into, and registered with it, are observed.

Section 98A does, in fact, give the commission power to suspend or vary any part of an industrial award or agreement, and we propose to oppose the clause which seeks to repeal that power.

Mr. HARMAN: This is consistent with the attitude the Government adopted towards other sections of the Act which contain what we call penal or punitive provisions. Members may recall that some time ago there was a dispute in the meat industry and because the powers under these sections were used—I think on that occasion the preference clause was deleted. —this had the effect of causing further disputes. History has shown that, in recent times, when the penal clauses of the industrial legislation are used it has the effect of widening the dispute rather than settling it. It has now more or less become a pattern that the commission does not use the punitive sections of the Act.

Mr. Nalder: It does not seem to have made any difference.

Mr. HARMAN: The punitive provisions are not used. As the clause is consistent with our attitude to delete the penal provisions from the legislation, I would ask the Committee to agree to its retention.

Clause put and a division taken with the following result—

Ayes—22

Mr. Bertram	Mr. Harman
Mr. Bickerton	Mr. Hartrey
Mr. Brady	Mr. Lapham
Mr. Brown	Mr. May
Mr. B. T. Burke	Mr. McIver
Mr. T. J. Burke	Mr. Norton
Mr. Cook	Mr. Sewell
Mr. Davies	Mr. Taylor
Mr. H. D. Evans	Mr. A. R. Tonkin
Mr. T. D. Evans	Mr. J. T. Tonkin
Mr. Fletcher	Mr. Moiler
	(Teller)

Noes—22

Mr. Blaikie	Mr. Mensaros
Sir David Brand	Mr. Nalder
Sir Charles Court	Mr. O'Neil
Mr. Coyne	Mr. Ridge
Dr. Dadour	Mr. Runciman
Mr. Grayden	Mr. Rushton
Mr. Hutchinson	Mr. Stephens
Mr. A. A. Lewis	Mr. Thompson
Mr. E. H. M. Lewis	Mr. R. L. Young
Mr. W. A. Manning	Mr. W. G. Young
Mr. McPharlin	Mr. I. W. Manning
	(Teller)

Pairs

Ayes	Noes
Mr. Bryce	Mr. Sibson
Mr. Jamieson	Mr. O'Connor
Mr. Jones	Mr. Gayfer

The CHAIRMAN: The voting being equal, I give my casting vote with the Ayes.

Clause thus passed.

Clause 53: Amendment to section 99—

Mr. O'NEIL: This clause seeks to amend section 99 of the Act, and it refers to the manner in which the enforcement of awards and industrial agreements is brought before an industrial magistrate. This clause contains two paragraphs. We do not disagree with paragraph (b), but we seek to delete paragraph (a).

Section 99 (3) (a) states—

> Where in any proceedings brought under subsection (1) of this section against an employer it appears to the Industrial Magistrate before whom the proceedings are brought, that a worker employed by that employer has not been paid the amount to which he is entitled under an award or agreement, the Industrial Magistrate may order that the employer shall pay to that worker the amount by which the worker has been underpaid . . . but no order shall be made in respect of so much of that amount as relates to any period more than twelve months prior to the commencement of those proceedings.

There are all sorts of limitations placed on the power to recover payment, but this is generally covered by the Statute of Limitations. This provides there can be no claim against an employer for short payment of wages for a period in excess of 12 months. That is fair and reasonable.

Recently we discussed a case in which the employer was not able to take action since 12 months had elapsed after the set of circumstances had arisen.

Mr. Harman: That is not similar.

Mr. O'NEIL: We are concerned with the principles involved. I am sure the Minister cannot quote cases where the worker discovered 18 months or two years afterwards that he had been underpaid. A limitation must be imposed at some point. The Act at present provides that the employee may recover shortage in the payment of wages for a period not exceeding 12 months prior to the commencement of the proceedings.

This applies only where the matter is taken before the industrial magistrate. Probably there are many cases where a worker has been underpaid, but generally these cases arise because the employer is not aware of the proper rate to be paid. I assume the Minister receives a report once every three months from the industrial inspectors of the Department of Labour listing the services they have rendered in matters such as this.

If a worker is a member of a union he takes his case to the union; but if he is not a member of a union he takes his case to the Department of Labour. In many cases the inspectors of the department are able to settle the case by bringing it before the notice of the employer. Of course, there are some cases relating to nonaward workers where the employer might not agree with the claim, and in these cases the inspector cannot do anything about the matter.

The occasions when such matters are taken before the industrial magistrate are extremely rare. Generally the amounts in dispute are settled between the employer and the union or the inspector of the department. It is fairly easy to determine the amount that should be paid within the preceding 12 months, but to go beyond that period would bring about many difficulties. Besides that, there is the Statute of Limitations. Unless the Minister can give concrete examples showing where workers have been grossly underpaid for long periods of time there is no purpose in amending the law.

Mr. HARMAN: The whole idea of the clause is to do away with the limitation set out in the Act to prevent the industrial magistrate, before whom proceedings are taken for underpayment under an industrial award, from making an order against the employer for an amount covering a period longer than 12 months.

I do not know of any cases, because we have had very few of them before the industrial magistrate; but that does not matter. Let us look to the future. If we do have a case and it is proved that a worker has been underpaid for two years, the industrial magistrate can order back-payment to be made for 12 months only. This is because of the limitation in the Act. What we are doing is to delete that limitation so that if an underpayment is proved then

the industrial magistrate can order that the employee shall receive all that was due to him even if this involved an underpayment for 18 months, two years, or three years. I do not see anything wrong with that because the employee should have been paid the award rate for all that time.

The deletion of the limitation is a sensible move and the only one who will be affected will be the employer who does not pay his employee the award rate of pay when he should have done so. We do not believe that the worker should suffer any injustice and consequently the limitation should be deleted.

Mr. MENSAROS: I do not believe the Minister gave a proper reply to the Deputy Leader of the Opposition. He said he cannot see anything wrong with the provision in the Bill. We all know that in criminal and civil law there are certain limitations, and for good reason. There must be certain security after a limited time.

What will happen if a business is transferred? The purchaser would not be sure whether he has any obligation for an unlimited time.

I come to another point. The Minister said that it is quite right for an employee to receive back payment if he has been underpaid for two or three years. That is fair enough. However, members opposite commend union secretaries and organisers, and in most cases very rightly so. Would not the Minister think then that a union secretary's job is not to allow a case to go on for two or three years undetected? The organiser has the right to examine the books of the employer and he can visit his premises at any time during business hours.

If the Minister feels there is a necessity for the provision in the Bill, he is being severely critical of the union organisers because he is implying that a case of underpayment can go undetected for two or three years. Frankly I can hardly imagine this being the case unless a union has a particularly lazy secretary or organiser who does not care about his job or about the welfare of the employees.

Such a situation could occur because of a case of misinformation, but that again would be the fault partly of the union. Mostly employers receive copies of awards from the unions, as many of them are not members of the Employers Federation, for that is not compulsory. However, if such a situation occurs and an employer does underpay an employee, it is definitely the job of the union organiser to detect this underpayment. I believe that even one year is too long, but at present this is the time allowed and an organiser should be able to detect any case of underpayment. I think the Minister will agree with that.

Mr. O'NEIL: I thank the member for Floreat for his support; but the Minister has given as much support as the Committee needs to convince it that it should accept my amendment.

The Minister said that the offence we are discussing is a rare occurrence and that we are catering for something which may occur in the future.

Firstly, the Act applies only to those we call award workers. If an employee happens to be a nonaward worker the provisions of the Act do not apply. The Minister's own industrial inspectors report to him if there has been a case of what they regard to be an underpayment for services rendered, but they are unable to do anything because the employer is unco-operative and the employee is a nonaward worker. However that is not usually the case.

The provision will not apply to those who work in establishments which employ a considerable number of workers on the same award. It is very clear that it will not take a man 12 months to ascertain that he is receiving 20c less than a fellow worker doing the same job. That is a simple matter which has only to be brought to the notice of the employer who will correct the error.

So the only person who could in fact be affected—if anyone will be, and the Minister cannot prove there will be—would be the single employee. It may well be that the employer of that single employee has not kept up to date with the provisions of the award. This does happen. However, the union organiser involved, if he is doing his job, should ensure that the employee is correctly paid. If a union organiser realises that an employee is not being correctly paid, and the matter is brought to the attention of the employer, the pay will be adjusted accordingly.

The provision will apply really only to the employer who must be taken to court before he will make an adjustment. As the Minister has said he cannot recall any such case. What he is catering for is something which may occur in the future. Currently if an employer disputes the fact that he is underpaying an employee, the Act provides for the matter to be taken before the industrial magistrate who, if he finds the case proven, can order payment of the deficit for a retrospective period of 12 months. However, the kind of employer who is likely to get into this trouble is not likely to keep records for more than 12 months. Consequently the case would be difficult to prove anyway. What requirement does the Minister propose to write into the Act to ensure that everyone keeps pay records for the previous five or six years?

Mr. Harman: They are required to do so now.

Mr. Taylor: For seven years, is it not?

Mr. O'NEIL: I am not certain, but I am saying we should consider the situation.

The only person likely to be affected is the single category of tradesman. After all, if an employer had two employees one of whom was being underpaid, the other one would soon find out. If more than two employees were at the one establishment, immediately they walked away from the pay desk they would know there was a difference in the pays and would demand to know the reason. The only sort of employer who is likely to be affected by the provision is the fellow who might not keep the proper records, despite the fact that the law says he must, and therefore a case involving more than 12 months could not be proved. That is one more valid reason why the limitation of 12 months is in the Act, and why it ought to stay there. I move an amendment—

Page 22—Delete paragraph (a).

Amendment put and negatived.

Clause put and passed.

Clause 54 put and passed.

Clause 55: Amendment to section 107—

Mr. O'NEIL: This clause contains four amendments, and we do not propose to oppose the first of them. It is my intention to move for the deletion of paragraphs (b), (c), and (d) of clause 55. The three paragraphs will repeal subsections (2), (3), and (4) of section 107.

Those who have had experience with union problems will appreciate that this is, to a degree, denying the rights of the rank and file members of the unions. Section 107 deals with references to the commission to be approved by resolution of a union and reads as follows—

> 107. (1) No industrial matter (including any application for the enforcement of any industrial agreement or award) or dispute shall be referred to the Commission—

And we agree to the insertion of the provision "or to an industrial magistrate". To continue—

> —by an industrial union or association otherwise than pursuant to a resolution of the governing body of such industrial union or association.

So that is fair enough; it simply gives power to the union executive to submit matters to either the Industrial Commission or an industrial magistrate. There are qualifications beyond that which the Government proposes to repeal. I want to point out that on another occasion it was determined that the rank and file members of the unions ought to have a little more say. However, this proposal reverses the philosophy of the Government in that it will take away certain powers. The first of the powers the Government proposes to repeal is contained in subsection (2) of section 107 of the Act, and is as follows—

> (2) In the case of an industrial dispute, such resolution shall be published in a newspaper circulating in the district in which the registered office of the union or association is situated.

In other words, the executive of a union no longer needs to advertise its intention to take a certain course of action. Subsection (3) reads as follows—

> (3) If, in the case of an intended reference by an industrial union, a request in writing signed by not less than ten per centum of the union is made to the governing body within fourteen days after such publication to submit the matter of the intended reference to a ballot of the members, such ballot shall be taken in the prescribed manner, and the dispute shall not be referred to the Commission unless a majority of the members who record their votes vote in the affirmative.

That provision sets out that the rank and file members of the union, having observed the intention of their executive to take a certain course of action may, if 10 per cent. of them so determine, require that the executive conduct a ballot as to whether or not it proceeds. That provision is to be taken away by the Government.

Mr. Hartrey: In effect, it allows 10 per cent. of the members to override the rest of the committee of management.

Mr. O'NEIL: No, it does not. It allows 10 per cent. to insist on a ballot. I said a little earlier that some clauses in the Bill gave more power to the rank and file members of the union, and that is supposed to be the philosophy of the Government. In this case the Government has somersaulted and is taking away certain powers which exist in respect of the management of the affairs of a union by its rank and file members.

Subsection (4) of section 107 of the parent Act states—

> (4) In the case of an association, if within fourteen days after the publication of such resolution a majority of the industrial unions represented on the association, at special meetings to be called for the purpose of taking such resolution into consideration, pass resolutions forbidding the reference, the dispute shall not be referred to the Commission.

So, again, we have the situation where certain powers are to be taken away from the rank and file members of the trade unions. Let us take an example where, perhaps, the Trades and Labor Council desires to take a certain course of action. Currently, it is required to advertise the course it intends to take in an industrial matter. I must say that I do not think the

Trades and Labor Council is such an association; but if, in fact, it were and sufficient of the executive committees of the industrial unions represented on that association decided the action should not be taken, surely it should not be taken. However, that right will be denied.

I do not know how many people in Western Australia are members of the Australian Workers' Union. I believe a list is available showing the membership. If I could get 10 per cent. of those members to sign a petition for a ballot of the whole executive I would be very surprised. So I do not think the provisions of subsection (4) would be used on many occasions. However, the present amendment will deny the rank and file members of the unions the right to take some course of action in extreme circumstances. I do not see that any useful purpose is served by the amendment proposed in the Bill.

Mr. J. T. Tonkin: As a matter of fact, the Deputy Leader of the Opposition does not see much good in the Bill at all, does he?

Mr. O'NEIL: I do, and I have indicated that I am supporting the matters which, in my view, are in the interests of the members of the unions. I believe the repeal of subsections (2), (3), and (4) of section 107 will not be in the interests of the unions. The amendments in the Bill will simply remove from the rank and file members of the industrial unions certain powers which, though they might be extremely difficult to exercise, they ought to have.

I have said previously, in much more heated words, I am led to believe that the amendments to the Industrial Arbitration Act suit the extreme left wing of the industrial section of the Labor movement. I am now saying it as calmly as I can. I firmly believe that when one looks at these provisions it must be seen that they are putting power into the hands of the executives of unions and are stripping the rank and file of what little power they now have to check their executives. The Government must take the blame for this.

I say quite clearly that many of the amendments—not all, I agree—which are, in fact, attacking the rights of the unionists are not supported by the great majority of unionists.

Mr. Harman: How do you know that?

Mr. O'NEIL: I know it because I have had discussions with people whom I believe to be moderate unionists—Labor voters, if one likes, but that does not matter to me.

Mr. Harman: No-one has told me.

Mr. O'NEIL: There would be little point in their telling the Government that.

Mr. Harman: Which unions were they?

Mr. O'NEIL: The Minister would know very well that a considerable number of unionists are not in support of a great deal of what is proposed in the legislation. This is part of it. The Minister may wonder why the great, massive campaign under the *New Deal* has collapsed.

Mr. Harman: You do not think the unions are responsible for that?

Mr. O'NEIL: Why did this massive campaign fizzle out?

Mr. Taylor: You cannot have crowded galleries one moment and no-one the next day, and claim that workers have therefore lost interest.

Mr. O'NEIL: We have had only two editions of the *New Deal*. The reason it has fizzled out is that some of the accounts sent to the unions by the campaign management committee, in respect of the campaign, have not been paid by the unions. In fact, the unions have refused to pay them. A *per capita* amount was to have gone into a $20,000 to $30,000 fund. This, in itself, is evidence that the Government is being hoodwinked, and a provision such as this is not in the interests of the men themselves.

This gives all power to the executive and takes away what little right the rank and file have of exercising some little check on an indiscriminate action on the part of the executive.

Mr. Harman: Name half a dozen unions which want the impositions to remain.

Mr. O'NEIL: The Minister talks about impositions remaining in the legislation. What the Minister is doing, in respect of this provision, is to deny the right of the rank and file to take some action against their executive if they believe the action is incorrect. I have read it correctly. Currently, if the executive wants to make reference to, or to take action to, an industrial magistrate it may do so but, first of all, it must make its intention public. If 10 per cent. of the members of the union are sufficiently interested to read the notice and they believe it is—or may not be—in their best interests, that 10 per cent. may, by request in writing, ask for the decision to make the reference to be put to a ballot under the prescribed conditions.

Mr. Brady: Do you think the provisions in the Companies Act should be altered so that the minority of shareholders can toss out the directors?

Mr. O'NEIL: I am not talking about throwing out the executive of the union at all. The member for Swan would be the first not to deny rights to members of unions with which he has been associated. In actual fact, if 10 per cent. of the union members feel that what the executive is doing may not be right they can ask for a ballot to be held in respect of reference of a matter to an industrial

commissioner or magistrate. That is fair and reasonable. It would be difficult indeed to get 10 per cent. to sign such a petition. At least there is an inherent right, however, to take action. It may well be that, having taken that action and having held a ballot, all the rank and file —or 90 per cent.—may say the executive is right, anyway. However, the Government is taking away what little check the unionists have on the actions of their executives.

Members opposite seem to be saying that the executive ought to be all-powerful. When several unions form an association and the association determines on a course of action, at the moment that action can be stopped if the majority of union executives disagree with it. Under the present proposal it would not matter as long as the executive of the association said, "This is what we ought to do." It would not matter whether nine out of 10 were to say, "Stay your hand" because the executive could still go ahead.

Under the provisions of the law, as it now stands, there is adequate protection for executives of unions which belong to associations. There is also what I regard as minimal protection for individual unionists and the Government is stripping them of what little protection they have. I move an amendment—

> Page 23, lines 11 to 13—Delete paragraphs (b), (c), and (d).

Mr. HARTREY: I think the remarks of the Deputy Leader of the Opposition call for some comment. He says that our proposal involves a diminution—or derogation —of the powers of the rank and file in the unions. I do not think the Deputy Leader of the Opposition is as little acquainted with union business as he pretends to be. The more successful industrial unions are, as time goes on the less active interest do the rank and file members take in their management. This is a tribute to the success of industrial unions rather than any lack of confidence in them, because the rank and file are satisfied with the results the unions are obtaining. Consequently they do not, as a rule, disturb the tenure of office of their executive officers and they do not attend meetings because they have no special grouch or grievance and it is more pleasant to stay at home, anyway.

To say that the provision will take away the power that these people have is not being realistic. In the second decade of this century there was in the White House of the United States a great statesman.

Mr. A. R. Tonkin: Different from now!

Mr. HARTREY: Very different! His name was Woodrow Wilson and he wrote a book called *The State* in which he made the profound and philosophic statement—

> Whoever confers upon the people a power which they are incapable of exercising, by his own act takes it away from them.

Mr. A. R. Tonkin: Hear, hear!

Mr. HARTREY: So far as unions are concerned, if we give 10 per cent. the right to protest against the decision of the executive, which is the committee of management of a union, we are only handing things over to the agitating class, whether it is extreme left or extreme right. We had experience in the 1950s of certain members who were extreme rightists—the D.L.P. element—infesting unions and causing any amount of trouble. We have, of course, all too frequently a small element of extreme communists who endeavour to infest unions and cause trouble. The 10 per cent. are the ones we do not want to cater for. The general rank and file are satisfied and do not want to barge in because somebody will be prosecuted for not paying the right wages, because a demand will be made for increased holidays or sick pay, or because a demand will be made for extra long service leave. The rank and file have no reason to object to that. We find only the fascist element in a union—which is not more than 10 per cent. of a union—seeking to support such an objection.

Consequently we would not be taking away any power by removing this provision. On the contrary, by the repeal of subsections (2) to (4) we would be protecting the rank and file union members who are satisfied with their management and the conditions the management is achieving for them. They do not attend meetings for that reason. The deletion of the provisions would only protect them from being harassed by the small extreme element on either side, which is the 10 per cent.

Facing that fact, and remembering what Woodrow Wilson said, when we confer a power upon people who do not want to exercise it and do not intend to exercise it, we are really thereby taking it from them.

Mr. O'NEIL: I had hoped the Minister would see fit to reply. I am sure the Committee accepts that I am sincere when I say I believe the great majority of unionists would not agree with this particular provision. If the Minister took the trouble to ask, say, the Australian Workers' Union —which is one union that has not been in touch with me—

Mr. Hartrey: They have never asked me about this.

Mr. O'NEIL: There is so much in this legislation that the unions do not know anything about.

Mr. Hartrey: They have read the Act.

Mr. O'NEIL: Have they? I have read a couple of copies of the publication *New Deal*, and whoever wrote the articles dealing with the provisions which are supposed to appear in this piece of industrial legislation and others does not know what he is talking about. Reference is made to five or six major points, but this provision is

not stated anywhere as being a particular virtue of the Industrial Arbitration Act Amendment Bill. The fact is that certain unions or members of unions will be denied a right they have now, which to the best of my knowledge has never been used anyway.

Mr. Hartrey: Precisely.

Mr. O'NEIL: The Government would not be doing any harm in leaving it in the Act in order to show it has at least some regard for the rights of the individual.

The member for Boulder-Dundas said that 10 per cent. of the members of a union could upset a determination of a union executive. That is not so, either. If 10 per cent. of the members become aware of a certain action to be taken by their union, they may ask the union to conduct a ballot of all the membership.

Mr. Hartrey: At the union's expense, and it is a waste of time.

Mr. O'NEIL: It surprises me that the member for Boulder-Dundas takes that attitude. It may indicate how difficult it might be to get even 10 per cent. of the members of a union to sign such a petition. I cannot recall offhand the percentage of ratepayers that is necessary to ensure a local authority conducts a ballot in respect of loan raising. It might be less than 10 per cent.

I indicated there are figures showing the membership of registered industrial unions. I have here a return which was tabled on the 7th August. I do not know to which year it refers. In this particular year the Australian Workers' Union had 13,882 members, so in order to ask the union to hold a ballot it would be necessary to have 1,388 signatures. I do not think it would be possible for the union to obtain that number of signatures in the time provided—because there is also a time limit. The Civil Service Association had 11,000-odd members Admittedly, some unions have very few members. The Commission Agents Union of Workers of Western Australia has 84 members. The Electrical Trades Union has 2,765 members. Therefore, in essence it will be extremely difficult to get 10 per cent. of the members of the union to sign a petition requesting the union to conduct a ballot.

Mr. Hartrey: Where is this great protection you are crying about?

Mr. O'NEIL: Why take it out? The Government has no reason for doing so. That is the point I made. Many of these amendments have been engineered by the left-wing element of the trade union movement, and the Government has been hoodwinked. Has the Minister discussed the provisions of this Bill with the Australian Workers' Union?

Mr. Harman: Some of its provisions.

Mr. O'NEIL: Has the Minister discussed this provision with the Australian Workers' Union?

Mr. Harman: Not with the Australian Workers' Union.

Mr. O'NEIL: I do not think we ought to save the Government.

Mr. Harman: Some of the amendments were suggested by the Employers Federation. Is it left-wing?

Mr. O'NEIL: The Minister has reminded me of a discussion I had with a member of the Employers Federation who happened to be sitting in the gallery before the tea suspension when I asked whether the provisions of this Bill had been discussed with the Employers Federation. The member of the Employers Federation advised me that the Minister for Labour's advisory committee has met on one occasion. It consists of the Under-Secretary for Labour, a representative of the Employers Federation, and a representative of the Trades and Labor Council. If the Minister looks at the answers to questions I have asked about what has happened in relation to this committee, he will find the committee is dormant and sterile, if not dead. The Minister for Labour has not used the committee. He may have said to the members of the committee, "When you meet one of the things I want you to talk about is industrial arbitration." That is as much reference as has been made to them, as the Minister should be aware. He made the statement that these matters were discussed—

Mr. Harman: They were asked for submissions, were they not?

Mr. O'NEIL: I would not know. The Minister is asking questions when he does not know the answers. His predecessor must admit that in fact the amendments to this Bill have not been discussed with the employers.

Mr. Rushton: Shame!

Mr. O'NEIL: In fact, the amendments are representative of the attitude of the left wing. The Minister is valiantly trying to defend something that was foisted upon him.

Mr. A. R. Tonkin: Come off it!

Mr. O'NEIL: By way of interjection, the Minister has said some of the amendments were suggested by the Employers Federation. I ask him to table a list of the amendments requested by the Employers Federation. Of course, he will not do so. He would be battling to table any correspondence he has had with the Employers Federation relative to this legislation. The Minister can interject all he likes—

The CHAIRMAN: The honourable member has two more minutes.

Mr. Harman: Check it out with the Employers Federation.

Mr. O'NEIL: I am asking the Minister to do so. He made the statement. He said there were amendments in this Bill which were suggested by the Employers Federation. I challenge him to produce them. He may be right; I do not know. I challenge him to produce them because he made that statement without any knowledge whether or not the statement was correct.

Mr. Harman: There are comments on the file indicating amendments were suggested by the Employers Federation.

Mr. O'NEIL: I challenge the Minister to produce them.

Mr. Harman: You said the amendments were the product of the left wing.

Mr. O'NEIL: I said the majority of them were. There are machinery amendments with which we have agreed. We find ourselves in the strange situation that the Minister is removing the few rights the members of unions have. He agrees that they are never used, or little used. Why take them out?

Mr. Harman: Because we do not need them. We are trying to clean up the legislation.

Mr. O'NEIL: We are adopting a strange role. We are trying to protect a Government from itself. If the facts in respect of some of these provisions were known by the rank and file unionists, the Government would certainly get some curry from those people.

The Government has highlighted certain aspects of the legislation which may be attractive to union members. However, I notice that those members on the Government side who have real knowledge of union activity are keeping quiet about some of these matters. I am sure that they themselves were not aware of the effect of some of the provisions.

The CHAIRMAN: The honourable member's time has expired.

Amendment put and a division taken with the following result—

Ayes—22

Mr. Blaikie	Mr. Mensaros
Sir David Brand	Mr. Nalder
Sir Charles Court	Mr. O'Neil
Mr. Coyne	Mr. Ridge
Dr. Dadour	Mr. Runciman
Mr. Grayden	Mr. Rushton
Mr. Hutchinson	Mr. Stephens
Mr. A. A. Lewis	Mr. Thompson
Mr. E. H. M. Lewis	Mr. R. L. Young
Mr. W. A. Manning	Mr. W. G. Young
Mr. McPharlin	Mr. I. W. Manning *(Teller)*

Noes—22

Mr. Bertram	Mr. Harman
Mr. Bickerton	Mr. Hartrey
Mr. Brady	Mr. Lapham
Mr. Brown	Mr. May
Mr. B. T. Burke	Mr. McIver
Mr. T. J. Burke	Mr. Norton
Mr. Cook	Mr. Sewell
Mr. Davies	Mr. Taylor
Mr. H. D. Evans	Mr. A. R. Tonkin
Mr. T. D. Evans	Mr. J. T. Tonkin
Mr. Fletcher	Mr. Moller *(Teller)*

Pairs

Ayes	Noes
Mr. Sibson	Mr. Jamieson
Mr. Gayfer	Mr. Bryce
Mr. O'Connor	Mr. Jones

The CHAIRMAN: The voting being equal, I give my casting vote with the Noes.

Amendment thus negatived.

Clause put and passed.

Clause 56 put and passed.

Clause 57: Amendment to section 108C—

Mr. O'NEIL: This clause provides for the action which the commission may take in certain circumstances on appeal to the Commission in Court Session, and it is important to know its exact effect. Subsection (5) of section 108C reads as follows—

> In the exercise of its jurisdiction under this section, the Commission in Court Session—
>
> (a) shall hear and determine the appeal upon the evidence and matters raised in the proceedings before the Commission: and
>
> (b) may confirm, reverse, vary, amend, rescind, set aside or quash the decision, order or award the subject of appeal,

And it is proposed to add after the word "appeal" the following—

> may substitute its decision for the decision appealed against and may remit the case to the Commission for further hearing and determination.

I want to know the reason that the additional authority is to be given to the commission. Surely there is ample provision in the present legislation in that the commission may confirm, reverse, vary, amend, rescind, set aside, or quash a decision. The Government proposes to give the commission the additional power to throw out completely the matter before it. The commission may then substitute its own decision for the decision appealed against, and it may remit the case to the commission for further hearing and determination.

I ask the Minister for an explanation of this proposal. If his explanation does not satisfy us, we propose to vote against the clause.

Mr. HARMAN: This provision was brought about by the occasional need to substitute a decision. Under the present Act the commission can only confirm, reverse, vary, amend, rescind, set aside, or quash a decision, order or award, the subject of appeal. However, it has sometimes been found necessary that the commission should be able to substitute a decision. Unfortunately I do not have the applicable case law with me, so I am unable to refer to it to satisfy the Committee

on this point. Perhaps I could give an undertaking to inform the Committee of the case law at a later date so that we may move on to the next clause.

The CHAIRMAN: You cannot do that. The Committee must deal with the clause now. The Minister could perhaps give an explanation during the third reading stage.

Mr. HARMAN: That may be an idea. The clause provides that the commission, when dealing with appeals against decisions made by single commissioners, may remit the case to the commissioner whose decision is appealed against, or may substitute its own decision.

The CHAIRMAN: I advise the Minister that he may move to postpone the clause and introduce it again at the end of the Bill.

Mr. HARMAN: I move—

That further consideration of the clause be postponed.

Motion put and passed.

Clause 58: Heading Part IVB added. Section 108F added—

Mr. O'NEIL: This clause is the commencement of proposed new part IVB, which deals with mediation and conciliation. I wish to make it perfectly clear to the Committee, so that I will not be accused of not opposing clauses 58 to 63 inclusive, that I will confine my remarks in respect of all those clauses to my speech on clause 58. Proposed new part IVB sets out the level of conciliation to which we have major objection, so I think the Committee will appreciate that whatever we say in respect of clause 58 may be taken as total opposition to the principle of mediation proposed by the Government.

We have said from the beginning that there could well be a need for more conciliators to avoid the necessity for compulsory or voluntary arbitration; and so that when industrial disputes arise conciliators may be available quickly and their expertise may be brought to bear upon the issues in dispute. That can be achieved simply by increasing the number of conciliators. In fact we have already removed the limit upon the number of conciliators or commissioners who may be appointed.

We do not agree that the proposed system of mediation will further the resolution of industrial disputes. The Minister has not been able to prove that it will. He indicated tonight by interjection that a similar system works elsewhere. I challenged him to tell me where, but there was complete silence. To the best of my knowledge a system of mediation exists in the United States in which mediators are appointed by the President; but they are involved in industrial arrangements which are quite different from those in Australia.

I have pointed out that the very mechanism proposed to ensure mediation will in itself militate against mediation ever taking place. The system of panels of names being supplied, applications being made in writing, the decision of the conciliator to act, the provision that the conciliator may throw up his hands in horror and say that he does not have to become involved in the dispute, and the fact that one of the parties to the dispute may simply say it will not have anything to do with the conciliator make this a fairy-tale proposition.

The problem of solving industrial disputes by conciliation can be overcome simply by appointing more conciliators who are recognised under the law; by having more people permanently employed in the industrial arbitration system. It will not be overcome by having very willing, and probably sometimes very competent, amateurs.

We have already had a deal of discussion on the principle of mediation when we spoke about the definition in clause 7, and also during the second reading. I simply indicate that nothing has been produced which would make us change our minds. The Government admits that it is experimenting in an area in which it is not necessary to experiment and in which the problems of industrial disharmony can be resolved simply by appointing more qualified conciliators. The Opposition has agreed to the proposal of the Government in respect of additional conciliators, and we certainly do not feel that experimentation is warranted in this area. We already have enough problems with industrial disharmony; so let us not play around with fairy-tale solutions. I clearly indicate that in opposing clause 58 we are expressing our opposition also to clauses 59 to 63 inclusive.

Mr. HARMAN: I am sorry the Opposition has adopted such an attitude on the question of mediation and conciliation. I know we have canvassed this proposition for many hours. However, the Government does not regard it as a fairy-tale method of dealing with the determination of industrial disputes. We regard it as just one of the avenues that can be used.

We feel the proposed system should be incorporated in the Act so that it may be given an opportunity to work, and we believe that it will work in certain circumstances. Therefore, it should be given a go and not just rejected out of hand by the Opposition because it claims, firstly, that it will not work and, secondly, that the mediators will be amateurs. It is quite possible—as in the case of the dispute at Kununurra to which I referred—that a local minister of religion could be an acceptable mediator to both parties.

Mr. O'Neil: Has he been nominated by either party?

Mr. HARMAN: He does not have to be nominated by the parties; he is nominated by the Minister and must be acceptable to both parties. In such circumstances a minister of religion could resolve a dispute. The mediator may be a person unskilled in industrial matters when compared with an industrial commissioner; but he may be a person with a great deal of common sense, a good education, and the ability to get on with both parties and not to become personally involved with either of them. I can see this proposal working in a number of situations in country areas and even in the city.

It may well be that two parties in dispute may agree that Mr. John Toohey, who has been involved in the industrial field for some time, should act as a mediator. But the Opposition says, "No, we don't want this in the Bill because it won't work." How does the Opposition know it will not work? It has not been tried.

Mr. O'Neil: You are experimenting.

Mr. HARMAN: Practically every day of the week suggestions are made to me regarding how I could improve the industrial situation in the Pilbara. The suggestions are being considered. It may well be that mediation could be the answer in certain cases in the Pilbara.

Sir Charles Court: You are picking a bad example there.

Mr. O'Neil: If you send a minister of religion to solve the iron ore problems in the Pilbara you will be in trouble.

Mr. HARMAN: What is wrong with two parties agreeing upon a mediator and getting together to discuss a dispute?

Sir Charles Court: Wasn't the agreement they entered into supposed to be an agreement to end all strikes? Wasn't it supposed to be a perfect example?

Mr. HARMAN: The Leader of the Opposition knows that we cannot legislate to cover a situation now and expect that legislation to cope with another situation six years from now.

Sir Charles Court: But you can for two years, surely.

Mr. HARMAN: That is what we are proposing here. We are proposing that mediation will be an avenue for parties in a dispute to use. I regret the Opposition still takes this stand, because I think it is doing an injustice to industrial relations in Western Australia; that is, by not giving this provision a go. A great deal of consideration has been given and much thought has gone into this provision and we think it should be given a trial.

I know that the attitude of members in another place will be influenced by the attitude of members of the Opposition in this Chamber, but I sincerely hope that those in another place will give this provision more favourable consideration.

Mr. O'NEIL: In order to save time, I do not want to go over the same ground that we covered before, but the Minister did not make any reference to the fact that we conceded that we believe we can minimise industrial disputes by having greater conciliation and the only way to achieve that is to appoint more conciliation commissioners as part of the industrial setup. The Minister did not make any reference to the fact that we feared experimentation in regard to this difficult part of the law. All he said was that we said the system did not work. We went to great pains to prove that it would not work, but the Minister did not make any reference to that.

Therefore perhaps it is necessary for me to remind the Committee of what we did say by making reference to some of the arguments—not all of them—that have been raised. We say that the mechanics of a system of mediation such as is proposed are impracticable. Subsection (1) of proposed new section 108F implies three things; namely, that the parties to an industrial dispute agree to nominate the same person to act as mediator, that such person expresses willingness so to act, and that the Minister shall appoint him. So there are three requirements to be observed before the Government can do anything about it, and in my opinion that is merely a waste of time. If a matter is referred to a conciliator who has been permanently appointed he can fly to Kununurra and take over from the local minister.

Mr. Harman: Why is it a waste of time?

Mr. O'NEIL: The Minister knows that the reason for this provision is to try to expedite the solution of an industrial dispute. The longer it takes to place the matter before someone the greater is the waste of time. At the moment if a dispute is brought to the notice of the Industrial Commission, a conciliation commissioner can get on the job as quickly as transport can get him there, and the only way to ensure that a commissioner is available to act is to appoint more.

Mr. Harman: You are getting confused with an industrial dispute.

Mr. O'NEIL: This proposed new section commences with the words, "Where the parties to an industrial dispute".

Mr. Harman: Do you know what an industrial dispute is?

Mr. O'NEIL: Yes, almost anything.

Mr. Taylor: But not necessarily a stoppage of work.

Mr. Harman: It does not mean a strike.

Mr. O'NEIL: Of course it does not mean a strike! Thank goodness the Minister has found that out. A dispute can be anything.

Mr. Harman: Of course it can.

Mr. O'NEIL: I am glad the Minister has learnt that much since he has been here.

Mr. Bertram: He is acquitting himself very well.

Mr. O'NEIL: If the Minister wants to prolong the debate he can keep interjecting. I have clearly indicated that as far as I am concerned we will not go over all the ground we covered previously in regard to mediation. I stated my views quite clearly, but the Minister did not give us credit for some of the things we said and I have indicated now that this will be the last time I will speak on this clause.

Mr. Bickerton: Hear, hear!

Mr. O'NEIL: I said that I do not want to prolong the debate by answering interjections but there have been more since then.

Mr. Bickerton: You keep going as long as you like. You use your democratic rights.

Mr. O'NEIL: I thank the Minister very much; I am glad that at least there are some democratic rights in this Chamber. I have indicated that, in the first place, with this set of circumstances it will be time-consuming before the matter even gets to the point where someone will listen to the parties in dispute.

Having done that we come to subsection (2) of proposed new section 108F. According to the provision in paragraph (a) of that subsection the moment the mediator puts a foot wrong, one of the parties can say to the Minister, "Send the gentleman home; we do not want him." Paragraph (c) provides that the mediator's appointment shall end if he advises the Minister in writing of his resignation; that is, assuming that he accepts his appointment in the first place. Instead of dealing with a permanent paid officer of the Industrial Commission, the parties will be dealing with a person who will volunteer his services to the Industrial Commission for the conciliation of a dispute. That, in itself, indicates the impracticability of the proposition.

Mediators are to be appointed or nominated from a panel of names submitted by the parties to the dispute. It is true, as the Minister said, that the Minister can appoint someone not on the list, but we must not forget that in the first place the parties to the dispute must apply in writing to the Minister for the person whom they name, and then that man must indicate his acceptance of the appointment.

Purely on the basis of the mechanics alone, the system is impracticable and we will oppose clause 58.

Clause put and a division taken with the following result—

Ayes—22	
Mr. Bertram	Mr. Harman
Mr. Bickerton	Mr. Hartrey
Mr. Brady	Mr. Lapham
Mr. Brown	Mr. May
Mr. B. T. Burke	Mr. McIver
Mr. T. J. Burke	Mr. Norton
Mr. Cook	Mr. Sewell
Mr. Davies	Mr. Taylor
Mr. H. D. Evans	Mr. A. R. Tonkin
Mr. T. D. Evans	Mr. J. T. Tonkin
Mr. Fletcher	Mr. Moiler
	(Teller.)

Noes—22	
Mr. Blaikie	Mr. Mensaros
Sir David Brand	Mr. Nalder
Sir Charles Court	Mr. O'Neil
Mr. Coyne	Mr. Ridge
Dr. Dadour	Mr. Runciman
Mr. Grayden	Mr. Rushton
Mr. Hutchinson	Mr. Stephens
Mr. A. A. Lewis	Mr. Thompson
Mr. E. H. M. Lewis	Mr. R. L. Young
Mr. W. A. Manning	Mr. W. G. Young
Mr. McPharlin	Mr. I. W. Manning
	(Teller)

Pairs	
Ayes	Noes
Mr. Jamieson	Mr. Sibson
Mr. Bryce	Mr. O'Connor
Mr. Jones	Mr. Gayfer

The CHAIRMAN: The voting being equal, I give my casting vote with the Ayes.

Clause thus passed.

Clauses 59 to 63 put and a division taken with the following result—

Ayes—22	
Mr. Bertram	Mr. Harman
Mr. Bickerton	Mr. Hartrey
Mr. Brady	Mr. Lapham
Mr. Brown	Mr. May
Mr. B. T. Burke	Mr. McIver
Mr. T. J. Burke	Mr. Norton
Mr. Cook	Mr. Sewell
Mr. Davies	Mr. Taylor
Mr. H. D. Evans	Mr. A. R. Tonkin
Mr. T. D. Evans	Mr. J. T. Tonkin
Mr. Fletcher	Mr. Moiler
	(Teller)

Noes—22	
Mr. Blaikie	Mr. Mensaros
Sir David Brand	Mr. Nalder
Sir Charles Court	Mr. O'Neil
Mr. Coyne	Mr. Ridge
Dr. Dadour	Mr. Runciman
Mr. Grayden	Mr. Rushton
Mr. Hutchinson	Mr. Stephens
Mr. A. A. Lewis	Mr. Thompson
Mr. E. H. M. Lewis	Mr. R. L. Young
Mr. W. A. Manning	Mr. W. G. Young
Mr. McPharlin	Mr. I. W. Manning
	(Teller)

Pairs	
Ayes	Noes
Mr. Jamieson	Mr. Sibson
Mr. Bryce	Mr. O'Connor
Mr. Jones	Mr. Gayfer

The CHAIRMAN: The voting being equal, I give my casting vote with the Ayes.

Clauses thus passed.

Clause 64: Amendment to section 127A—

Mr. O'NEIL: This clause launches us away from the area of mediation, and we come to the amendments to the parent Act. The clause proposes to amend section 127A which relates to wage fixation. It

endeavours to restore adjustments to the State basic wage in accordance with the quarterly movements in the Consumer Price Index.

This is a matter on which the Government and the Opposition have always differed. In fact, it is rather surprising the Government has not taken the advice of its own Treasury in matters related to quarterly adjustments of the basic wage.

Movements in the Consumer Price Index, as determined from quarter to quarter, contain within them variations in the prices of certain commodities which, over a period of months, gradually iron themselves out. It is a fact that in some quarters the prices of certain items are greater than in other quarters, and it would be much fairer to make adjustments in accordance with the price movements over a 12-month period.

Previously provision did exist in the Industrial Arbitration Act for automatic adjustments to the basic wage to be made every quarter, but that provision was repealed in 1963. To the best of my knowledge up to date no major disadvantage has been suffered by wage earners as a result of the existing method.

As a matter of basic policy the Government has stated that it will move to restore quarterly wage adjustments; but, of course, it has entirely neglected the view that the basic wage *per se* is no longer the key in wage fixation. It is a nominal amount used in calculating variations in prices, but in my view the basic wage in essence will finally and totally disappear from the scene of wage fixation.

Amendments to the Industrial Arbitration Act were made during my term as the Minister for Labour. These empowered the Industrial Commission to declare the wage in the form of a total wage, rather than one containing two components; namely, the basic wage which was the living wage component, and the margin for skill.

I hazard a guess that the principle of the basic wage will be discarded altogether. It has served its purpose. Those who have been involved in the industrial scene for a long time will appreciate that the most difficult matter to determine is the basic wage for Australia. That wage should be the very minimum amount upon which a man, his wife, and two children can survive. Then beyond that point, what a person may earn should be determined by his output and his skill.

I can see the concept of the basic wage disappearing little by little, with the moves towards equal pay for equal value, and now towards equal pay just for the heck of it. Such moves have certainly destroyed the concept of the basic wage. Other factors, such as prosperity loadings introduced during certain periods, have distorted the principle basis upon which this wage is determined. In fact, this method of wage fixation is dying out, and it will be replaced by more appropriate methods. The Government seems to be flogging a dead horse in talking about making adjustments to the basic wage which will reflect price movements.

I do not think there is any need for me to develop the theory of the basic wage and the quarterly adjustments. I simply indicate that we intend to vote against the clause.

Mr. HARMAN: As the Deputy Leader of the Opposition has said, it has always been part and parcel of our policy that quarterly adjustments and not yearly adjustments should be made because we believe that quarterly adjustments enable people to keep up with the cost of living. I know that the Opposition has consistently argued against quarterly adjustments, but, unfortunately for the Opposition, this is our policy which we want incorporated in the Act.

Clause put and passed.

Clause 65 put and passed.

Clause 66: Amendment to section 130—

Mr. O'NEIL: I have on the notice paper an amendment to this clause which I understand the Minister will accept.

Mr. Harman: Yes.

Mr. O'NEIL: Section 130 deals with the transfer of apprentices. Sometimes it is desirable that the commission should be able to order the transfer of an apprentice, but we believe that the employer to whom the apprentice is to be transferred ought to be willing and able to take him. However, as the Bill now stands the employer has no say in the matter. I therefore move an amendment—

> Page 32, line 4—Insert before the word "or" the passage ", but such order shall not be made without the concurrence of the employer to whom an apprentice is to be transferred".

I am pleased that at least in this area the Government agrees with my proposition.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 67: Section 132 repealed and re-enacted—

Mr. O'NEIL: If this Bill becomes law it will be virtually impossible under any circumstances for a strike to be declared illegal. We have extensively canvassed this particular principle in the Bill. For this reason I now simply wish once again to express our opposition to it. If the Government analyses the scene surrounding the provision it will realise that from now on we will have strikes about which absolutely nothing can be done. As I say, we have canvassed this area extensively in the second reading debate and I again indicate our opposition to the clause.

Clause put and a division taken with the following result—

Ayes—22

Mr. Bertram	Mr. Harman
Mr. Bickerton	Mr. Hartrey
Mr. Brady	Mr. Lapham
Mr. Brown	Mr. May
Mr. B. T. Burke	Mr. McIver
Mr. T. J. Burke	Mr. Norton
Mr. Cook	Mr. Sewell
Mr. Davies	Mr. Taylor
Mr. H. D. Evans	Mr. A. R. Tonkin
Mr. T. D. Evans	Mr. J. T. Tonkin
Mr. Fletcher	Mr. Moiler
	(Teller)

Noes—22

Mr. Blaikie	Mr. Mensaros
Sir David Brand	Mr. Nalder
Sir Charles Court	Mr. O'Neil
Mr. Coyne	Mr. Ridge
Dr. Dadour	Mr. Runciman
Mr. Grayden	Mr. Rushton
Mr. Hutchinson	Mr. Stephens
Mr. A. A. Lewis	Mr. Thompson
Mr. E. H. M. Lewis	Mr. R. L. Young
Mr. W. A. Manning	Mr. W. G. Young
Mr. McPharlin	Mr. I. W. Manning
	(Teller)

Pairs

Ayes	Noes
Mr. Jamieson	Mr. Sibson
Mr. Bryce	Mr. Gayfer
Mr. Jones	Mr. O'Connor

The CHAIRMAN: The voting being equal, I give my casting vote with the Ayes.

Clause thus passed.

Clause 68: Section 133 repealed—

Mr. O'NEIL: This is a further extension of the provisions which will make strikes legal. The clause is confined to the refusal of the employer to provide employment or the refusal of a worker to work.

I think the point which has not been made clearly enough during this debate is that if a union seriously did not want to be subject to the provisions of the Industrial Arbitration Act it does not need to be. There is no compulsion upon a union to enter into an agreement with employers and have that agreement registered with the Industrial Commission.

Unions can operate outside the Industrial Commission. In such a case no action can be taken against them for withholding labour and striking. That once again raises the question: Why is this Government hellbent on destroying what has been a relatively good piece of industrial law by saying that unions will have all the protection of the industrial law but will not be subject to any sort of restriction or penalty for non-observance of the law?

Mr. Hartrey: How can the unions act against the law if the provisions are not in the law?

Mr. O'NEIL: I am talking about the law as it stands. We will be left with something which is worse than worthless. If the member for Boulder-Dundas were to read the Bill he would see that unless an industrial dispute is related to a matter covered by an industrial award or an agreement, and that dispute develops into a strike, there is nothing the law can do about it. Surely one of the answers to industrial anarchy and industrial unrest is the industrial arbitration law which is there to solve problems and heal wounds.

If a union decided to go on a sympathy strike because one of its members were arrested in Greece nothing at all could be done, and that has actually happened. A fellow was arrested in Greece for some reason or other and his union, in Australia, went on strike. I ask: what on earth could the employer in Australia do about that fellow in Greece? Under the provisions of the industrial law as it now stands it is possible to call the parties together and explain to the unions that in the circumstances I have just outlined a strike is not fair.

Under the provisions of this Bill, if a dispute or a strike is not related to a matter covered by an industrial award or an industrial agreement the Industrial Commission can do nothing about it. Furthermore, the employer can do nothing in the way of obtaining redress in the civil courts.

I think the Government would have been more honest had it repealed the whole of the industrial arbitration law because it will be completely and utterly worthless when this Government finishes with it. I would like the Minister to deny that what I have said is true.

Mr. Hartrey: Well, he can easily do that.

Mr. O'NEIL: He can deny it, but that will not make him correct!

Mr. Bickerton: Not in your opinion.

Mr. O'NEIL: I ask the Minister for Housing to read the Bill. Unless certain action is taken strikes will be legal from now on. If that is the attitude of the Government why has it not been honest and simply introduced a Bill to repeal the Industrial Arbitration Act?

I suggest the Government examine what it is doing. It seems impossible to get our story across to those who will not listen, but I believe there are some who really know what is happening. We will have a piece of paper which will not be worth two bob, and that is going back a few years. Whatever provisions there were in the Act to protect the diligent employer and the diligent worker will be gone. Those provisions are being stripped from our industrial law by a Government which honestly does not know what it is doing.

It is a great pity that former members such as the Hegney brothers, and the predecessor of the member for Boulder-Dundas, Mr. Moir, and those who were steeped in the traditions of industrial law, are not here now.

Mr. Brady: They would know that the Deputy Leader of the Opposition was talking a lot of rot, for a start.

Mr. O'NEIL: The member for Swan has had a wide background of industrial law.

Mr. Brady: I have been the secretary of six unions and I know what I am talking about.

Mr. O'NEIL: I understand why the member for Swan is having very little to say.

Mr. Brady: I have not previously heard so much rot.

Mr. O'NEIL: I suggest to the member for Swan that he is saying very little because he knows that what I have been saying is true.

Mr. Brady: The Deputy Leader of the Opposition has put up a great fight for the Employers Federation.

Mr. O'NEIL: I think some of the greatest fights put up here tonight have not been in the interests of the Employers Federation, but in the interests of the workers. They have been in reference to what this Government is doing to the rights of the rank-and-file members of the industrial unions.

Mr. Hartrey: Yes, we heard that.

Mr. O'NEIL: There has been silence from the Government on that issue.

Mr. Harman: I will get the Deputy Leader of the Opposition a form 4 tomorrow!

Mr. O'NEIL: Do not expect me to become a member of the Labor Party. A great number of the members of the unions do not vote for the Labor Party, otherwise there would not be a Liberal Government in Australia.

I hope I have made my point and I hope the Government will give further consideration to what it is doing. The action taken by the Government is not in the interests of the industrial wing of the Labor movement.

Clause put and passed.

Clause 69: Section 137 repealed—

Mr. O'NEIL: This is another clause which we oppose. By virtue of the clause section 137 will be repealed and the Industrial Commission will be further emasculated. The next series of amendments will achieve the same result.

I think we will be able to give the industrial commissioners six years' long service leave after this because, quite frankly, they will not have much to do. Adjustments to the basic wage will be automatic and there will not be any need for basic wage hearings. There will be very little for the industrial commissioners to do other than sign leave passes. The majority of the following clauses will achieve the same result.

Clause put and passed.

Clause 70: Amendment to section 141—

Mr. O'NEIL: In order to save the time of the Committee, I will not speak to the clause. I have on the notice paper an amendment to clause 72 which, with luck, the Minister may accept.

Clause put and passed.

Clause 71 put and passed.

Clause 72: Amendment to section 144—

Mr. O'NEIL: This is the provision which amends the equal pay concept and it is rather interesting. It has to be accepted —and certainly is accepted by those who know anything about the provisions of equal pay for work of equal value—that it was the Government, in which I was Minister for Labour, which first stepped precariously along this path. Our Government decided that there was justification in a system of equal pay for the sexes when work of equal value was being performed and we took certain administrative action in respect of this matter.

We laid down a set of rules whereby, when it was considered that women were performing work of equal value to men, after a period of time their pay would be elevated to the rate applicable to males. It was a pity that this was unable to be done in one fell swoop but I think the reasons are understandable—it is a fairly costly exercise. In fact, when it has since been introduced elsewhere, the same sort of formula has been adopted in that pay scales have been increased by an amount which means that after, say, five years, women in appropriate categories in fact receive the same rate of pay as males.

We have always insisted—as has the Government—that the principle is equal pay for work of equal value—not necessarily equal pay for the sexes, as such. Until recently there existed a Council for Equal Pay and Opportunity and the last president of that council was Miss Nennie Harken. This lady happens to be my next-door neighbour. For many years, we sometimes discussed the problems over the back fence on the rare occasion I had the time to do so. I pay credit to the Council for Equal Pay and Opportunity and to Miss Harken and her valiant band of workers for the way in which they sponsored the women's cause. Little by little and provision by provision any piece of the Industrial Arbitration Act which inhibited their aims was removed. Finally, this year, the council was disbanded, having served its purpose, so I thought.

Unfortunately I was unable to attend the wind-up gathering, as I was otherwise engaged in this place, but I wish to make public my appreciation of the work which that council did.

The purpose of clause 72 is to remove what is regarded as an inhibition in respect of granting equal pay. It refers to section 144 of the principal Act which comes into "Part X.—Equal Pay for Male and Female Workers". Subsection (1) reads—

> 144. (1) Where the Commission is satisfied that male and female workers are performing work of the same or a like nature and of equal value, the

same rates of wages shall, in the manner and within the time provided by subsection (3) of this section, be fixed irrespective of the sex of the workers.

Subsection (2) gives the Industrial Commission some guidelines as to what it will consider in coming to such a determination. It reads—

(2) For the purpose of determining under this Part whether female workers are performing work of the same or a like nature and of equal value as male workers, the Commission shall, in addition to any other relevant matters, take into consideration whether the female workers are performing the same work or work of a like nature as male workers and doing the same range and volume of work as male workers and under the same conditions.

In other words, the provision simply sets down some guidelines which could, in fact, apply if the two workers happened to be both males instead of one male and one female. It could simply mean that when Mr. Smith and Mr. Jones are doing the same range and volume of work under the same conditions they should be paid the same. The Government proposes to remove that provision.

I think the provision should remain. It is a clear indication of what the commission must consider when coming to a determination. I stress that there ought to be equal pay for work of equal value. We are not talking about equal pay, as such.

The Government has made great play of moving to repeal this provision and this, in fact, is covered by clause 72 (a). It is even more surprising that the Government is attempting to do this when one reads what the Minister himself had to say. I will quote from *The West Australian* of the 1st October, 1973, under the heading, "Equal pay 'not guaranteed' "—

Mr. Harman: That was not my heading.

Mr. O'NEIL: No, but let us see what the Minister had to say. Perhaps he did not say that, either! The article reads—

New rates of pay for female domestics employed in Government hospitals would be assessed in relation to equivalent work done by men, the State Minister for Labour, Mr. Harman, said on Saturday.

But this did not mean that men and women would necessarily receive the same rates, he said.

Increases from the re-assessment would be given in two stages—half from January 1, 1974, and the remainder from July 1, 1974.

About 3,000 female domestics were employed in the Government's hospital service. Other female staff could also expect to benefit, he said.

What the Minister is implying is that, in respect of granting equal pay for work of equal value, it is proposed that there be used what is known as an evaluation technique.

The I.L.O. Convention, which indicates that there should be no discrimination in respect of payment to the sexes, makes it clear that the provision simply means that when the work is of equal value then equal pay ought to be granted. America is one of the countries which is a signatory to that I.L.O. Convention.

I discovered some time ago that although America says that men and women receive equal pay this is not true in essence. America employs what is called a job evaluation technique. If men and women are, say, working in a shop, officers will measure the volume and productivity of the work of the male and the female, and relate one to the other. If it is found that the female does 75 per cent. of the amount of work which the male does, she receives 75 per cent. of the male pay. This enables America to be a party to the I.L.O. Convention which says that there shall be equal pay for work of equal value.

By the implementation of a job evaluation technique, which appears to be the case in the snippet of information in the article I have read to the Committee, the Minister is saying precisely what the law now says. The Minister is saying that, in respect of female hospital employees who are domestics, "We will measure the range of work they do. We will measure their productivity and, on the basis of that measurement, they will be equated to the set male rate." That is equal pay for work of equal value! In fact, the Minister is adopting a system which he is endeavouring to repeal from the Industrial Arbitration Act. Such inconsistency simply amazes me. This provision puts into the Statute the guidelines for the commission to follow when making a determination as to whether female workers should be paid the same as males.

The DEPUTY CHAIRMAN (Mr. A. R. Tonkin): The Deputy Leader of the Opposition has two more minutes.

Mr. O'NEIL: I cannot see any reason for it to be removed, other than to appease some sections of the community. Members may rest assured, that if the Government takes that provision out of the law, on the first occasion the commission makes a determination the Government will find a precedent will be set. In that particular case, which provides the precedent, we find almost the precise words of that provision within the law, as it stands. Consequently, why take it out?

The second part of that particular clause simply repeals the old escalation formula which stated that after a certain period of time women would be on the same rate

in certain specified areas. It has now outlived its usefulness because it was achieved in 1972. So by 1972 the women who were then assessed as being eligible for equal pay would have received it, and clause 72 (b) simply deletes an outmoded provision. We have no objection to that, but in order to test the Committee I move an amendment—

Page 34, line 16—Delete paragraph (a).

Progress

Progress reported and leave given to sit again, on motion by Mr. Moiler.

House adjourned at 11.12 p.m.

Legislative Council

Wednesday, the 24th October, 1973

The PRESIDENT (The Hon. L. C. Diver) took the Chair at 2.30 p.m., and read prayers.

QUESTIONS (6): ON NOTICE

1. HISTORIC WRECKS

Discoveries: Reward

The Hon. I. G. MEDCALF, to the Leader of the House:

(1) Has a determination been made as to who were the discoverers of the wrecks of the *Tryal*, the *Batavia*, the *Gilt Dragon*, the *Zuytdorp* and the *Zeewyk*?

(2) If so, who were they?

(3) Has any reward been paid to any such persons?

(4) If so, what was the nature and extent of the reward?

(5) Has any reward been paid to any other person in respect of any such wrecks or relics therefrom?

(6) If so, to whom, and what was the nature and extent of the reward?

The Hon. J. DOLAN replied:

(1) No determination has been made as to who were the discoverers. The Museum Act does not require the Trustees to establish the discoverers of wrecks. Services to the State (namely the reporting and/or delivery of wrecks) may be rewarded and recompensed by the Trustees, with the approval of the Minister.

(2) Not applicable.

(3) Not applicable.

(4) Not applicable.

(5) and (6) The above-mentioned wrecks were listed in the Schedule to the Museum Act Amendment Act, 1964, and the payment of rewards for reporting does not apply to any of them. However, in 1969 Mr. E. Christiansen and Dr. N. Haimson, on behalf of themselves, E. A. Robinson and D. Nelley, reported the position of the *Tryal*, which was subsequently confirmed. With the approval of the Minister, an *ex gratia* payment of $2,000 was made to Mr. Christiansen on behalf of the party. $2,000 is equivalent to the maximum reward payable under the Museum Act to the reporter of a wreck.

In 1968 Mr. H. Edwards reported the location of material from the *Zeewyk* not previously known to the Trustees. An *ex gratia* payment of $1,000 was made to Mr. H. Edwards.

In 1969 Mr. R. Boschetti reported the recovery of a gun from the *Zeewyk*. An *ex gratia* payment of $200 was made to Mr. R. Boschetti.

2. HISTORIC WRECKS

"Gilt Dragon": Ballast Bricks

The Hon. W. R. WITHERS, to the Leader of the House:

(1) On what date was the first collection of ballast bricks, purported to be from the *Gilt Dragon*, given to the Western Australian Museum?

(2) Who notified the Museum of the ballast bricks?

(3) Who were the people who made offers of the bricks to the Museum?

(4) How many bricks have been retained on Museum property?

(5) (a) Have any bricks been dumped or disposed of in any manner;

(b) if so, where are the bricks which have been disposed of?

The Hon. J. DOLAN replied:

(1) The earliest record in Museum files is of 17½ ballast bricks donated to the Museum on 19th November, 1963.

(2) The bricks were part of a collection donated by Messrs. J., G., and A. Henderson and J. Cowen. The collection was offered to the Museum by Mr. J. Henderson, on behalf of the others.

(3) See answer (2).

(4) About 10,000.

(5) (a) No.

(b) Although none has been disposed of, 20 have been incorporated into the foundation.