Legislative Council

Thursday, 30 April 1981

The PRESIDENT (the Hon. Clive Griffiths) took the Chair at 2.30 p.m., and read prayers.

LEAVE OF ABSENCE

On motion by the Hon. W. M. Piesse, leave of absence for 12 consecutive sittings of the House granted to the Hon. N. E. Baxter (Central) due to private business overseas.

ELECTORAL DISTRICTS AND PROVINCES

Distribution: Motion

THE HON. J. M. BERINSON (North-East Metropolitan) [2.42 p.m.]: I move—

That in the opinion of the House:

(1) The Electoral system in this State is unfair and undemocratic and involves a scandalous manipulation of the rights of citizens which demands immediate reform.

(2) The principle that all citizens are entitled to enjoy equal political rights must be the basis for such reform.

(3) Equal political rights are denied in the Legislative Assembly by a system which:

(a) arbitrarily divides metropolitan and non-metropolitan electorates, and requires the former, on average, to have more than double the number of electors of the latter;

(b) permits one electorate (Whitford) to have 16 times the number of voters of another (Murchison-Eyre); and

(c) allots to the two thirds of voters living in the metropolitan area less than half the number of seats.

(4) Equal political rights are denied in the Legislative Council by a system which:

(a) arbitrarily divides metropolitan and non-metropolitan electorates and requires the former, on average, to have more than three times the number of electors of the latter;

(b) permits one province (North Metropolitan) to have 17 times the number of voters of another (Lower North); and

(c) allots to the two thirds of voters living in the metropolitan area only one third the number of seats.

(5) So as to take effect before the next election the Electoral Districts Act should be amended to provide that:

(a) the enrolment in all Legislative Assembly seats shall be as near as practicable equal and, in any event, shall not vary by more than plus or minus 10 per cent from a quota established by dividing the total number of electors in the State by the total number of seats; and

(b) elections for the Legislative Council shall be based on a fair and equitable method which would ensure that a party or group of parties with a majority of votes should win a majority of seats.

There is a view in some sections of the Labor Party that members of the Liberal and National Country Parties are invariably insensitive, without conscience, and probably totalitarian in outlook. As it happens, that is not a view I share. It seems to me that in most cases the difference between the members of our respective parties is not one of character, but simply of opinion.

If that is right, there should be ample scope for mutual respect in respect of our disagreements; and it is in that context that I find the attitude to electoral reform of members opposite not just appalling, but rather puzzling, and very sad. I simply cannot understand how any member with average common sense, and who has the slightest respect for democracy or the remotest idea of the elements of democratic institutions, can believe seriously that our electoral system can be defended honestly.

Of course, it cannot be defended honestly. To the extent that it is defended at all, it is defended cynically. It is defended on one, single, dominant

principle, and that principle is self-interest—the self-interest of non-Labor members personally, and the self-interest of the non-Labor parties. It is a self-interest which holds that the end justifies the means, and that concepts like the will of the people prevailing are all very well in their place but, wherever that place is, it is not in the workings of the Parliament or the Government of this State.

The United Nations today has about 150 members. The great majority of those are subject to the Governments of totalitarian regimes. We ought to learn something from that. In the first place, we might learn that we should be cautious about relying too far on what purports to be the moral guidance of UN resolutions. More directly, we should see it as the role of the minority democracies to support each other, as well as democratic movements and initiatives elsewhere. But, most of all, we ought to understand, we ought to absorb from this limited incidence of democracy, that democracy is not some sort of natural state of man. It has to be worked at. That means, in the first place, that we must work to strengthen the democracy of our own nation and our own State.

That brings us directly to the nature of our parliamentary system, and the electoral system on which it is based. True enough, we all have a vote; but as we all know, while one cannot have democracy without a vote, a vote in itself is no assurance of democracy. Russians have a vote. They are also governed by an appallingly repressive regime. Do we really imagine that the Russians vote deliberately to secure their own repression? Of course they do not. The truth is that in any democratic sense their vote is deprived of real meaning. So to a great, though admittedly much lesser, extent is ours.

The motion draws attention to the gross distortion and the blatant manipulation of the State's electoral system. The figures speak for themselves.

In order to demonstrate that, I seek leave to incorporate in *Hansard* question and answer 111 from the Legislative Assembly *Hansard* of 25 March 1981. This answer sets out the current enrolments and quotas for all Assembly and Council seats.

The PRESIDENT: The honourable member seeks leave to have that particular document incorporated. It is necessary to obtain the unanimous approval of the House. Members will recall that it has been a long-standing belief in this House that documents not be incorporated in *Hansard*. However, it is in the hands of the House to determine this.

Leave granted.

By leave of the House, the following document was incorporated—

ELECTORAL

Districts and Provinces: Enrolments and Quotas

111. Mr CARR, to the Chief Secretary:

(1) What is the current enrolment of each Legislative Assembly and Legislative Council electorate?

(2) What is the current quota for Legislative Assembly seats?

(3) Which seats are above or below the allowable tolerance?

Mr HASSELL replied:

(1) Legislative Assembly

District	Current enrolment
Ascot	15 060
Balcatta	18 334
Canning	21 208
Clontarf	16 906
Cockburn	17 026
Cottesloe	14 677
Dianella	18 926
East Melville	16 570
Floreat	15 868
Fremantle	16 326
Gosnells	23 114
Karrinyup	18 271
Maylands	16 061
Melville	16 395
Morley	17 872
Mount Hawthorn	15 799
Mount Lawley	15 746
Murdoch	25 131
Nedlands	13 871
Perth	12 693
Scarborough	14 381
South Perth	14 116
Subiaco	14 322
Swan	17 035
Victoria Park	14 021
Welshpool	15 623
Whitford	31 159
Albany	8 474
Avon	7 895
Bunbury	9 424
Collie	9 054
Dale	9 089
Darling Range	9 150
Geraldton	8 814
Greenough	9 337

District	Current enrolment
Kalamunda	9 914
Kalgoorlie	7 318
Katanning	7 853
Merredin	7 970
Moore	10 946
Mount Marshall	7 764
Mundaring	9 101
Murray	11 451
Narrogin	7 766
Rockingham	13 611
Roe	9 249
Stirling	9 643
Vasse	10 420
Warren	9 217
Wellington	9 388
Yilgarn-Dundas	6 942
Gascoyne	3 781
Kimberley	5 761
Murchison-Eyre	141
Pilbara	15 171

Legislative Council

Province	Current enrolment
East Metropolitan	65 912
Metropolitan	71 431
North Metropolitan	97 944
North-East Metropolitan	85 640
South Metropolitan	66 317
South-East Metropolitan	79 267
Central	23 425
Lower Central	26 124
Lower West	34 151
South	27 366
South-East	22 230
South-West	29 232
Upper West	29 097
West	28 165
Lower North	5 722
North	20 932

(2) If struck at the present time, quotas would be—

Metropolitan Area	17 278
Agricultural, Mining and Pastoral Area	9 157

(3) Those districts whose enrolments vary from quota by more than 20 per cent are—

Metropolitan Area—

Above	Below
Canning	Perth
Gosnells	
Murdoch	
Whitford	

Agricultural, Mining and Pastoral Area—

Above	Below
Murray	Kalgoorlie
Rockingham	Yilgarn-Dundas

Note: The above information was extracted from the latest figures available; that is, 23 March 1981.

The Hon. J. M. BERINSON: As evidenced by this table, the total enrolment of electors in the metropolitan area, as defined, is 466 511. In the non-metropolitan area the total enrolment of electors is 246 444. Against the background of these figures, I invite honourable members to take each assertion in paragraphs (3) and (4) of my motion and test them. Every one of them is absolutely true, subject only to a fraction of a percentage point here or there.

In the Legislative Assembly, the average metropolitan seat does have double the number of voters of the average non-metropolitan seat—to be precise, 1.96 times as many. In the Legislative Council, the average metropolitan seat does have more than three times the number of voters in the average non-metropolitan seat—in fact, 3.15 times the number. The Assembly seat of Whitford does have 16 times as many voters as Murchison-Eyre. North Metropolitan Province does have 17 times the number of electors as Lower North Province.

How remarkable it is to observe the reaction of the members for North Metropolitan Province (the Hon. R. G. Pike and the Hon. P. H. Wells) to the detriment of their own constituents which is constituted by the gross imbalance of enrolments between upper House seats.

I ask you, Sir, what has been their reaction? You will have been in a good position to observe that. There has been no reaction whatsoever. Not once have they spoken in this House to protest or even comment on the gross disparity in the importance of their constituents as against other electors as recognised by their Government. Their electors have been treated by the Government as having one-seventeenth the worth of other electors and Messrs. Pike and Wells have demonstrated their concern by an unrivalled display of stoic silence.

Let me return to the motion and test its other propositions against the current enrolment figures. In fact, two-thirds of voters have less than half the number of seats in the Legislative Assembly—only 27 out of 55—and they are

limited to about one-third of the seats in the Legislative Council—only six out of 16.

It is a well known fact that rural voters traditionally favour non-Labor parties.

The Hon. Tom Knight: I wonder why?

The Hon. P. G. Pendal: There is a very good reason for that.

The Hon. J. M. BERINSON: That is their absolute right; but they do not have the right, nor do I believe they expect, the effect of their votes should be magnified two or three times by a rotten and corrupt electoral system. That system is not the work of rural voters and has not arisen in response to the demands of rural voters. In fact, rural voters are much more democratic than the people who represent them in this Parliament. One has only to observe their acceptance of the 10 per cent limit of tolerance in all Federal seats, metropolitan and non-metropolitan alike, to recognise that.

In that context, the protestations of people here that rural constituents can be protected only by a tolerance of 1 000 per cent or more rings very hollow indeed. How have we reached this present position and where do we go from here?

The superficial justification is well summarised in a comment made by the Premier on 28 April when he announced his intention to expand and entrench the existing gerrymander. The Premier said—

> The basic purpose of the changes will be to ensure that all areas of the State were adequately served by elected Parliamentary representatives.

That statement is either deliberately misleading or simply stupid.

The Hon. D. K. Dans: It is probably both.

The Hon. J. M. BERINSON: In accordance with my usual charitable approach, I will take it as merely stupid. The basic and transparent fallacy of it is that the argument treats Parliament as some sort of service industry. If we were social workers, posties, or travelling salesmen there would be an argument that there should be enough of us for regular personal contact with our clients, patients, or customers as the case might be. But the Parliament does not exist for that sort of service; it exists to enact laws. It exists to influence the nature of legislation by its role in the formation of Governments; that is our main role. The constituent service role is peripheral to that and not the other way around.

That the contrary is seriously or at least regularly argued shows a contempt for the institution which even this Parliament does not yet deserve. As to where we go from here—if we adopt the sort of amendments anticipated by the Premier's statement, we can only move deeper into the mire. We do not know in detail what the Government has in mind, and it has been curiously coy in the face of quite simple, factual inquiries. However, we know enough to realise that any seeming improvements will be marginal and cosmetic, while the basically rotten foundations of the system will remain and will in fact be reinforced.

True enough, the figures will show some marginal change. The two-thirds of metropolitan electors will not have 49 per cent of the seats in the Legislative Assembly; they will have 53 per cent. That is progress indeed!

The PRESIDENT: Order! I think the member now is getting dangerously close to contravening Standing Order No.84 and I acknowledge he has been very careful to avoid doing that up to this time. It is not my intention to stop him at this stage, but I give him notice and warn him that he is treading very close to it.

The Hon. J. M. BERINSON: I accept your guidance in this matter, Sir, and the issue is not important enough to press. I will simply say this: It is quite apparent from what has been said by the Premier outside the House and not related to the legislation introduced into the other House, that no improvement of any basic nature can be anticipated. The long and the short of the position is that we now have an indefensible system and that will in no way be changed by anything this Government might be prepared to introduce.

In its attempt to undermine the Labor Party, the Government undermines democracy itself. Democracy demands equality of the political rights of citizens. We in this State are faced with inequality to a gross and obscene extent. This House should tell the Government that 91 years of electoral manipulation is enough. In common with the Commonwealth, New South Wales, Victoria, South Australia, and Tasmania we should move to a position where lower House electorates all have equal enrolments within reasonable limits of tolerance. That does not mean a tolerance of 1 700 per cent as now exists between Lower North Province and the province represented in this House by Messrs. Pike and Wells. It does not mean a tolerance of 1 600 per cent, as represented by the difference in enrolments between Whitford and Murchison-Eyre. It does not mean a tolerance of 1 000 per cent, which, on the best possible calculation after the projected legislation, will be the difference

between Lower North Province and every single province in the metropolitan area.

That has been presented in the Premier's public announcements as a move forward. Well, I suppose a move forward from a tolerance of 1 700 per cent to a tolerance of 1 000 per cent might be counted as improvement in some quarters. This House should not accept it, and this Parliament should not accept it.

The Hon. P. G. Pendal: How do you feel about the 12:1 weighting in the Senate if you condemn the 7:1 weighting in this Chamber? You seem quite happy to accept the Senate with a 12:1 weighting.

The Hon. J. M. BERINSON: If the honourable member wishes to enter into a discussion on the history of the Australian federation he will receive a clear answer to that question. If he is asking me for my honest opinion I say: The Senate is based upon equal State representation and it has ceased to be a State's House and now operates on ordinary party political lines. The present Senate system is also one that is undesirable in principle. However, the realities of the situation are that it is impossible to achieve in the Senate. That is not the position in this House.

The Hon. P. G. Pendal: The rationale is no different.

The Hon. J. M. BERINSON: I do not know why the honourable member is having such a problem. I have already accepted that in principle it is the same and in principle I would be happy to do away with the present system of Senate representation. I think he should be quite satisfied with the response I am providing him and not get himself tied up in a knot in matters such as this in an attempt to avoid matters which he could influence.

We in this House cannot change the Australian Constitution, but we can change the Western Australian Constitution and that is a matter to which I am inviting the House to direct its attention. That is where the prime responsibility of the members in this House and in this Parliament lie.

The Hon. F. E. McKenzie: They won't do it.

The Hon. J. M. BERINSON: I put it to the House that in the interests of the Parliament and in the interests of the self-respect of its members—particularly in the interests of the self-respect of its members—particularly in the interests of the self-respect of the non-Labor members—this motion ought to have the support of this House and I commend it to the House.

THE HON. G. E. MASTERS (West—Minister for Fisheries and Wildlife) [3.03 p.m.]: Members in this House will have read the rather laborious motion before us.

The Hon. D. K. Dans: You could not digest it.

The Hon. G. E. MASTERS: This motion is just one of many which have been produced in this House, with the same old arguments.

The Hon. D. K. Dans: You have not heard this one before.

The Hon. G. E. MASTERS: We need to look at the principal purpose of the motion in order to ascertain why the honourable member moved it at this particular time.

The Hon. Peter Dowding: Because there will be a gerrymander next week.

The Hon. G. E. MASTERS: It was only the other day that Mr Berinson asked the Leader of the House about the contents of the Bill which is to be presented in the Assembly in the future. The answer to his question was that no information would be provided until the Bill was introduced in Parliament and dealt with in the proper way.

The Hon. R. Hetherington: We wanted to discuss the principles of it in the meantime.

The Hon. G. E. MASTERS: We should ask ourselves why this motion is before the House today. It is quite obvious that the honourable member has adopted this as his pet subject.

Several members interjected.

The Hon. G. E. MASTERS: The honourable member has introduced a motion on his pet subject today in order to upstage his colleagues in another place.

The Hon. J. M. Berinson: It is not my pet subject. It is my shadow responsibility, as the Minister well knows.

The Hon. G. E. MASTERS: If there were ever a perfect example of one-upmanship over colleagues in another place then this is it.

Several members interjected.

The PRESIDENT: Order! The honourable member who moved the motion was heard in relative silence and I expect members to allow the Minister to reply in the same way. I recommend that the Minister relates his comments to the motion before the Chair.

Several members interjected.

The PRESIDENT: Order! I am becoming sick and tired of members interjecting the minute I sit down after asking them to cease interjecting. I ask members to cease embarking on another battery of interjections because I am at the end of

my patience and I will not tolerate it. I ask members to cease their interjections.

The Hon. G. E. MASTERS: I was pursuing that line because there must be some reason for the motion being put forward in this House when we know so well that the subject will be debated once again very soon. I am suggesting that it could well have been done at this time because if not, Mr Berinson would have been a crusader without a crusade.

I think we have to be realistic when we say that it is apparent to all members that what Mr Berinson wishes to achieve is quite impossible to do in this State. We have the unique situation of having 1.3 million people in Western Australia with 2.6 million square kilometres in area and 800 000 of the total of 1.3 million live in the metropolitan area. I wonder whether the member who moved this motion has ever carried out an exercise along the lines of his suggestion because if he had he would realise that all the power would be in Perth.

The Hon. J. M. Berinson: What a lot of nonsense. We would see that it would be with the people.

The Hon. G. E. MASTERS: The people in the country areas would be bereft of representation and would not have the understanding they deserve. There would be a lack of understanding of their needs if that attitude and procedure were adopted.

We could accept the honourable member's position is something of a legacy of the Whitlam centralist days; I guess he has been indoctrinated and cannot help what he is saying.

Some time ago I carried out an exercise on the one-vote-one-value issue. I found that even where there was an equal number of voters in an electorate—say, 20 000 in one and 20 000 in another—it may well be that the total number of people could vary between 30 or 40 per cent. I found two areas in my electorate where there was a quite different distribution of young people in one area and old people in another. Those young people had large families and the older group were quite often retired with no family at home. In other words the total population was 38 750 including electors and their families in one electorate and in another electorate there were 27 500 with the same number of electors on the roll.

The Hon. J. M. Berinson: I am a little confused.

The Hon. G. E. MASTERS: For example, in a place such as Girrawheen, if one took a population of 20 000 voters and assumed that 75 per cent comprised married couples and 25 were officially single—

The Hon. R. Hetherington: They have children, too.

The Hon. G. E. MASTERS: —there is an average of 2.5 children per unit. If a sample exercise were carried out in the Mundaring area of the same 20 000 people it would be found there would be on an average only one child per family. When he talks about equal representation, it may well be that Mr Berinson hopes for an equal number in each electorate and that would be his argument. However, what I am attempting to do is to show that these electorates do not have an equal number of people even though there may be an equal number of votes.

The Hon. J. M. Berinson: In other words, you are really not interested in a system which involves equality of numbers.

The Hon. G. E. MASTERS: What a silly argument.

Several members interjected.

The PRESIDENT: Order!

The Hon. G. E. MASTERS: What I was saying was—

Several members interjected.

The PRESIDENT: Order! Members will cease their interjections so that we can find out what the member is saying.

The Hon. G. E. MASTERS: What I am saying is that we can carry out mathematical exercises one way or the other, but the real decision is to allow proper representation.

The Hon. R. Hetherington: That is if you get Liberal Governments returned.

The Hon. G. E. MASTERS: We have listened to a range of opinions from members opposite; they have talked about the Senate, and the like. Surely members opposite would not accept that in the United Nations—one of the top authorities in the world—Australia should have one vote and China 65 or 66. How far do we carry this thing through?

Several members interjected.

The Hon. G. E. MASTERS: It was with some satisfaction we finally heard Mr Berinson and his colleagues acknowledge they would like to change the Senate system; this is something the public should understand. In Western Australia, we have 8 per cent of the population, yet we have 16 per cent representation in the Senate. We are happy with that situation and there is a good reason for it. There are special circumstances in this State

which must be considered. I am simply asking the Opposition to be consistent in this matter.

If we wanted to go further, we could discuss the ALP Federal Executive.

The Hon. R. Hetherington: Why don't you talk about democracy?

The PRESIDENT: Order!

Several members interjected.

The PRESIDENT: Order!

The Hon. G. E. MASTERS: Mr Hetherington kindly interrupted me when I mentioned the ALP Executive to ask why I did not talk about democracy.

The Hon. R. Hetherington: You do not know anything about it. You have said nothing about democracy yet.

The Hon. G. E. MASTERS: Is the Labor Party advocating that New South Wales should be represented on the ALP Federal Executive by five delegates and Western Australia by one? Of course it does not. The United Kingdom has developed its democratic system for hundreds of years. It has not been able to achieve one-vote-one-value even in its small area, with its 57 million people. Even a small island such as the UK recognises special circumstances and considerations exist: it recognises there are economic, social, and communication problems which must be taken into accout. We understand that situation; we have the problem of remoteness, as well, as Mr Dowding would well know.

Let us talk about Lower North Province.

The Hon. D. K. Dans: Let us talk about the motion.

The Hon. G. E. MASTERS: I am talking to the motion.

The Hon. D. K. Dans: No you are not.

The PRESIDENT: Order! I will decide who is and who is not talking to the motion.

The Hon. G. E MASTERS: Mr President, I have the idea the motion mentioned the Lower North Province; however, perhaps it has been changed by the Opposition.

The Hon. J. M. Berinson: You have yet to discuss the House of Lords.

The Hon. G. E. MASTERS: That electorate contains only a small number of voters in an area of 1.2 million square miles.

The Hon. R. Hetherington: How many sheep?

The Hon. G. E. MASTERS: As long as that comment has been recorded in *Hansard*, we have no worries about what the public think of the Opposition. North Metropolitan Province occupies 159.87 square miles. This huge disparity in size means nothing to the Opposition.

The PRESIDENT: Order! Will the two members arguing the point please do so outside?

The Hon. P. H. Lockyer: Do not tempt me!

The Hon. G. E. MASTERS: The one thing Lower North Province and North Metropolitan Province have in common—as far as is possible—is reasonable and proper representation.

Even Mr Dowding would agree he has difficulty in getting around his electorate. The Hon. Phil Lockyer said Mr Dowding is not all that well known in his electorate. That is not surprising; he has a large electorate and must experience great difficulty in moving around it. I know Mr Lockyer and Mr Dowding both experience similar problems due to the vast area of their electorates.

The Government believes special consideration should be made of the disadvantage caused to people by the sheer remoteness of some areas of the State. Schools and services must be provided and people must travel long distances to get to towns even to meet each other. The Government believes these people are the very life blood of this State; they help to create the high standard of living we enjoy today.

The Hon. Peter Dowding: Are they important to the House of Representatives? Can't you answer that question?

The PRESIDENT: Order!

The Hon. G. E. MASTERS: The Australian Labor Party record in this area should be examined. We know its footwork is very good, and when it suits members of the ALP they tend to do a few sommersaults and loop-the-loops. Let us recall that in 1954, the Australian Labor Party introduced the Electoral Districts and Provinces Adjustment Bill. Members opposite talk about vote value. At that time, the value of a vote in the mining area was three times greater than that of a vote elsewhere. But that was different because then it was the Labor Party which controlled the mining areas.

The Hon. R. Hetherington: You are still back in the 19th century.

The Hon. G. E. MASTERS: The year 1954 is not all that long ago.

The Hon. J. M. Berinson: It is more than a quarter of a centry ago.

The Hon. G. E. MASTERS: The Australian Labor Party is not consistent in anything it says or does. Its members take up the cudgels only when it suits them.

The Hon. R. Hetherington: That simply is not true.

The Hon. G. E. MASTERS: I am surprised Opposition members do not understand the problems experienced in these remote areas. When it suits them in this place, they lend their support to minority pressure groups they believe might do them some good. However, when groups of people are in real trouble in remote areas, members opposite run away.

The Hon. Peter Dowding: Are you talking about people in the Pilbara, where in one electorate there are 17 000 voters, while there are only 2 000 in Murchison-Eyre?

The Hon. G. E. MASTERS: When one listens to the arguments put forward by various members of the Opposition one comes to recognise the aim of the Opposition is to gain power at all costs, regardless of proper representation. Members opposite are prepared to sacrifice country votes to get their way in this place.

Let us look at why members opposite want to achieve power and control in this House. Firstly, they have acknowledged for a long time they want to abolish the Legislative Council. That policy has been recognised and mentioned on many occasions by Mr Dans.

The Hon. Peter Dowding: What purpose is there in the Legislative Council if people like you refuse to talk to a motion before the Chair?

The Hon. G. E. MASTERS: If the Hon. Peter Dowding will be quiet for a moment, I will explain the matter to him. The ALP would start by abolishing the Legislative Council. Admittedly members opposite have done a few loops on that matter because they believe they may be losing votes as a result, but their basic objective remains the same. The next step—as Mr Berinson would know, in view of his previous capacity as a Minister in the Whitlam Government—was to abolish all State Governments. This is where the power game lies. The next step would have been to get rid of the Governor. The final step in this power game would be to get rid of the Senate.

The Hon. D. K. Dans: What about talking to the motion? I am getting sick of this.

The PRESIDENT: Order!

The Hon. P. H. Lockyer: Go home, then.

The Hon. D. K. Dans: Perhaps the debate could return to a semblance of normalcy.

The PRESIDENT: Order! If the Leader of the Opposition is suggesting the Chair is not asking the member speaking to comply with the Standing Orders, perhaps he should first think about complying with them himself, and take note when I ask him not to continue interjecting.

The Hon. G. E. MASTERS: I was just discussing the ultimate desire of the ALP to get rid of the Senate. I wish to have this matter placed on record because the public should understand the policies of the Australian Labor Party. It is committed to abolishing the Legislative Council, the State Government, the Governors of the States, the Senate, and, no doubt, the Governor General. I am sure members recall the disparaging remarks made by some members of the Opposition about the Governor General's position; members opposite would be very happy to see that position changed.

I am sorry the Hon. Howard Olney is not here, but he quite happily said he wants a republic and it was something his party was wanting. That is what it comes down to.

The Hon. R. Hetherington: That is what he wants.

The Hon. G. E. MASTERS: Does the Hon. Bob Hetherington not want it?

The Hon. R. Hetherington: My party's policy is not for a republic.

The Hon. G. E. MASTERS: Did I ask the member?

The Hon. J. M. Berinson: Do you want my opinion?

The PRESIDENT: Order!

The Hon. G. E. MASTERS: I have explained that we will oppose the motion.

The Hon. J. M. Berinson: You have not explained anything.

The Hon. G. E. MASTERS: We believe in the parliamentary system.

The Hon. J. M. Berinson: So do we.

The Hon. G. E. MASTERS: We believe in the representation of people in their different circumstances. We believe there should be an understanding that this State is unique because of its remoteness and the difficulties people suffer because of that. We recognise there is a need for proper representation of these people at this time in our development. We are not going to sell them down the drain.

The Hon. D. K. Dans: As a Minister of the Crown you are a disgrace.

The Hon. G. E. MASTERS: It is fair to say that members of my party, including myself, are opposed to this motion being debated at this time.

The Hon. R. Hetherington: We want to discuss principles.

The Hon. G. E. MASTERS: We know this subject is to be debated in the near future, so this motion is simply a question of one-upmanship, of getting Press coverage before it is debated in the proper way in the House. It is a mad scramble on the part of the Opposition for cheap publicity, and so I ask all members to oppose the motion.

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

Several members interjected.

The PRESIDENT: Order! I ask members to keep order and to cease their constant barrage of comments that have absolutely nothing to do with the business before the Chair.

GRAIN MARKETING AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by the Hon. D. J. Wordsworth (Minister for Lands), read a first time.

Second Reading

THE HON. D. J. WORDSWORTH (South—Minister for Lands) [3.23 p.m.]: I move—

That the Bill be now read a second time.

The purpose of the bill is to amend the Grain Marketing Act 1975 to facilitate the transition from a State barley research levy to a Commonwealth barley research levy. The legislation seeks to—

> provide power to terminate and vary levies under section 28 of the Act; and
> enable money collected under section 28 of the Act since the advent of the Commonwealth Barley Research Levy and Barley Research Acts last December to be withdrawn from the grain research fund, and transferred by the Grain Pool to the Commonwealth, or be refunded to any grower who has directly paid the Commonwealth levy.

At present, in Western Australia, a barley research levy of 15c per tonne is collected under section 28 of the Grain Marketing Act. The funds are paid into the grain research fund and are distributed by the Minister for Agriculture on the recommendations of the grain research committee.

The Australia-wide barley research scheme has been established after consultation between the Commonwealth Minister for Primary Industry and State Ministers representing agriculture. The scheme is embodied in the Commonwealth Barley Research Levy and Barley Research Acts which passed through the Commonwealth Parliament late last year and received Royal assent on 17 December 1980. The Commonwealth levy commenced with the 1980-81 harvest and will be collected in Western Australia by the Grain Pool of WA.

The funds from the levy which will initially be set at the same rate as the State levy of 15c per tonne will be paid into a Commonwealth trust account together with a matching Commonwealth contribution.

The funds collected in Western Australia will be allocated for research purposes by the Minister for Agriculture according to the recommendations of a State committee which will have the same composition and members as the grain research committee set up under the Grain Marketing Act. The matching Commonwealth contribution will be allocated for research purposes by the Commonwealth Minister for Primary Industry on the recommendation of a barley industry research council.

To ensure that growers do not have to pay both a Commonwealth and a State levy the State levy needs to be rescinded. However, this could be done only by amending the Grain Marketing Act to provide power to terminate levies imposed under section 28 of the Act. This was not possible until State Parliament resumed in March. As a consequence, Western Australian growers will still have to pay both levies unless the funds collected under the State levy can be transferred from the grain research fund into the Commonwealth trust account and the State levy has been rescinded.

The Commonwealth is in accord with this arrangement and has agreed to a delay in the payment due to be paid to the Commonwealth by the end of February, until 8 May 1981, without a penalty being incurred.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. R. T. Leeson.

JURIES AMENDMENT BILL

Report

Report of Committee adopted.

RESERVES BILL

Second Reading

THE HON. D. J. WORDSWORTH (South—Minister for Lands) [3.28 p.m.]: I move—

That the Bill be now read a second time.

The Bill which has now been brought before this House is similar in intent to the many other measures dealing with variations to class "A"

reserves which for many years have been submitted to Parliament towards the conclusion of each sitting. Members will appreciate that by presenting the Bill at such a time, as many variations as possible to class "A" reserves can be included in the one Bill. However, members will observe that a new format has been adopted by Parliamentary Counsel in the drafting of the Bill. The Bill no longer contrives to direct in its various clauses the purpose to which the subject land will be put unless such land is to be of Class "A".

It follows that once Parliament has consented that certain lands will be no longer of class "A", deletion of a specific direction in the Act will allow great flexibility for the future administration of those lands under the Land Act.

Eight separate proposals for variations to reserves are embraced by the Bill and I will proceed to explain to the House the purposes which have instigated each individual proposal.

Class "A" unvested "Protection of Flora" Reserve No. 12098 comprises nearly 36 hectares and is situated about 42 kilometres east of Pingelly. Investigations into the future of this reserve have led the Department of Fisheries and Wildlife to seek a change in the purpose of the reserve to "conservation of flora and fauna" and that it be vested in the Western Australia Wildlife Authority. Both Pingelly Shire Council and the Lands and Surveys Department endorse the proposal and the sanction of Parliament is required to alter the purpose accordingly.

Class "A" unvested "Protection of Flora" Reserve No. 16714 comprises nearly 28 hectares and is situated about 19 kilometres south-east of Corrigin townsite. Following investigations into the future of this reserve the Department of Fisheries and Wildlife has sought a change in the purpose of the reserve to "conservation of flora and fauna" and that it be vested in the Western Australia Wildlife Authority. The Corrigin Shire Council and the Lands and Surveys Department endorse the proposal and the approval of Parliament is required to implement the change in purpose.

Following consideration of nine alternative sites, the Department of Administrative Services applied on behalf of the Geraldton Rifle Club to establish a 12-target rifle range in the district of Walkaway. Land affected by the proposal comprises freehold and portion of Class "A" Park Reserve No. 8613 which is under the control and management of the Greenough Shire Council. With the shire indicating its agreement to relinquish the area required, reference was made to a number of Government authorities, some of which opposed the idea. After lengthy discussions and negotiations the proposal has reached a stage whereby all concerned have now consented to allow development of the range to proceed. Excision of portion of Class "A" Reserve No. 8613 is necessary with the intention "that the area be reserved for a 'rifle range'."

The Department of Fisheries and Wildlife has submitted that the purpose of Class "A" unvested Reserve No. 27310—"preservation of indigenous timber"—be changed to "conservation of flora and fauna" and that it be vested in the Western Australian Wildlife Authority. The department supported its request with comprehensive descriptions of the types of vegetation and fauna found on the reserve and it was reported that some observations made evidenced the existence of quokkas. Both the Forests Department and the Manjimup Shire Council agree to the action proposed and an inspection by a Lands and Surveys Department representative confirmed the value of the reserve for conservation. Agreement is therefore sought for the change in purpose.

The National Parks Authority and Mindarie Property Company Pty. Ltd. have negotiated a land exchange involving portion of Class "A" Neerabup National Park Reserve No. 27575 for two portions of adjacent freehold land at Quinns Rocks. The areas concerned have been isolated as a result of the proposed Mitchell Freeway alignment and the exchange will be of benefit to both parties. The Wanneroo Shire Council and Department of Conservation and Environment support the idea and the land purchase board has recommended that the exchange proceed on an equal basis.

The Shire of Mandurah has been endeavouring to establish a bowling club in the South Mandurah area and following thorough investigation selected a site within Class "A" Reserve No. 2851, which has been set aside for the purpose of "recreation and camping" and vested in the shire. Survey of the site has been effected and approval is sought to excise an area of three hectares for its subsequent reservation and vesting in the Shire of Mandurah for the purpose of "recreation and club premises".

Due to recent expansion of the Walpole townsite the Public Works Department has found it necessary to develop a new water supply source. The land required for this essential development comprises portion of Class "A" Walpole National Park Reserve No. 31362, and the National Parks Authority has agreed to excision of the area required. Survey of the site has been completed and it is proposed that the area be reserved for water supply purposes.

Kalgoorlie Lot 510 was set aside as Reserve No. 3362 for "Hospital (St. Johns)" in June 1896 and in July 1898 a Crown grant in trust was issued. The Sisters of Saint John desire to sell the hospital which has been erected on portion of the lot and survey has been effected to define the land containing the buildings. Parliamentary approval is sought to remove the trust over portion of Kalgoorlie Lot 510 so that the sale of the hospital may proceed for its intended use as a private nursing home.

In accordance with usual procedure the Leader of the Opposition has been provided with copies of notes and plans applicable to each variation.

I seek leave to table an additional copy for the information of the House.

Leave granted.

The paper was tabled (see paper No. 159).

The Hon. D. J. WORDSWORTH: I commend the Bill to the House.

Debate adjourned, on motion by the Hon. R. T. Leeson.

LIQUEFIED PETROLEUM GAS SUBSIDY AMENDMENT BILL

Second Reading

Debate resumed from 29 April.

THE HON. D. K. DANS (South Metropolitan—Leader of the Opposition) [3.45 p.m.]: The Opposition supports the Bill. On 17 September last year an amendment was passed in Federal Parliament to extend the scope of the Commonwealth Act so that the $80 per tonne Commonwealth subsidy applies to commercial and industrial customers in areas where natural gas is not readily available. That will take effect from 30 September 1980. This Bill is complementary to that legislation and the Opposition supports it.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

Third Reading

Bill read a third time, on motion by the Hon. I. G. Medcalf (Leader of the House), and passed.

NOISE ABATEMENT AMENDMENT BILL

Second Reading

Debate resumed from 29 April.

THE HON. PETER DOWDING (North) [3.37 p.m.]: The Opposition is disappointed that the Government has taken no steps to bring Western Australia into the 1980s in regard to noise pollution and its control. The Act was introduced in 1972, a time when there were major social changes of attitude towards noise pollution.

In the seven years since the members opposite have been in Government vast changes in noise pollution control measures have taken place in the rest of Australia and overseas. However, with respect, I say this State Government has remained doggedly dependent on legislation now clearly outmoded. Even the present Bill is a clear indication of a deep and unmoving conservatism amongst the Ministers of the Court Government.

The major problem with the Bill as it stands is that it treats noise not as pollution, but as a nuisance. If one treats the problems arising from excess noise as mere nuisances the tendency is not to deal with them until the problems arise. The onus is then on the complainant to justify action against the pollution; whereas for a noise conceptualised as a pollutant the preventative role of the Government and Government instrumentalities becomes clear, and the onus is on the potential polluter to justify the action he proposes to take—before he takes it.

The Opposition takes the view that noise pollution is largely a result of industry including such undertakings as building demolition and the like on the one hand, and, on the other hand, the community's use of roads, playgrounds, and schools, and also the use of facilities by private individuals. With regard to private individuals, we have the kind of problems which are dealt with in such detail in proposed section 33 (a) of the Act.

As the Act recognises, we have static and moving noise polluters, but the Opposition is concerned that despite all these apparent attempts to come to grips with the problem the Government, in fact, under the legislation, has not done anything which will have a useful major impact. The Bill does not deal with the problems of the sale of goods, use of which can lead only to noise pollution or noise nuisance. A trivial example perhaps is the sale of mufflers which cannot be used because they do not conform to the necessary noise standards of the Australian Design Standards.

The Hon. P. G. Pendal: And rock bands.

The Hon. PETER DOWDING: Usually we do not sell those.

The Hon. P. G. Pendal: I am trying to agree with you.

The Hon. PETER DOWDING: I know that, but I would like the Hon. Phil Pendal to agree in an area which makes sense. It is possible for radiogrammes to be sold and those radiogrammes, when placed in certain circumstances, will be a noise pollution. I do not accept that rock bands *per se* fall into the same category as mufflers which are of such a standard that they do not result in noise abatement when used on vehicles.

The Hon. R. G. Pike interjected.

The Hon. PETER DOWDING: The Hon. Bob Pike, as a result of embarrassment, was silent throughout the entire speech by the Hon. Joe Berinson; he did not utter a word. He was absolutely silent for the whole time as was his compatriot, the Hon. P. H. Wells.

The PRESIDENT: If the honourable member would confine his remarks to the question before the Chair he would progress more quickly.

The Hon. PETER DOWDING: I thought I was doing that.

Several members interjected.

The PRESIDENT: Order!

The Hon. PETER DOWDING: If I can talk about the Noise Abatement Amendment Bill for a moment I may be able to abate a little of the noise on the other side! I do not mind intellectual noise, but not the kind of noise we heard a moment ago.

I was making the point that the Noise Abatement Act and Bill did not deal with the problem of the sale of objects which quite clearly will be involved in the creation of noise and noise pollution. They do not for instance provide any statutory noise limits in the use of industrial equipment or machinery. These are provided and are sought to be brought in in terms of guidelines only. The legislation does not involve town planners in noise and vibration control nor either of the councils or advisory committees established under the Act. It does not deal even with what I would have thought would be uppermost in the mind of the Government at the moment; that is, the problems that the Claremont community have had in dealing with the Claremont Speedway Pty. Ltd. It is not so long ago—26 February 1981—when a whole range of difficulties occurred following an attempt to obtain a prosecution under the Act and these were highlighted by stipendiary magistrate Sir Clifford Grant. He quite clearly highlighted a whole range of problems in prosecuting the noise polluter, or alleged noise polluter, and yet those problems have not been touched on by the Bill; nor, for some reason unbeknown to me can I ascertain that the Minister has taken the slightest notice of the issue.

I would have thought that in an electorate such as Claremont we would see the blue rinse lobbying—

The Hon. G. E. Masters: Not the red brigade?

The Hon. PETER DOWDING: I do not think they live there. What is appalling about the Bill and what really highlights either the naivety or determination of the Government to deal with what it sees as the only problems of society, is that section 33A and the draconian powers about which I will speak later this afternoon, take up almost half the entire Bill, but it is dealing with no more than merely domestic noise.

Sitting suspended from 3.45 to 4.00 p.m.

The Hon. PETER DOWDING: One need only compare the draconian proposal of section 33A with the Government's limpid approach to industrial and other noise pollution to see where the Government's interests really lie and compare this with the placing of two representatives of the Confederation of Western Australian Industry on the council and two similarly placed employer groups on the committee.

As was stated in the lower House, the Opposition views with great concern the live-and-let-live attitude of the Government to developments along major suburban arterial networks; for example, its permitting residential development virtually right up to the curbside of Wanneroo Road, Leach Highway, and other major arterial developments, when inevitably noise pollution will be a major social problem.

As was pointed out in the other place, in countries where responsible government exists the costs to the community of solving what are essentially planning problems, which we are able to solve, fall at great expense on the shoulders of the community. It is appreciated what the attitude of this Government is highly likely to be, because it will be people in the lower income groups who take the accommodation offered with such a substantial disadvantage of noise pollution on its doorstep. This Government cares little about these people, but nevertheless, noise pollution is a major cost to the community and it is on the increase as the level of noise pollution and the problems flowing from increased urbanisation occur.

As the Opposition sees it, the tragedy of this Government, and to a lesser extent the tragedy of

its feeble attempts to control the problem of noise pollution—and in particular as I said with the limpid approach contained in this Bill—is that it simply has not coped with the social changes that have occurred over the last nine years, and more importantly, it has not been prepared to learn from the lessons of other urban communities. Like the proverbial ostrich with its head in the sand, this Government pretends that all the problems it will face are new problems about which it will have to make new decisions and find new ways to solve them with the creaking, slowly-turning machinery of Government.

I suggest that the people of Western Australia are sick of experiencing this type of conservatism, and it has always been a matter of some amusement to me how irritable members opposite become when they are charged with being conservatives—the tag of "conservatism" is so apt for the Government of the day.

Despite the lack of any serious attempt to deal with the social problems of noise pollution, the Minister in another place is reported in *Hansard* of Wednesday, 12 November 1980, on page 3421, as saying—

> No provision exists to deal with noise prevention at the planning and design stage and such standards, as are proposed, aim to achieve this prevention. Informed opinion is that noise should be controlled at its source by designing specifically to lessen the creation of noise rather than try to suppress it by external means once it has been created.

Despite these grand words, with which the Opposition would entirely agree, the Government simply has done nothing about it. In the past the Minister has shown himself—

The Hon. D. J. Wordsworth: He has introduced the legislation.

The Hon. PETER DOWDING: —to be able to create grand words, but little else. He has provided no machinery at all in this Bill to enforce insistence upon such a premise. There is simply no machinery—no teeth—in the Bill, and consequently the Bill cannot compel performance.

The evidence is that the worst offenders in the areas of pollution are major commercial operations which are prepared to sacrifice the health and welfare of both their employees and the community in order to get a dollar. Whilst there are some notable exceptions to the rule and some corporations that have been prepared to act responsibly in the area of pollution control, it is not the general experience of the community that it is so, without some penalties attached to require performance.

Specifically in the area of employee safety the employers have shown themselves careless of the life and health of their workers.

The Minister shows where the Government's feelings lie when he indicates it does nothing to provide in this Act inbuilt controls of a sort that he admits are necessary and I repeat "informed opinion is that noise should be controlled at its source—". Not that there should be suggestions as to how noise might be limited, but that noise should be controlled—those are his words! The Minister's words continue "by designing specifically to lessen the creation of noise rather than trying to suppress it by external means once it has been created".

There are some steps in this Bill that the Opposition sees as welcome and they relate to the proposals to provide regulations which are contained in clause 18 of the Bill. It, nevertheless, is a mark of this Government and a mark of its total contempt for the rights of the individual and of civil liberties and its lack of any understanding of the major areas involved about the need to control the exercise of power and specifically of force by Government instrumentalities and their functionaries, that it should devote, of a 20-page Bill, nine pages to providing a draconian method of enforcing the law against individual cases of occasional noise pollution.

It is interesting that it takes an entirely different approach to the major source of distress and community cost; namely, the industrial scene.

It is not people with loud radios or overnight parties which cost the community millions of dollars in workers' compensation payments, in lost productivity, and in hospital and medical costs, but the Government does not worry about that. Indeed it is interesting to see that its major concern is not to control those problems to limit the occasion of harm to individual employees, but simply to squeeze the individual employees out of a reasonable standard of living during their period of incapacity. Incidentally, that matter I have just referred to is contained in another Bill.

Indeed it is true that social controls are often more effective than are draconian police or local government penal functions in the control of the sort of noise pollution that is spoken of in clause 12. In other words, I am putting to members and to you, Mr President, that it is not for the police and the local government functionaries to bash down doors or to leap through windows to prevent loud noises being emitted from parties. Rather we need more emphasis on a change of social attitudes, which cannot cope, for one reason or another. One of these reasons is urban pressure. It

is strange that the Government should focus almost half of the Bill on that issue when, on 28 February this year, it had before it a classic example of the foolishness of the Noise Abatement Act in the Claremont Speedway case, which dealt with the powers of the local authority to control such matters.

An indication of how futile the provision of these powers is may be found in the question that the Minister answered about the number of successful prosecutions under the Act in the past. The Minister was aware of only two successful prosecutions under the Act; and they were both under section 27 of the existing legislation. As far as the Minister was aware, there were no prosecutions, successful or unsuccessful, under other sections of the Act. That is an indication of how futile it is to try to control such matters by this sort of measure.

A further area in which the Opposition regards this legislation as inadequate is that it makes no reference to controlling the noise activity on building or demolition sites. That has been found by some members of Parliament for urban areas to be a significant problem, particularly in areas where there is a high growth rate. It seems to the Opposition that if one is going to deal with sources of noise pollution there ought to be some provision in this Act for such control. In another place the Opposition has pointed to the English legislation which was passed seven years ago, the New South Wales legislation, and the Victorian legislation. The legislation of the conservative Government in Victoria makes this Government look completely and utterly reactionary.

The Opposition also regards it as appropriate for there to be town planning input as well as consumer representatives on the council and the committee, neither of which is provided for in the committee or the council. It is all very well to say one would look elsewhere. Of course Government departments talk to one another. The whole point of our having co-ordinating committees is that they are established at the base level, so there is adequate input from these sources.

There are some further aspects of the Bill that perhaps I might deal with in the reply to the second reading speech, although they deal with specific clauses.

May I direct my remarks specifically to the Attorney General in the hope that all of the Ministers will be able to see how appalling some of the drafting is when it comes before this House.

The Hon. G. E. Masters: That is not a very nice thing to say.

The Hon. PETER DOWDING: The Minister cannot understand that the drafting is appalling?

The Hon. G. E. Masters: You mentioned something like that, yes.

The Hon. PETER DOWDING: With the best will in the world, the Hon. Gordon Masters could not, without the wonderful training the community provided for me, the Attorney General, and others on this side, understand the situation. I appreciate the problem. I trust the Attorney General—

The Hon. G. E. Masters: I will remember that.

The Hon. PETER DOWDING: Mr Masters could have a look at this, too. I draw the attention of the Minister for Fisheries and Wildlife and other things to the provisions of clause 5. If the Minister ever became involved in a case in which he had to interpret legislation for the purposes of proceedings, he would know how hopeless is this sort of referral provision.

I ask the Attorney General whether, at some stage, he could give consideration to taking steps to avoid this type of drafting.

In clause 5 it is proposed that "occupier", save in part IVA of this Act and in any regulations referred to under section 48(2)(1b), has the meaning given by section 3 of the Health Act 1911. So we have to turn to the Health Act to find out what this portion of the Bill is talking about.

The Health Act's definition of "occupier" is that it "includes a person having the charge, management or control of premises and in the case of a house which is let out in separate tenements or in the case of a lodging house which is let to lodgers, the person receiving the rent payable by the tenants or the lodgers either on his own account or as the agent of another person and in the case of a vessel, the master or other person in charge thereof the term also includes any person in occupation of the surface of any lands of the Crown notwithstanding any want of title to occupy same".

The same applies to the definition of "owner". It is not incorporated in the Noise Abatement Amendment Bill in a manner we can read and understand; but we have to refer to other legislation to discover what it means. "Owner" in the Health Act is defined as "the person for the time being receiving the rack-rent of the land or premises in connection with which the word is used, whether on his own account, or as agent or trustee for any other person, or who would so receive the same if such premises were let at a rack-rent".

The question which strikes me about that definition is that neither the Attorney General, the Minister for Fisheries and Wildlife and other things, nor I know what "rack-rent" is. One then has to turn back to the Health Act to find the definition of "rack-rent". "Rack-rent" means "rent which is not less than two-thirds of the full net annual value of the property out of which the rent arises and the full net value should be taken to be the rent at which the property might reasonably be expected to be let from year to year, free from rates and taxes and deducting therefrom the probable average cost of the repairs, insurance, and other expenses (if any) necessary to maintain the same in a state to command such rent".

If anyone could prosecute successfully a person as an owner or an occupier with those sorts of definitions, I would go "he". I can only put to the Minister in charge of the Bill and to the Attorney General that there has to be a simpler way.

What is interesting about that definition—and I have not thought this through any further than by a reading of the provisions of the Health Act—is that a person receiving the rent, whether as agent or trustee, is defined as the owner. A land agent who is letting premises on behalf of an owner may well be the owner for the purposes of an offence under the provisions of the Noise Abatement Amendment Bill.

I would not think even the Minister would intend the powers in this clause to extend to such a person. In my submission, that highlights the deficiencies of this legislation. I am not tendering this as a political point—correction, it is a political point; but it is not tendered as a political point. I tender my opinion to show to members opposite that they should not be led like sheep and follow the line when they vote on this nonsense.

Even the Hon. Tom Knight must surely find the definition of "owner" a little confusing.

The Hon. Tom Knight: What about the situation of following the sheep in voting?

The Hon. PETER DOWDING: I hope the Hon. Tom Knight would use his intellectual prowess to arrive at the point where he could see the foolishness of this legislation. It does not make sense.

I know what the drafter of this legislation was trying to do. The legislation looks impressive. It is printed on nice white paper; but when one reads it, it does not make sense.

May I suggest to the Minister in this place, and perhaps more specifically to the Attorney General, that he might be able to take some action to improve the quality of the draftsmanship if by no other means than simply by sending it back to the draftsman with an instruction not to put such arrant nonsense and referral legislation into our Act.

We do not regard this House as an effective House of Review, for the reasons the Hon. Joe Berinson gave. The Government has gerrymandered the House. We on this side, having obtained 55 per cent of the vote, will never be able to control or review anything in this House if members like the Hon. Tom Knight will follow like sheep and vote on legislation which is meaningless. Of course, this House will not be able to review anything.

The villainy goes on with the subsequent references to a local authority not being a local authority under the Local Government Act, but being a local authority under the Health Act which provides "a municipality and council thereof or the road board of a road district to which this Act applies, or a local board of health appointed under section twenty of this Act, and the 'local authority' means the local authority for the particular district".

I know that the Hon. Graham MacKinnon, and most members in this Chamber, would understand that. However, it is a local authority under the Health Act. Perhaps the Hon. Graham MacKinnon would know that better than I would, because I do not know what a municipality or a local board of health appointed under the Health Act is. I have never known of that. I do not know what it does, or why its functionaries should have the powers contained in this Bill, which are proposed to be given to local authorities.

In the lower House this matter was dealt with on the basis that the people who were to be given the power were people who worked for local government. That is not right, because other people can be given this power, including those people whose functions are not in any way subject to the Local Government Act, but which come under the provisions of the Health Act and they may be appointed at some later stage.

I do not know why we should say that a local authority cannot be a local authority under the Local Government Act, but has to be a local authority under the Health Act. Furthermore, if the Health Act is amended, then, of course, there will be problems, because the Government will need to be careful that it is not amending a provision which will have a snowball effect in relation to other pieces of legislation. It would be very simple to avoid that by the revision of half a dozen lines. The Minister in another place was not prepared to do that and I hope, before we get

to the Committee stage, the Minister in this place will look at the point I have raised and see whether the matter can be rectified. This can be done by calling an owner what is meant by an "owner", and an occupier what is meant by an "occupier". In that way the problem would be resolved.

With those general comments, I come now to the specific aspects of the thrust of the Bill which indicate to the Opposition it is in fact evil legislation. I refer to clause 12. The base objection taken by the Opposition to these proposals is that they enable one more Government functionary or local government functionary to batter his way into a house and, if necessary, use force to enter premises. I expect at some stage someone will cavil and say "But of course they will not do it". My response is that if they are not going to do it, why give them the power? If they do not need the power—and a need has not been demonstrated—why give it to them? Has the Minister produced one skerrick of evidence to suggest the absence of this power has acted as an inhibition which would justify the situation?

The Hon. D. J. Wordsworth: It is in the second reading speech.

The Hon. PETER DOWDING: They are assertions, and the Minister knows that to be the case.

The Hon. D. J. Wordsworth: I do not know it to be the case. I think it is a very good and valid point.

The Hon. PETER DOWDING: That is typical of the Minister. He will justify it by saying anything.

The Hon. D. J. Wordsworth: I will not justify it by saying anything.

The Hon. PETER DOWDING: The Minister justifies this sort of draconian legislation in two ways: firstly by saying we need it, and secondly by saying someone has said we need it when in fact—

The Hon. D. J. Wordsworth: Have you ever sat in an office whilst an alarm has been sounding beside you for 24 hours? If you had you would realise the necessity for this.

The Hon. PETER DOWDING: I am not dealing with that aspect of the matter. Section 33A and subsequent sections deal with a number of aspects besides alarms.

Since this matter is causing the Minister some distress, let me say the Opposition does not object to the power of entering in respect of alarms. However, that is a red herring, because the provisions contained in section 24(4)(a) do not relate to alarms. The attitude of the Government in relation to this legislation is typical of its dishonesty in regard to other measures such as the Fuel, Energy and Power Resources Act, and the amendments which were made to section 54B of the Police Act. The dishonesty is obvious in the presentation of this Bill. If members can bear to read the second reading speech and then turn to clause 12, proposed new paragraph (b) of the Bill, they will see the major part of that provision has nothing to do with the inactivation of an audible alarm and the heading suggests that.

The Opposition does not object to an audible alarm being stopped. In response to the Minister's interjection, I should like to point out I have sat in an office and laid in my bed listening to alarms going on and on. I have tried to work in an office when someone has been ringing bells outside. All these aspects are part of my experience, but they do not justify giving someone the power to kick in someone else's door because a party is going on, a loud record is being played, or someone is singing a hymn of which the next-door neighbour disapproves.

The Hon. G. E. Masters: Are you going to sing one for us?

The Hon. PETER DOWDING: If there is one noise which should be abated, that is one!

I wish to draw this matter to the attention of the public, because although members opposite do not care about incursions on people's civil liberties, I believe the public are very aware of them. When people look at the Bill they will see that it is a gross infringement of civil liberties. I am ashamed to say I live in a country where Government functionaries and officers of the Police Force occasionally misuse their powers. That should be reason enough not to extend the powers any further than is absolutely necessary.

There is an article in the paper today which states that in England two detectives were arrested and charged with conspiracy to pervert the course of justice. I do not say everyone is like that, but there are bad eggs. If the philosophical and moral reasons are not sufficient, the reasons I have just mentioned should justify the limitation of the extension of powers of this nature.

As a barrister and solicitor, I have been retained to act for people who have been engaged in such activities as demonstrations against tours by certain rugby teams and demonstrations against the Vietnam War, conscription, and foreign military bases, all of which are disapproved of by significant sections of the community.

I have seen that, in those cases, a minority of police officers have misused their powers. Such officers have broken into people's houses without right, have searched people's possessions without right, and have photostated people's documents without right. It is impossible to lay on the Table of the House a provision such as this which gives unnecessary and uncalled for powers and expect the powers not to be exceeded at some stage.

Let us look at the attitude of the Minister to the provisions of the Bill. Firstly, I should like to ask what is an offensive noise. If an alarm is ringing in the office next door, that is offensive; there are certain provisions which enable one to turn it off and it does not need to be defined as an offensive noise.

Offensive noise is not noise that is offensive because of its loudness. According to the Bill, offensive noise—I ask the member for South-East Metropolitan not to nod his head, but to look at the Bill!

The Hon. P. G. Pendal: I was thinking of you!

The Hon. PETER DOWDING: Offensive noise can be offensive by reason of its level—I take that to be loudness—its nature, character, or quality. It is clear nature, character, or quality have to do with a subjective analysis of the content of the noise and not with the noise itself.

This is a Noise Abatement Amendment Bill directed to the reduction of noise levels. We intend to move an amendment in the Committee stage which proposes to delete the words "nature character or quality".

The Hon. D. J. Wordsworth: I thought you wanted legislation for this century.

The Hon. PETER DOWDING: Does the Minister think that if he sings a song about an Italian idiot and if that song is offensive to his Italian neighbour, the noise abatement legislation is the proper vehicle through which something can be done about it? Does the Minister honestly think that if my next-door neighbour sings songs which are offensive to me not in terms of their level of noise, but in terms of content, the noise abatement legislation is the appropriate means by which to control the position?

The Hon. D. J. Wordsworth: The noise can be offensive without being loud.

The Hon. PETER DOWDING: Precisely! It is not the job of the noise abatement legislation to deal with offensive conduct other than conduct which is offensive by reason of the noise level. If the Minister suggests that, singing a song which is audible and not offensive because of its level but because of the words used, then this legislation can operate basically as I have suggested.

The Hon. D. J. Wordsworth: You can make a noise which the human ear cannot hear but every dog in the neighbourhood will howl. That noise would be offensive.

The Hon. PETER DOWDING: Perhaps legislation covering the RSPCA or the Dog Act should be altered to cover that. However, with all due respect, the Minister has not dealt with the points I have raised. I am talking about the propriety of the subjective analysis of the content of sound in order to determine whether an offensive noise should be controlled under the noise abatement legislation.

If there is a problem with a noise that dogs can hear then something must be done about it in legislation. The words in this legislation should not be so wide as to give local government officers and police officers the power to interfere with ordinary human behaviour.

The Minister is attempting to pretend it is not covered by clause 12 of the Bill and of course it is.

The Hon. D. J. Wordsworth: How ridiculous.

The Hon. PETER DOWDING: Of course the Minister says I am being ridiculous; he has not even read the Bill. Such a problem was highlighted in two cases which I will briefly illustrate. One was the Ball v. McIntyre 1966 9 F.L.R. 237 case where Mr Justice Kerr pointed out, in terms, that what is offensive to one person may not be offensive to another. He said that in dealing with the question of offensive behaviour it is necessary to look at the objective reason for the behaviour. In that case I mentioned a student who was charged with offensive behaviour for climbing the statue of King George V. Mr Justice Kerr pointed out that political elements were involved in the action and he said it was not offensive.

The other example was in South Australia with Samuels *v.* Hall 1969 SASR 296. A man was distributing pamphlets in an area where he was not permitted to distribute them without the permission of the local authority. He was acting in an orderly manner and made no attempt to force the pamphlets on the passerby nor did he obstruct pedestrians. The pamphlets were opposing national service. If such an act is offensive in South Australia then for the purposes of the Police Act it must surely be offensive to do these things in this State, whatever the level of noise.

For these reasons I am concerned as to the definition of an offensive noise. Should I play Beethoven's "Violin Concerto" and my neighbour preferred the "Stones" he may regard that noise

as offensive. If my neighbour played the battlecry of the Pol Pot regime, long favoured by the Prime Minister (Malcolm Fraser), I would regard that as offensive, whatever the level of noise. However, that is not what this legislation is about.

I draw the attention of the House to the specific definitions of "noise" and the very subjective nature of what is an offensive noise which, despite attempted definition, goes no further than saying that an offensive noise is a noise that is offensive; but it is not simply its level which makes it offensive but also its nature, character or quality or, the time at which it is made, or any other circumstance.

I do not quibble with those two aspects of whether a noise is harmful or offensive or whether it is unreasonable interference and I do not quibble with the character of a tune being harmful or unreasonable interference. However, clause (b) of the definition provides only a subjective test of the offensiveness to the hearer and that is quite unforgivable. In other words, there are two subjective elements: the first subjective element being the nature and character or quality and the second being offensiveness.

The legislation is so vague that it is difficult to define in terms of the words of the Act.

Despite the ridicule heaped upon the shadow Minister for Health (Mr Barry Hodge) the Minister has now accepted one of our amendments to the Bill. Apparently, common sense has prevailed and local government or health department workers will not be able to kick down a door between 9.00 p.m. and 6.00 a.m. unless a policeman is in their company. At least I am glad that there is that provision.

The Hon. D. J. Wordsworth: That was always intended.

The Hon. PETER DOWDING: Then why was that not said in the lower House? That is the point I have made and it has been spelt out. The Minister is in the situation which Freud described as anal retentive—the Government does not want to give anything away.

At least the Government has seen the light on this particular point and Opposition members are pleased to note that no local shire officer may kick in a door without the presence of a police officer. However, he will not need a warrant. Why should he be permitted to do this without a warrant? The Opposition takes the view that this is a matter of a subjective nature. It is such a serious intervention; in other affairs yet no reasons are put forward to reduce such draconian actions.

Opposition members believe this Bill ought to be withdrawn and redrafted.

In addition to the draconian powers I have outlined, the Opposition takes issue with the rights of people such as police officers and local government authorities to enter a building without a warrant and using such force as may be necessary when there is no noise being emitted at the time. In other words, if one does not get along with one's neighbour and one's child turns up the radio one can go to bed and 29 minutes later the door can be kicked in even when no noise is being emitted.

The Hon. G. E. Masters: That is ridiculous.

Several members interjected.

The PRESIDENT: Order! Will the honourable member direct his comments to the Chair and ignore the Minister and other members.

The Hon. PETER DOWDING: The tragedy of the situation is that the Minister has admitted he is not well informed on the subject. This is obvious when he says that comments are ridiculous. However, he feels it is perfectly legitimate to use all the provisions of the legislation.

The worst feature of it is that it is not necessarily a policeman or a local governing authority officer who knows how bad the noise is or is in a position to judge whether the use of the entry provision is reasonable, because he is reliant both on information given to him about the level of the noise and on the information given to him about its offensiveness.

I can only say it is this power of which the Opposition disapproves. In those circumstances the Opposition opposes certain clauses of the Bill. It does not oppose some of the clauses, particularly those which deal with the alarm situation. I commend to members opposite—if for one second they can throw away their party political blanket or shake their conservative minds—that they read the Bill and the cases to which I have referred. If they do they will see that although in a nicely ordered society such power will not be used, in a situation of excessive power or where there is a level of community bitterness over an issue, I suggest it will be used to the detriment of good society.

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

LAW REPORTING BILL

Second Reading

Debate resumed from 28 April.

THE HON. I. G. MEDCALF (Metropolitan—Leader of the House) [4.42 p.m.]: I would like to dispel some apparent misunderstandings which

appeared in the comments made by Mr Berinson in respect to the type of Bill before the House. The object of the Bill is to cure exactly the situation to which he referred. Mr Berinson referred to Sir Albert Wolff, the former Chief Justice of Western Australia, years ago making the comment that there did not appear to be any law on the subject. We are endeavouring to protect that situation by providing some regularisation of activities which have occurred for many years, which situation is undisputed.

Indeed, I mentioned this matter to the member during a discussion we had on this Bill; and I mentioned that Sir Albert Wolff had many years ago apparently arrogated to himself the right to have some say as to the disposition of the law reports, and an arrangement had been made with the Law Society whereby the Law Society was given the franchise to edit the law reports. The Law Society concluded a contract of sorts in an exchange of letters with Butterworths and the result is we now have a situation that the council of law reporting has been unofficially, and under the patronage of a member of the judiciary, supervising the reporting and editing of the law reports in Western Australia.

This situation, of course, cannot really be allowed to continue. It has been thus for a long time, as the honourable member mentioned; but it is no criticism of the Government that it is now bringing forward a Bill which should have been brought forward many years ago by previous Governments of all political flavours.

The Hon. J. M. Berinson: It was not meant as a criticism. It is better late than never.

The Hon. I. G. MEDCALF: The point is that it is very necessary that we should have this Bill.

The honourable member referred to the question of copyright. I do not think there is any assertion of copyright in the Bill. Indeed, this matter has been neatly avoided; I decided against engaging in some constitutional warfare about copyright by including that question in the Bill and enabling someone who disputes the arrangements made to argue on some constitutional ground that the State is claiming a copyright which belongs elsewhere.

Nevertheless, it is quite true that State Governments of all political persuasions have traditionally claimed that copyright in the law reports of the State courts belongs to the Government of the State, and that it is vested in the Government. I do not think there could be any historical dispute of that. We are not looking for a constitutional argument on this subject, hence that is the reason the Bill contains no reference to copyright, although I have quite clearly said on one or two occasions that the Government claims copyright in written judgments.

The Hon. J. M. Berinson: But the effect of the Bill will be the same as if copyright did result?

The Hon. I. G. MEDCALF: I would hope so. I think the same position applies in the other States. I doubt whether the legislation in those States which have it makes an assertion as to copyright. I very much doubt whether the legislation of New South Wales and Victoria—which is slightly different from ours in its terms; and necessarily so because of historical differences—would make any assertion as to copyright. I may be corrected in that respect because it is some weeks since I looked at that legislation, but I believe that to be the case.

Nevertheless, as the honourable member has said we do claim that copyright in the written judgments of the judges of courts of record in this State belongs to the Crown.

The honourable member referred to the difference between judicial decisions and written judgments. The Bill refers to judicial decisions, and I referred to written judgments. I was referring to copyright in written judgments, whereas the Bill refers to reports of judicial decisions.

The Hon. J. M. Berinson: Which may be oral.

The Hon. I. G. MEDCALF: The words have been carefully chosen and I would venture to say that whilst there are judicial decisions that are not reduced to writing or do not become written judgments in the sense of being written decisions, nevertheless we are concerned about the judgments which are reduced to writing in one way or another—even decisions which are given verbally but are reported as written decisions.

The Hon. J. M. Berinson: Can you expand on what you mean? Are you saying that the transcript of an oral decision would come within the ambit of this Bill?

The Hon. I. G. MEDCALF: The judicial decision which is made, in whatever form it is made, will come within the ambit of this Bill. The form of this Bill—which I appreciate the honourable member is quite entitled to criticise—has been referred on more than one occasion to the council of law reporting, and in particular to its chairman; and discussions have been held between myself and the Crown Solicitor on the one part and Mr Justice Wickham and Mr Temby on the other part. The Bill in its final form has met with the approval of the council of law reporting which is a subcommittee of the Law

Society; and, of course, it goes without saying it has met with the approval of the chairman.

The Bill has been changed somewhat during the course of its history and, indeed, it has been in the course of preparation for a year or two. Various changes have been made to it. For example, particularly at the request of the council of law reporting, the constitution of the committee was changed so as to include more representatives to be nominated by the Law Society. It was felt the advisory board which is to be set up by this Bill should be more representative of the legal profession who are the people most concerned with the reporting of judicial decisions.

It was at the request of Mr Justice Wickham and Mr Temby, representing the Law Society and representing the council of law reporting, that we increased the size of the committee by reducing the membership to be nominated by the Attorney General and enlarging the membership to be nominated by the President of the Law Society.

We have in fact endeavoured to accommodate the legal profession very substantially in the preparation of this Bill.

The honourable member inquired why no reference was made to the State Reports. I have indicated already to the learned editors of the State Reports—Dr Dickie and Mr Paul Nicholls—that they have approval to produce their State Reports as far as I am concerned. I have indicated also to CCH that it has approval to produce the Family Court Reports, and indeed a number of other reports which they produce, having drawn on the judicial decisions of the State in relation to taxation and quite a number of other areas which they are either reporting now or working on.

CCH has been given fairly comprehensive authority to reproduce their reports in various series because the reports are reputable and in considerable demand by the legal profession and others, both here and in other parts of the Commonwealth. The fact that I did not specifically mention these other reports is not in any way a reflection of them or a belief that their editors are doing anything they should not do, or that they do not have official favour—I guess that is the phrase we can use. Certainly there is no suggestion that they are unauthorised, or that their omission is a slur upon them.

The Hon. J. M. Berinson: If I understand you, there is no intention to interfere with any existing arrangement.

The Hon. I. G. MEDCALF: No, not at all.

The Hon. J. M Berinson: That was all I was trying to find out.

The Hon. I. G. MEDCALF: I must say that I cannot guarantee what may happen in the future, not only in relation to those reports, but also in relation to the West Australian law reports. The advisory board will have the power, not only to advise as required, but also to advise on any matters generally.

Certainly it will be expected that the standard and quality of the reporting will be maintained, as well as other attributes, including the indexing. As Mr Olney pointed out, the workers' compensation cases could be better indexed. This will be one of the tasks of the committee.

The Bill is in rather general terms, and that is by design. I think, on reflection, the honourable member will agree that in situations such as this, where the Government maintains it has the copyright and it will defend that copyright, it is not necessary for the Government to be too specific about it. The Government can afford to be a little relaxed in terms of providing a certain amount of flexibilty. That may help to explain why there is not a specific definition of the term "law reports" as such. As has been said, the description is in a negative form; that was the form that commended itself to the Chairman of the Council of Law Reporting. He was the author of the suggestion that we should exclude reports not part of a series, and I accepted that.

I believe that we do not need to be too precise about our definition of law reports. I believe we can be fairly relaxed on that matter in the same way as I feel we can be fairly relaxed in the definition of the word "court". However, it was considered desirable to refer to the Workers' Compensation Board and to the Supplementary Workers' Compensation Board. It could well be said that they are not courts in the normal sense. However, as Mr Olney is well aware, the Industrial Commission is a court of record, and it is included. Likewise the Industrial Appeal Court comes within the definition without further reference.

The reason for referring specifically to the Workers' Compensation Board and the Supplementary Workers' Compensation Board was that it was considered the reports were sufficiently importan to merit the attention of this legislation and that they should be included specifically so it could not be said they were not covered by the legislation.

The Hon. H. W. Olney: You will be pleased to know the Privy Council agrees it is not a court.

The Hon. I. G. MEDCALF: At any rate, we decided to treat this in a fairly flexible way. Admittedly, one can always find a little tautologous comment here and there.

The Hon. J. M. Berinson: I hope not always Mr Attorney.

The Hon. I. G. MEDCALF: If one looks hard enough one will find them anywhere. It is only a matter of looking through something again from a different position. One will always find some little oddity, but I do not think it is important enough to warrant any further attention. I admit small terminological changes may be desirable here and there, but generally we have adopted a fairly flexible approach to this subject.

The Hon. J. M. Berinson: You would agree though that the tautology which goes to the basic definition of an Act is rather more serious than others.

The Hon. I. G. MEDCALF: I do not think it would worry us in connection with this particular definition for the reasons I have mentioned. I agree in general it is advisable to avoid tautology, but I do not have the time to go through all legislation myself.

The Hon. J. M. Berinson: It is a shame Mr Masters does not.

The Hon. I. G. MEDCALF: The honourable member raised the question of the cost of the board, and he referred to the very fine voluntary work performed by members of the legal profession. I am extremely well aware of this, having participated in quite a lot of it myself from time to time. The Legal Contribution Trust, the Barristers' Board, and the Appeal Costs Board are statutory bodies which are assisted by and supplied from the legal profession without charge. It is unlikely that fees will be paid in respect of this board; I do not believe that it will hold sufficiently frequent meetings for the work of board members to interfere seriously with their legal work. However, it could well be necessary in the future to provide some form of compensation. In any event, any fees would be nominal—certainly I see no likelihood of fees of any magnitude being paid to the board members.

Typing and secretarial services will be supplied most likely by the Crown Law Department or perhaps from some other quarter. There is no plan to engage secretarial staff or special typists for the board. We are looking more to the intellectual guidance of the members and their professional dedication.

I do not believe there are any other points I should mention at this stage. The Bill is a good, rational, sensible attempt to bring some order into an area which has not had any. It may not be the final answer, but I believe it is the answer at this particular stage of our history. At a later time it may become necessary for changes to be made, but that is no reflection on the Bill as it stands at the moment.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (the Hon. T. Knight) in the Chair; the Hon. I. G. Medcalf (Attorney General) in charge of the Bill.

Clause 1 put and passed.

Clause 2: Interpretation—

The Hon. J. M. BERINSON: I refer briefly to the definition of "law report" which appears in this clause. I do not intend to elaborate on the matter at any length because I did so during the second reading debate. I appreciate the Attorney General's response to my remarks even if I am not altogether persuaded by it. The Attorney General was disarming in his frankness about the lack of preciseness of this definition; not only was he disarming; for fear that that might not be enough, he was somewhat intimidating as well. He found it necessary to range against my poor feeble efforts not only his own expertise in his parallel capacity to Attorney General as Mr Medcalf, QC—

The Hon. I. G. Medcalf: I thought that was necessary because I assumed you must have had other advice of which I was unaware.

The Hon. J. M. BERINSON: Perhaps I should have had other advice. As it is, I find myself alone and isolated against the combined weight of the opinions of Mr Medcalf, QC, Mr Ian Temby, QC, and His Honour, Mr Justice Wickham. That leaves me very intimidated, and normally I would not proceed. I am encouraged to do so however because in spite of the opinions of all those learned gentlemen, we are now dealing with basic definition of the Bill. As the Attorney General has been good enough to point out, it is tautology, which is another way of saying it means nothing!

For all my desire to combine with him in agreeing that sometimes it is good to have a Bill couched in general terms, one does reach a stage where the terms become so general as to go to the bounds of obscurity, and that really was the point I made in my earlier comments.

I believe this particular part of the definition should be approached more precisely and more positively, as opposed to its present negative form. It leaves a number of questions unanswered. For

example, what is the status of, say, a political or industrial union document which refers to a decision of a court? That is not an infrequent occurrence and is not protected by the definition of "law report" which seeks to exclude from its cover only reports published in a newspaper or other news media or in professional or like journals. The sort of pamphlets to which I have referred certainly do not fall comfortably within any of those categories and that is another area of vagueness left by the Bill.

Perhaps more importantly, this definition of "law report" is the beginning of a series of inconsistent expressions through the Act. Even if one were to accept the Attorney General's view that the definition in itself is satisfactory—to put it no higher—the least one should look for is some consistency in the rest of the Act itself in respect of law reports; however, that is not to be found.

For example, the definition of "law report" refers to a report of a judicial decision in a court in the State. Clause 3(a)(i) provides that the Attorney General may authorise the publication of reports of judicial decisions of any court in the State.

One is left to wonder why the Government does not simply say "law reports" if that has been previously defined.

Section 6 of the Act does not talk about law reports, or reports of judicial decisions; the term used there is a "law report of a judicial decision" so that within two pages of the printed Bill, we have three separate ways of expressing what I understand to be the same thing. I think that is an undesirable form. I do not think the practice of law in this State is going to be put at risk as a result of it. Nonetheless, it is the business of Parliaments when passing legislation to ensure it is passed in a proper form, and not in a form which is based on the principle that if anyone finds the legislation is a bit uncertain or obscure, he can always challenge it somewhere.

I put to the Attorney General that this term "law report" is so fundamental to any understanding and implementation of the Bill that some better consideration should be given, firstly, to the form of the definition and secondly, to the proposition that we have in this Bill the one concept, and that it is undesirable to have it appear in three different forms in the legislation.

The Hon. I. G. MEDCALF: I am sorry, but I cannot accept this argument. I find it is not really a practical approach to this particular problem. The definition "law report" is not—as the honourable member said—a definition at all.

The Hon. J. M. Berinson: Perhaps we need not have it in the Act at all.

The Hon. I. G. MEDCALF: It simply provides that a law report does not include certain things. I refer the Hon. J. M. Berinson to clause 6 of the Bill. I have already explained we do not consider it necessary to define "law report"; certainly, we all know what the word "court" means. Therefore, the consent of the Attorney General is required to publish any law report.

When we turn to section 3, we find that the Attorney General may do any of these things. He may authorise the publication of reports of judicial decisions. We do not have to say "law report of judicial decision" because that would indeed be tautologous.

The Hon. H. W. OLNEY: I do not intend to get into that argument. I just make the point that of course the Attorney General is quite right when he says the "definition" is not a definition at all but simply excludes certain things which might otherwise be thought to be in a law report. My understanding of the term "law report" is that it comprises the judgment of a court, accompanied by what we call a headnote. That is a commentary or a brief description of the facts, the legal principles involved, and the decision reached by the judge. In itself, that headnote is an original literary work, no doubt attracting copyright to the author of it, who is usually designated as "the reporter". My understanding is that the judgment, with the headnote, is the law report.

From what the Attorney has said, it seems that the Crown claims the copyright only as to the judgment itself—that is, the written document that expresses what the court said in its decision. That being the case, can I raise with the Attorney—perhaps it should come in under another clause—what is the position with regard to the actual judgment of the court which, as he may know, is usually filed away and made available in the Supreme Court Library? I think copies are sent to other libraries. Certainly the independent bar receives a copy.

Usually those judgments are a photocopy of the judgment handed down by the judges. No doubt they are documents which are copyright. Often members of the legal profession and the public would like to obtain copies of those judgments. As I understand it, the claim to copyright is such that they ought not be copied without consent.

I wonder whether the Attorney has in mind any facilities by which judgments of the courts, and particularly the Supreme Court, could be obtained readily by members of the public and the legal profession, by having the copies in the

Supreme Court Library copied without offending against any claim of copyright or this Statute?

The Hon. I. G. MEDCALF: I cannot answer that question specifically, because I have not any such proposal in my mind at this time. I am aware that those written judgments are available; and they can be dealt with in that way. I can say only that the present practice invariably is that any reputable person having any business or reason to have a judgment is given approval to use the judgment or to publish it.

That is slightly different from the question raised by the member, whether the judgments themselves can be copied, and whether there is any way in which they can be made available more readily to the members of the public, or anyone else who wants them. I cannot answer that question specifically; but I am quite prepared to have a look at it and to see what can be done.

The Hon. J. M. Berinson: Proposed new section 6 would not prevent copies being taken?

The Hon. I. G. MEDCALF: No.

Clause put and passed.

Clause 3: Attorney General to regulate law reporting—

The Hon. J. M. BERINSON: It seems to me that subparagraphs (a)(ii) and (a)(iii) are superfluous. These set out to permit the Attorney General to authorise the publication of a summary, extract, or digest of reports, or any other legal works relating to such reports. That is not precluded by clause 6, which precludes the publication, without authority, of what is called a "law report of a judicial decision". Clause 6 does not purport to preclude the publication of a summary, extract, or digest of such a report.

If I am wrong in that, it may be that clause 6, in precluding the publication of a law report, also precludes implicitly the publication of a summary, extract, or digest of such a report. In that case, it would not be necessary to go beyond clause 3(a)(i).

Alternatively, if I am right in the first instance, clause 3(a)(ii) and 3(a)(iii) would have no effect.

The Hon. I. G. MEDCALF: I would expect that clause 6 is an all-embracing section, and that the reference to the publication of any law report of a judicial decision is necessarily expressed generally; and without that definition, it must be taken to include part of the law report, or a summary of the law report, or any other portion of it, such as the headnote, or any particular portion of the decision. To that extent, I would agree with the member that maybe we are acting out of over-abundant caution when we particularise in clause 3 the various types of publication which may take place. Parliamentary counsel are renowned for being a little over-cautious; and it is wise for us to go along with them in that respect.

Clause put and passed.

Clauses 4 to 10 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

QUESTIONS

Questions were taken at this stage.

CITY OF PERTH ENDOWMENT LANDS AMENDMENT BILL

Second Reading

THE HON. D. J. WORDSWORTH (South—Minister for Lands) [5.30 p.m.]: I move—

That the Bill be now read a second time.

Members may recall that the City of Perth Endowment Lands Act was amended in 1980 to resolve rating difficulties confronting the City of Perth as a result of the determination of an appeal by the Land Valuation Tribunal.

That amendment was an interim measure and applied only for the two financial years 1979-80 and 1980-81.

A comprehensive review of the City of Perth Endowment Lands Act, including the rating procedures has since been carried out by a committee of inquiry appointed by the Government.

Consideration is now being given to the recommendations of that committee but it will be a little while yet before firm decisions can be made on all the issues involved.

In the meantime it is necessary that the City of Perth Endowment Lands Act be further amended to permit the City of Perth to continue to rate the endowment lands area in the same manner as applied for 1979-80 and 1980-81.

Under that procedure the proportion of the total rates that the endowment lands must bear is equal to the proportion that the total gross rental values in the endowment lands area bears to the total gross rental values for the whole of the district of the City of Perth.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. Peter Dowding.

ADJOURNMENT OF THE HOUSE

THE HON. I. G. MEDCALF (Metropolitan—Leader of the House) [5.32 p.m.]: I move—

That the House do now adjourn.

Football: Interstate Match

THE HON. A. A. LEWIS (Lower Central) [5.33 p.m.]: I will not delay the House for long, but I felt it would be a good idea, after reading the reports in *The West Australian* and the *Daily News* of today's date which referred to the fact that some commentators were criticising the Victorian footballers for the job they did here at the weekend, to ask the Leader of the House to approach the Premier and request him to write to Dr A. Aylett, the President of the VFL, and thank him for honouring the agreement which the VFL kept with the public of Western Australia and the Western Australian Football League on Saturday.

I do not think it matters who won the match. The effort made by the VFL should be commended. All too frequently we hear stories about sportsmen who do not do the right thing. In this case, the sportsmen did everything possible to honour their obligations to the public of Western Australia, despite the continuation of the idiotic strike by the hostesses. Indeed, as a result of the strike a member for the North Province (the Hon. W. R. Withers) was not able to travel to Perth so that he could represent his province in the House.

The VFL must be commended on its efforts and for the way in which it enabled the Victorian team to travel to Perth and play the match on Saturday.

Electoral: Turkey Creek Incident

THE HON. PETER DOWDING (North) [5.34 p.m.]: I, like the Hon. Sandy Lewis, will not delay the House for very long. However, I wish to point out the House ought not to adjourn until it has had the opportunity to express its distaste for a matter which, unfortunately, during previous debates the other member for North Province has chosen to regard as a joke. I refer to an insulting piece of Australiana which is available for sale in Kununurra, the home town of the other member for North Province. That item commemorates what I believe to be a black day for Australians, namely the incident which has become known as the "Turkey Creek wine festival". In a previous debate it was suggested this incident was something of a joke and, furthermore, that T-shirts which were on sale in the north commemorating this incident could be looked at in a jocular way.

I hope the Attorney General, bearing in mind his interest in the Aboriginal Communities Act, and Government Ministers who have been saying they are interested in giving dignity to Aboriginal people, will join with me in expressing their abhorrence at the release of these T-shirts which bear a picture of a rather dissolute gentleman sitting on top of a 44-gallon drum which is inscribed with the words "Plonk Vintage 44 Turkey Creek Wine Festival 1981, Harry's Place Turkey Creek WA". That sort of appalling racist comment fills me with sadness and I hope it will commend to the Attorney General the desirability of introducing in this State legislation which will deal with racial discrimination and prevent this sort of offensive behaviour being carried on.

Recently I read about a young man who was arrested in the Hay Street Mall for wearing a T-shirt bearing words which were thought to be offensive. Obviously if "offensive" is a subjective word, as I said earlier today, I suggest, to remember the incident to which I referred in such a jocular way, is grossly offensive. I hope at some stage Ministers opposite will have the opportunity to join with me in expressing their grave disapproval of that type of activity.

THE HON. P. H. LOCKYER (Lower North) [5.36 p.m.]: I should like to make a brief comment on the remarks made by the Hon. Peter Dowding. I hope he would not have this House believe that the Hon. Bill Withers would support in any way the type of activity which occurred at Turkey Creek on the occasion of the incident referred to. I would be very concerned if that were the case, because I know the attitude of the Hon. Bill Withers to the Aboriginal people and it is probably a more enlightened attitude than that of many other people today.

I know the Hon. Peter Dowding is very sincere in his comments and I agree it is not good that these types of T-shirts should be on sale. They are in very poor taste indeed. However, I should hate the Hon. Peter Dowding to lead the House to believe the Hon. Bill Withers would support in any way the type of action which occurred at Turkey Creek.

Football: Interstate Match

THE HON. I. G. MEDCALF (Metropolitan—Leader of the House) [5.38 p.m.]: I shall most certainly approach the Premier in relation to the request made by the Hon. A. A. Lewis. I shall request the Premier to thank the VFL for the part it played in bringing the Victorian football team

to Western Australia under great difficulties and for the sportsmanship displayed by the team. I am appreciative to the Hon. A. A. Lewis for raising this matter and I shall ensure that it is referred to the Premier.

Electoral: Turkey Creek Incident

The Hon. I. G. MEDCALF: The incident at Turkey Creek has been of concern to the Government from the time it occurred. The events were roundly condemned by me at that time and subsequently, when the present Minister for Police and Traffic was appointed, he condemned them also.

Indeed, the Electoral Act was amended in order to try to ensure that, if that type of conduct occurred again, it would be an offence, because it was found that such activities were not in fact offences at that time.

The Hon. Bill Withers has made outstanding submissions to the Government on the issue of racial discrimination. I join with Mr Lockyer in saying the Hon. Bill Withers would not be a party to the kind of matters to which the Hon. Peter Dowding has referred. Indeed, T-shirts can be most offensive, as I discovered recently when acting as Chief Secretary. I was shown a collection of T-shirts which had been on display. They did not refer in any way to racial matters, but were extremely offensive to many people in the community.

I have noted the comments members have made.

Question put and passed.

House adjourned at 5.40 p.m.

QUESTIONS ON NOTICE

220. *This question was further postponed.*

R. TRAVERS MORGAN PTY. LTD.

Mr Alfred Goldstein

225. The Hon. F. E. McKENZIE, to the Minister representing the Minister for Transport:

Is Alfred Goldstein—born in Vienna—the principal member of R. Travers Morgan Pty. Ltd.?

The Hon. D. J. WORDSWORTH replied:

No. He is one of six directors.

R. TRAVERS MORGAN PTY. LTD.

Eastern Suburbs Railway, Sydney

226. The Hon. F. E. McKENZIE, to the Minister representing the Minister for Transport:

(1) Did the R. Travers Morgan Pty. Ltd. "Assessment of Public Transport alternatives between the Central business district of Sydney and the Sydney Airport" recommend the extension of the new eastern suburbs railway line to the Sydney Airport?

(2) If not, what was its recommendation?

The Hon. D. J. WORDSWORTH replied:

(1) No. A decision to reduce the originally intended extent of the eastern suburbs railway line so that it went no further than Bondi Junction had been made by the State Government many years previously.

(2) The report recommended use of buses on the existing road network.

ANIMALS

Transferral of Ministerial Responsibility

227. The Hon. LYLA ELLIOTT, to the Minister representing the Chief Secretary:

(1) Has any consideration been given to the proposition that responsibility for the administration of animal welfare legislation be transferred from the Chief Secretary to the Minister for Agriculture?

(2) If so, is it likely that the RSPCA would lose any of its authority in respect to any animals, for example, those owned or reared by the livestock industries?

(3) If so, how will this affect the review of the Prevention of Cruelty to Animals Act presently taking place?

The Hon. G. E. MASTERS replied:

(1) to (3) When the review of animal welfare legislation which is currently proceeding is complete, the issues raised by the member will be decided. Meanwhile many matters are under discussion.

R. TRAVERS MORGAN PTY. LTD.

Hobart Study

228. The Hon. F. E. McKENZIE, to the Minister representing the Minister for Transport:

(1) Did the R. Travers Morgan Pty. Ltd. study in Hobart, Tasmania, result in the abandonment by the Government of all suburban rail passenger services?

(2) If not, what recommendations did the study make?

The Hon. D. J. WORDSWORTH replied:

(1) No. The study was completed five years after cessation of Hobart passenger rail services.

(2) The Minister is advised that the report "Public Transport in the Derwent Region" drew a great many conclusions on all aspects of public transport in Hobart. The report did consider the possibility of reopening the suburban rail system, but found no evidence to overturn the recommendation of the 1974 Royal Commission which recommended closure.

GRAIN

Wheat

229. The Hon. MARGARET McALEER, to the Minister representing the Minister for Transport:

Further to question 31 on 31 March 1981—

(1) Would the Minister advise me of the reason for not calling tenders this year, 1981, for grain carting from the CBH receival depots in the Ajana and Yuna areas to Geraldton, as I understand that it was proposed to do so?

(2) Would the Minister advise what has been the basis for calling such tenders in the past?

(3) Would the Minister further advise me if there is any proposal to call tenders for the Yuna-Ajana areas next year, 1982, or at any time in the future?

The Hon. D. J. WORDSWORTH replied:

(1) As advised in answer to question 31 on 31 March 1981, it was not intended to call tenders for the Ajana and Yuna areas during 1981. However an undertaking has been given that the Transport Commission will undertake surveys in areas where tenders have been in force for many years such as the Geraldton area, before a decison is made as to the recalling of tenders. This undertaking was given subject to the availability of manpower to undertake this task. The Geraldton area has not been surveyed at this time.

(2) Tenders were first called in the Geraldton area following the closure of the Ajana-Yuna railway line. In some areas it has been the practice on a year-to-year basis to retain efficient operators to undertake this work subject to their satisfactory performance and the approval by the Commissioner of Transport of their cartage rates.

(3) Subject to the availability of manpower as outlined in (1) above this survey will be undertaken in 1982.

ANIMALS AND STOCK

Livestock Industry Codes of Practice

230. The Hon. LYLA ELLIOTT, to the Minister representing the Minister for Agriculture:

(1) Will the proposed livestock industry codes of practice become enforceable by law?

(2) If so, how will this affect the application of the Prevention of Cruelty to Animals Act?

The Hon. D. J. WORDSWORTH replied:

(1) and (2) This matter is being considered as part of the current review of the Prevention of Cruelty to Animals Act.

R. TRAVERS MORGAN PTY. LTD.

Melbourne-Sydney Railway Study

231. The Hon. F. E. McKENZIE, to the Minister representing the Minister for Transport:

(1) Was the Sydney-Melbourne railway electrification study by R. Travers Morgan Pty. Ltd.—

(a) a technical study; or

(b) a costing study?

(2) Who supplied the costs?

(3) Can the Minister ascertain and advise whether the study has delayed or stopped the proposal of the Federal Government?

(4) If it has delayed or stopped the Federal Government proposal, could the Minister advise the reasons?

The Hon. D. J. WORDSWORTH replied:

(1) The study was an investigation of the economic benefits and costs of electrification, together with an assessment of financial and operational implications.

(2) The Minister is advised capital costs were provided by ElRail Consultants Pty. Ltd.—the same organisation which estimated costs of electrification of the Perth-Fremantle corridor in 1979—and operating and other costs were provided by R. Travers Morgan Pty. Ltd.

(3) and (4) As the study did not recommend against the electrification of the Sydney-Melbourne line, the Minister is not aware of any reason why that study should be considered to have delayed or stopped electrification.

URANIUM

Mining and Enrichment

232. The Hon. LYLA ELLIOTT, to the Minister representing the Minister for Resources Development:

(1) (a) What levels of radioactivity are being recorded during monitoring at the Yeelirrie mine when mining is taking place; and

(b) what levels of radioactivity are being recorded during monitoring at the Kalgoorlie pilot plant when crushing and milling of uranium is taking place?

(2) Are the levels being recorded below or above those predicted in the ERMPs of these projects?

(3) Which Government authority has the responsibility of viewing the data and seeing that correct monitoring procedures are being carried out by Western Mining Corporation?

The Hon. I. G. MEDCALF replied:

(1) (a) The company has advised that mining trials were conducted at Yeelirrie in the four months from August to November 1980; during that time the maximum whole body dose rate recorded was 72 millirems for a four week period, and the average whole body dose rates were typically of the order of 30 millirems per four week period;

(b) the company has advised that during the course of operations at the Kalgoorlie research plant the maximum whole body dose rate has been 12 millirems per four week period with an average whole body dose rate typically of 2 millirems per four week period.

(2) Maximum levels recorded at both the mine and the research plant are significantly below the predictions.

(3) Monitoring procedures are according to a programme approved prior to the start of operations by State X-ray Laboratory of the Department of Health and Medical Services.

R. TRAVERS MORGAN PTY. LTD.

Adelaide Study

233. The Hon. F. E. McKENZIE, to the Minister representing the Minister for Transport:

In the Adelaide study by R. Travers Morgan Pty. Ltd. "Economic Assessment of the North East Area Public Transport Review Study", did the study—

(a) negate a previous conclusion to use railways;

(b) result in the selection of the Mercedes Benz group of companies guided bus system "O-Bahn"; and

(c) if neither, what did the study recommend?

The Hon. D. J. WORDSWORTH replied:

(a) and (b) No.

(c) The study found that the two most favoured options on the basis of economic performance, were a busway and a light rail transit system. While the light rail transit system had higher capital costs it was also considered to have greater benefits than the busway.

FUEL AND ENERGY: NUCLEAR

Power Station

234. The Hon. LYLA ELLIOTT, to the Minister representing the Minister for Resources Development:

With reference to the statement in *The West Australian* of 26 January 1980 by Mr Kirkwood as follows—

> Breton Bay is being given a very close study, but so far it has not been endorsed as the site we want. Though both sites are being investigated, Wilbinga is showing up less favourably.

and the report in *The Australian* of 10 April 1981 that the Federal Government has been approached by Western Australia and the Northern Territory concerning the building of nuclear power stations, will the Minister advise—

(1) What preliminary studies concerning a nuclear power station in Western Australia have already been done?

(2) What data are available from the studies to date?

(3) For what reasons was the Federal Government approached by Western Australia concerning a nuclear power plant?

(4) Who are the Government's advisers on this issue?

(5) How much has been spent on studies connected with nuclear power generation in WA to date?

(6) What funds have been allocated in the next two years for studies concerning nuclear power in WA?

The Hon. I. G. MEDCALF replied:

(1) and (2) Apart from general studies carried out by the State Energy Commission as part of its regular review of future energy options, studies have been confined to investigating the suitability of Breton Bay and Wilbinga sites for the possible installation of a nuclear power plant in the future. These studies are continuing and the suitability of the sites is being measured against the United States standards, currently the most stringent in the world.

(3) Western Australia has not approached the Federal Government on the issue as such, but has been generally pressing for combined Commonwealth-State arrangements in relation to the establishment of a satisfactory regulatory process in nuclear power plants well in advance of the need to utilise such a process.

(4) The State Energy Commission.

(5) and (6) It is not possible to provide estimates sought by the member, since no distinction is drawn between site investigations specific to a nuclear power station as distinct from the commission's general future power station studies.

TRANSPORT: BUSES

MTT: Lease and Purchase

235. The Hon. F. E. McKENZIE, to the Minister representing the Minister for Transport:

(1) How many Metropolitan Transport Trust buses have been subject to leasing arrangements in each of the financial years ending 1977, 1978, 1979, 1980, and for the 1981 financial year to 30 April?

(2) How many MTT buses have been purchased in each of the financial years ending 1977, 1978, 1979, 1980, and for the 1981 financial year to 30 April?

(3) What has been the number of each make and type leased and purchased in each of the financial years ending 1977, 1978, 1979, 1980, and for the 1981 financial year to 30 April?

The Hon. D. J. WORDSWORTH replied:

(1) 1977 None
1978 26
1979 60
1980 42
to 30 April 1981 None.

(2) 1977 38
1978 None
1979 17
1980 15
to 30 April 1981 None.

(3) 1977 None leased, 38 purchased, all Mercedes 0305
1978 26 leased, all Mercedes 0305
1979 46 leased, Mercedes 0305
14 leased Mercedes 0305G.
4 purchased, Mercedes 0305
3 purchased, Mercedes 0305G.
10 purchased, Leyland B.21
1980 39 leased, Mercedes 0305
3 leased, Mercedes 0305G.
15 purchased, Mercedes 0305.
to 30 April 1981 None.

QUESTIONS WITHOUT NOTICE

QUESTIONS

Relevant to Other Governments

85. The Hon. G. C. MacKINNON, to the Minister representing the Minister for Transport:

Would he advise the House by what authority he answers questions related to the Governments of New South Wales, South Australia, Tasmania, and Victoria and questions which even impinge on the bailiwick of the Federal Government?

The Hon. D. J. WORDSWORTH replied:

By the same authority under which the questions were asked.

FISHERIES

Lancelin

86. The Hon. W. M. Piesse (for the Hon. TOM McNEIL), to the Minister for Fisheries and Wildlife:

With reference to the naval exercises carried out off Lancelin during May 1980, would the Minister advise—

(1) How many claims were made by professional fishermen for damaged or missing fishing gear?

(2) What was the value of those claims?

(3) How many claims have been settled?

(4) When settlement can be expected for the outstanding claims?

The Hon. G. E. MASTERS replied:

(1) to (4) I am afraid I do not have the necessary information. I did try to obtain the details but I was too late. I ask that the question be placed on notice.

FISHERIES

Lancelin

87. The Hon. W. M. Piesse (for the Hon. TOM McNEIL), to the Minister for Fisheries and Wildlife:

(1) When is it anticipated that the next major naval exercises after May will be repeated in the Lancelin area?

(2) Is more than one major exercise in any given year a contravention of the agreement made between the then Minister for Fisheries and Wildlife (the Hon. G. C. MacKinnon) and the Minister for Defence (the Hon. D. J. Killen) in 1977?

The Hon. G. E. MASTERS replied:

(1) and (2) I cannot give the full information requested, but as the member representing the area knows there have been some problems with naval exercises. I did indicate to the member and to the House that I was taking the matter up with the Commonwealth Government. I understand the situation may be resolved to a certain extent and hopefully to the satisfaction of the fishermen. However, I will obtain the information and pass it on.