Legislative Council

Thursday, 14 May 1981

The DEPUTY PRESIDENT (the Hon. V. J. Ferry) took the Chair at 11.00 a.m., and read prayers.

BILLS OF SALE AMENDMENT BILL

Introduction and First Reading

Bill introduced, on motion by the Hon. I. G. Medcalf (Attorney General), and read a first time.

STATE TRANSPORT CO-ORDINATION BILL

Second Reading

Debate resumed from 7 May.

THE HON. F. E. McKENZIE (East Metropolitan) [11.04 a.m.]: This Bill is opposed by the Opposition. I need to explain why we oppose it. It goes back to the time when the State Transport Co-ordination Act first came onto the Statute book in 1966. On Wednesday, 2 November 1966, in the Minister's second reading speech on page 1969 of *Hansard* he said—

> The function of this council, which is to be comprised of men knowledgeable in transport, will be purely of an advisory or consultative nature.

That related to the Transport Advisory Council. One of the features of this Bill is that the Transport Advisory Council will be no longer included in the Act. It is being deleted, as is the Transport Users' Board, about which I will speak later on. To continue with the quote—

> The council will meet as and when the chairman or any two members so require, and it is charged with the duty of formulating proposals in respect of, and making recommendations on, any matter referred to it by the Minister or by the director-general. With the depth of transport knowledge the council will have in its members, it will be able to offer advice of a high order and will play a key part in the formulation of rational and progressive transport policy.

It is likely that the Transport Advisory Council has not worked as well as it ought to have done. However, I will return to that aspect later, because I will move now to the other board being deleted from the Act; that is, the Transport Users' Board. In 1966, the Minister said—

> Whereas the present Transport Advisory Board has as its chairman the Commissioner of Transport, the transport users' board will be chaired by the director-general of transport. It will meet on such occasions as the director-general or any two members may require, but except as requested by the chairman, meetings will not be convened more than once in any month.
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> The new board will be charged with the duty of considering and making recommendations on any matter affecting a transport service operating in the State or touching the lack, or inadequacy, of a transport service. In short it will be concerned with the "quality" of service given the community by the various transport agencies both Government and privately operated. It will be seen then that this board will have an important role to play in the transport pattern, and its creation should fill a much-needed want in the past in so far as the general public is concerned. All in all the Bill represents a concise and functional piece of legislation which should enable the objectives in transport, which have already been outlined, to be achieved.

So much for what the Minister of the day said in 1966 when the State Transport Co-ordination Act first came onto the Statute book.

In his second reading speech, the Minister referred to the fact that this particular board had not been a great success. It had not met very frequently. Therefore, there was no point in its continued existence. I make the point that the board was established to be used but it was not used, so we have to ask ourselves why it was not used. I believe it was not used simply because the Director General of Transport saw no purpose in it. On 29 October 1980, at page 2755 of *Hansard* I directed a question to the Minister in relation to the Transport Users' Board to which he replied—

> The terms of appointment of the original members of the Transport Users' Board expired in 1971. No re-appointments or new appointments have been made since then.

So much for the great job being carried out by the Transport Users' Board, as referred to by the Minister in 1966.

By 1971 the terms of the members had expired and the board was never called together again. No new appointments were made and that was in direct contravention of the provisions of the Act. Successive Ministers were responsible for the fact

that no new appointments were made; the Act which was proclaimed in 1966 was not adhered to by successive Ministers; therefore, the Government seeks to repeal two sections of it.

The Director General of Transport not only has the right to advise the Minister, but also has the ability to dictate to him in direct contravention of the Act. If one looks at section 15(3)(b) of the State Transport Co-ordination Act, one finds it says quite clearly that four persons may be appointed by the Government on the nomination of the Minister to hold office for three years. If no-one was appointed, how could they hold office for three years?

Therefore, since 1971 we have operated without that particular board and I believe that has occurred for a very good reason which is that the board does not suit the head of the department; that is, the Director General of Transport.

The Hon. D. J. Wordsworth: He is not a head of a department.

The Hon. F. E. McKENZIE: I do not suppose one can call him that, but he is a man with very great powers and, because he is in a position to advise the Minister, his powers are greater than those of a head of a department. I have said previously the Director General of Transport is in a position of power and influence. The Minister might not agree that the director general has such great powers, bearing in mind that successive Ministers for Transport have the power to make policies; but the director general is certainly in a position to influence the Minister and that is indicated when one realises that the Bill does not include sections of the Act which were never in fact utilised.

The Transport Advisory Council was made up of the heads of a number of departments including the Main Roads Department and Westrail. That body met approximately once a year in recent years and I expect the purpose of the meetings was to comply with the requirements of the Act. However, I do not believe very much was said at those meetings although I do not really know what went on at them. Certainly the Transport Users' Board was made up of people from the consumer and employer sections and those with interests in transport generally. Under section 15(4) the responsibilities of that body were as follows—

> The four persons nominated by the Minister for the purposes of subsection (3) paragraph (b) of this section shall be persons who in his opinion are capable of assessing the financial and economic effect on transport users of any proposed or existing transport policy and who in his opinion are particularly versed in the transport needs of the industry.

The board had a number of responsibilities and no appointments have been made to it since 1971. It is clear that the director general did not want to be bothered with such a board. He was the one, to all intents and purposes, who advised the Minister on the issue and he seemed to be of the opinion the board was only of nuisance value.

The board was a carry-over from the old Transport Advisory Council which was abolished in 1973. I do not want to denigrate the Director General of Transport and be unfair to him, but I want to put forward the facts.

The Hon. J. M. Brown: You are not complimenting him either. He has been a disaster.

The Hon. F. E. McKENZIE: In my area of interest—that is railways—

The Hon. R. G. Pike: Is that right!

The Hon. F. E. McKENZIE: Railways is an area which has suffered badly since the appointment of the director general.

The Hon. D. J. Wordsworth: I think you use him as a whipping boy.

The Hon. F. E. McKENZIE: The Minister may be correct; but let me say I have the greatest respect for the man. However, I see him as being extremely powerful. When the Labor Party was in Government—I will not say it was in power, because bearing in mind the situation in this House a Labor Party can be in Government, but not in power—the director general was able to convince the Ministers of the day that they were taking the correct action. Had I been the Minister for Transport, the director general would not have been able to convince me, but unfortunately he was able to convince the Labor Ministers at that time.

We have heard a great deal about the powers of Trades Hall. Let me assure that Minister that, on that occasion, there were no powers in Trades Hall. The director general was even able to overcome any objections Labor Ministers might have had. I make no apologies for the way Labor Ministers of Transport allowed the anomaly in relation to this board to continue.

The Director General of Transport is a very efficient Government officer. However, bearing in mind my biases, I believe he has not been suitable. In fact, I believe as far as the long-term policies on which the director general has advised successive Ministers and they have accepted are concerned, they have reflected disastrously on the State.

The Hon. J. M. Brown: Do you think it would have been better had he stayed with Shell?

The Hon. F. E. McKENZIE: I do not want to enter into discussions relating to the fact that the director general had an important position with Shell before he was appointed. However, I have spoken to previous Ministers in the Labor Government and they have told me that, when they asked the director general to deliver the goods, he was always there with what they required. Therefore, despite the apparent harshness of my remarks in regard to the director general, I believe he was a very good officer. He now has the Minister to direct him. That was not done before because the Act covered the Transport Users' Board.

The Director General of Transport set up a number of committees similar to the proposals in this Bill; they were transport strategy boards. If he did not get his way at one meeting, the business which was to be discussed was put to one side and he would call another meeting until he was able to convince those present that what he wanted was best for the State.

Subsequently he was able to convince the Minister that the policy was one which should be accepted. The legislation is required to bring about the proposed changes.

The only difference between this Bill and the Act is the change of name. The Bill is similar in every other respect to the Act. As I have said, this legislation is no different from the Act with the exception of the exclusion of the two bodies I have mentioned. In essence, this legislation is similar to the previous legislation except a requirement under section 27 of the Act laid down a method of providing both Houses of Parliament with an annual report. It stated—

> Such annual reports shall be laid before both Houses of Parliament no later than the 31st day of October each year.

I can see no reason that the transport co-ordinator cannot have his report presented by the same date.

Last year's annual report was tabled on that date, so the Act was complied with. However, I have found from time to time with some departmental reports that they arrive well after the required date. I have often sought from the Clerks annual reports of Government departments and they have been sometimes up to two years late.

The Parliament will be giving something away if it does not include such a requirement in the legislation. The provision that the annual report be presented to Parliament on 31 October should continue. The report of the Director General of Transport has always been a good one and the State transport co-ordinator could not present a better report if he tried. The reports are always very well presented and interesting, and contain a great amount of detail.

During the Committee stage I intend moving an amendment that such annual reports still be required. I think this must continue and it must be followed through, because we have some responsibility to protect the provisions of the legislation.

There is one more comment I wish to make, and that is I hope that with the change of name we will not be providing for an increase in salary for the State transport co-ordinator. I would not like to think that in agreeing to the change in name I am also agreeing to an increase in salary. This often occurs and I would not like to be agreeing to the creation of a higher paid bureaucratic position. I oppose the Bill.

THE HON. R. HETHERINGTON (East Metropolitan) [11.27 a.m.]: I wish to join my colleague in opposing the Bill. This Bill of course illustrates what is happening with this Government as it builds up a hierarchy with the very minimum of democratic participation.

The Hon. D. J. Wordsworth: You have not read the Bill at all.

The Hon. R. HETHERINGTON: The Minister happens to be wrong. I have read the Bill very carefully.

The Hon. D. J. Wordsworth: Mr McKenzie has said it does not do anything different.

The Hon. R. HETHERINGTON: I will make my own speech. I think my colleague is wrong because it does something different from that which was in the Act and from the intention of the last Bill. It is another step towards the building up of the "Big Brother" image of this Government. Soon Western Australia will become a soviet State under comrade Court.

When we talk about education the Minister says "I rely on my experts". He does not wish to hear what anyone else has to say. He makes his decision because of the advice of his experts.

I took the point when the Minister interjected and said that the director general is not the head of the department. It may be better if the Minister told us just precisely what his responsibilities are. If he sets up a person in a position without specific administrative powers, *primus inter pares*, then he has the time and ability to build up his empire. Then one would not know where the empire would finish.

It has become quite obvious, as we watch what happens in the Transport Commission under the present Minister, that the present director general has built up a fine little empire.

The Hon. D. J. Wordsworth: He has not. You have only to read the speech. It has only 12 people; that is certainly not an empire.

The Hon. R. HETHERINGTON: There are various empires which do not necessarily relate to the number of people. I am talking about power and authority to influence people. As the Minister might know if he thought about it, what interests me is the fact that the Transport Users' Board is being phased out because it has never been used. This is where I say the Bill illustrates that this Government does not want input from people who use the service, it does not want input from the general public, and it does not want input from the people to whom the laws apply; instead it wants input from the experts and then wants to apply that expert knowledge downwards. We get the burgeoning power of the bureaucracy in this State, and it is no wonder that members on the other side who are sensitive to this sort of development want to set up Standing Committees to oversee what has happened.

Not only is that occurring, but this Parliament is becoming more and more impotent. If this Government believed in democracy—which it does not because it does not know what the term means—it would set up all sorts of Standing Committees to give the Parliament more power and oversight over the bureaucracy, which is the real ruler of the State. This is something that is endemic in Australia. It derives from the colonies when the people who really made the decisions were the officials. So we have developed a very efficient, very powerful, and very strong bureaucracy.

The Minister may laugh, but I have not noticed that he knows what his bureaucracy is talking about when he reads their speeches fairly pathetically. I think the Minister probably does not know what happens in Government generally in this State.

The Hon. D. J. Wordsworth: Transport is the only department that has not a bureaucracy; that is why you are being so foolish. Mr McKenzie will help you.

The Hon. R. HETHERINGTON: It may not have a bureaucracy of the kind the Minister is talking about, but it has one or two bureaucrats who wield a great deal of power. Anybody in the administration of the Public Service is a bureaucrat. Of course, whenever I talk about broad issues and try to tie the whole matter together the Minister interjects with a minor statement because he can never see the whole question. If I try to relate anything that is happening here to a world view it is beyond his comprehension and he produces pathetic interjections which show he has no idea of the broader question at issue. I suggest that he should chat to the Hon. Robert Pike, who at least does know something about the broader issues at stake. He knows something about bureaucratic power in this State, in other States, in Great Britain, and throughout the so-called free world. I nearly said "the democratic world" but, of course, this State is not a part of that.

The Hon. G. E. Masters: You really didn't have enough sleep, you know.

The Hon. R. HETHERINGTON: I have had plenty, and I know what I am talking about.

The Hon. J. M. Berinson: Last night's Bill should be recommitted.

The Hon. R. HETHERINGTON: The people opposite would not think so because they do not want people to have an input. I think it is a great pity that this Bill gets rid of the Transport Users' Board, because I think it would be a good idea instead of getting rid of it to build it up and turn it into an efficient method of obtaining input from people who use transport, because experts are not the only people who know things.

If I may quote A. D. Lindsay—Lord Lindsay of Birkett, whom I think I have quoted before—"only the wearer knows where the shoe pinches". It is all very well for the experts to decide, but the people who live with it, the ones who have to use it are the ones who know the effects.

I think this is not a good Bill and I wonder just what the co-ordinator of transport will mean. Will he become a bigger pooh-bah or a smaller pooh-bah? We will find that out as the Bill comes into operation. I am not surprised at the nature of the Bill and that the Transport Users' Board should be abolished. It has not been used and died through inanition, because that is the way the Government operates. Therefore, I join with my colleague in opposing the Bill.

THE HON. G. C. MacKINNON (South-West) [11.36 a.m.]: It had not been my intention to speak until I heard the Hon. Robert Hetherington, and it is so long since he and I crossed swords that I could not resist the opportunity. Dealing specifically with the measure, I point out it is this kind of legislation which gives me reason to oppose the Hon. Bob Pike's proposal for a Rae-type committee; because rather than do what Mr Hetherington claims, the

Bill will continue the "democratisation"—if that is a word—and the community involvement in transport. The Minister said the head of the agency should be clearly accountable for his own decisions and operations without the intercedence of a "supreme" permanent head who might act only as a filter and potential means to distort this direct accountability. The Bill provides for the Minister to set up "strategy committees" chaired by the co-ordinator general, with specific terms of reference, and limited life spans. They will comprise a flexible membership drawn from anywhere in the community where the appropriate expertise is available. In other words, we are setting up another committee which Mr Pike is setting out to examine with great care.

The Hon. F. E. McKenzie: It might be just like the Transport Users' Board and never meet.

The Hon. G. C. MacKINNON: Yes, that is spot on, Mr McKenzie; and I did not hear Mr McKenzie argue that greater freedom should be given to it. I have argued and always will that these committees bring community involvement into activities.

The Hon. F. E. McKenzie: I could not agree more.

The Hon. G. C. MacKINNON: To that extent it is good. The reason I am disappointed with Mr Hetherington is that this is one department which badly needs a re-examination—as does the whole machinery of Government. I want to use this Bill as a vehicle for providing some criticism in that respect.

The bureaucratic system which has been built up over the years is a very good system, and I deplore politicans interfering in the detailed administrative affairs of departments. Politicians are there to give political leadership. The best book I have ever read on this matter was written by Enoch Powell—who might not be everybody's idea of a good politician, but who is a brilliant fellow. He maintained that once any politician started to use his department's jargon he had been in office too long.

What have we got in the Transport portfolio? We have a grouping of activities formed into a department. The Minister has a department with no supreme under secretary to advise him on the overall and inter-relating aspects of that department. Indeed there would be times when he would probably have to give himself advice. If members think that sounds strange, let me assure them, as the second or third most experienced person in this House in ministerial portfolios, that it frequently happens.

More particularly has it happened in recent years under the present Premier. But that is his style of Government. He is the Premier, so he can have the style of Government he likes.

It is long past the time that the Minister for Transport had a supreme bureaucrat to deal with. He is in a worse situation than the Minister for Education, Cultural Affairs, and Recreation who is trying to run the most important department as far as the future of this State is concerned yet does not have one single adviser with whom to discuss educational matters in total. No Opposition shadow Minister for Education has ever mentioned that point, but that should have been raised rather than the pinpricking with regard to Forrestfield and whether it is to get the wrong building in the wrong place. The point I raised would have been the proper function of a shadow Minister to bring forward rather than it be left to me, a member who is ostensibly a Government supporter.

The Hon. J. M. Berinson: Would not the Minister for Education have the advice of the director general?

The Hon. G. C. MacKINNON: But he has no authority over the university and the teachers' training colleges. The member should think about that.

The original concept of a Minister was that he had an under secretary or someone similar to advise him. A Minister has the right to talk to other people and he frequently would do so, but any Minister who acts on anything but advice has either been badly instructed by his leader or has a screw loose. I was fortunate to have known the best under secretary in the business, Mr Jim Devereux. He quickly showed me that I should discuss matters with him before making a decision, and I think he often told Ministers what they should do. Of course I am exaggerating a little to make a point.

The Hon. J. M. Berinson: He always advised Ministers never to bring a file into Parliament.

The Hon. G. C. MacKINNON: That is right. Every Minister makes his own decision, but he should not do so until he has had the proper advice. That is the point I am making and the one Mr Wordsworth made by interjection, although Mr Hetherington missed it. Mr Rushton is in the unfortunate position of having the advice of heads of very closely interlocking bodies, but he has no one person in overall control.

The Hon. D. J. Wordsworth: That is correct.

The Hon. G. C. MacKINNON: The Opposition has built up the position of shadow Minister to the stage where one might think the

persons concerned were being paid, except that we know socialists do not agree with profit for effort.

The Hon. H. W. Olney: All our salaries go to the poor.

The Hon. G. C. MacKINNON: They would never buy a house and so on! Mr Hetherington should have picked up this point in a flash. This legislation should be setting up not just a co-ordinator general of transport, but a fellow who would have overall authority. We need someone who would know the overall situation. Members would know that harbours were once under the control of the Public Works Department and are now in this great big pot of transport. The Harbour and Light Department and the boards and trusts involved had always been under the control of the Under Secretary of the Public Works Department. Other port authorities rang Mr O'Connell or later Tom Lewis who were Chairmen of the Fremantle Harbour Trust. The department had the engineering works and everything else necessary, but then this area was moved from the PWD and Mr Lewis, the most authoritative bloke in the department, had no-one with whom to talk. He did have a succession of very competent Ministers—including Mr Jamieson, Mr O'Neil and Mr O'Connor—with whom he was able to talk, but he was not next to his own Minister. In next to no time there was talk about breaking up the Public Works Department because engineering expertise was needed by the Transport Department to look after harbour requirements. So there were complications of government which were never considered.

The only people I know who have considered these matters in depth are those in Toronto where Professor Douglas Wright is an expert. I consider him to be a very good friend of mine. He will be retiring from the Provincial Government very shortly, and although he has a tremendous amount of knowledge, no-one here seems to ask him for help except myself. I do get his literature. I do not say that he can provide the panacea; in fact, I told him eight years ago that his solution probably would not work out totally, and I do not think it has worked out in full.

The point I make is that the criticism levelled at this legislation by the honourable Bob Hetherington was wrong. It is no good members saying he was wrong again, because more than often he is quite right; but on this occasion he did not use his perception.

The Hon. D. J. Wordsworth: He has asked for a copy of the Act.

The Hon. G. C. MacKINNON: He is wanting to help his friend the Hon. Fred McKenzie, and I applaud his sort of approach, which is becoming rare on this side of the House. But this is a classic department which needs consideration so that we can take advantage of hundreds of years of experience and benefit from the proper use of bureaucratic advice. Not all bureaucratic advice need be accepted, but Ministers should take cognizance of modern developments and technology and the like so as to have the department run as it should in modern times. It is a tremendously vital department and it is beyond the capacity of any one Minister to understand fully all that is involved. If it were not for the painstaking care and attention shown by Mr Rushton the department would have collapsed around our ears long ago. In the words of C. J. Dennis, I "dips me lid" to him. This Bill will make his job easier.

THE HON. D. J. WORDSWORTH (South—Minister for Lands) [11.58 a.m.]: I thank members for their contributions, which were interesting in their presentation. I think they represented what most people think about the Transport portfolio. With due respect, I was surprised that Mr McKenzie did not know more about the matter, considering his keen interest in the subject and his vast experience. I am one of the few members who has been a Minister for Transport and has seen how the portfolio works. It is a pity more members of Parliament are not in a position to see how departments and Governments function.

The Hon. J. M. Berinson: Would you care to change situations with us?

The Hon. D. J. WORDSWORTH: This highlights the difficulty a new Government faces when it has not been in power for some time. It does not have experienced Ministers who have an idea of how the ministerial system works and how departments operate. With due respect, I think that was one of the problems with the Tonkin Government, which took a while to get that understanding. It is well known that if the Liberals gain power in Tasmania finally, they would have difficulty because of lack of experience. As members appreciate, I had the opportunity when I was in the portfolio to appreciate the part the Director General of Transport plays.

Undoubtedly he and his staff have made a most valuable contribution since 1967. As was said, Mr Knox came to the field from private enterprise. He is one of those people we could call a whiz-kid of the Shell Company of Australia Ltd. That multi-national company has been most successful,

and one of the reasons is that it has collected the right people including some like Mr Knox who are used as think-tanks and are ever willing to make a critical input into every facet of the business.

Of course, the Shell oil company is a large business, but so is public transport. If we consider all public transport we soon realise that over $200 million is involved in the turnover of all transport sections.

I think it is good that we have been able to afford—obviously we could—someone like the director general and his small staff of researchers. They have worked in a variety of fields, many of which of course are not related to the individual transport modes. I can give an example, and that is the work carried out in regard to the central business district transport studies. Such studies are not the prerogative of railways, the Metropolitan Transport Trust, the Main Roads Department, or the Taxi Control Board. All those sections have a contribution to make. Of course, parking is the responsibility of Perth City Council. However, someone had to put it all together, and that someone was Mr John Knox and his section. Changes have been brought into effect in regard to the whole mode of transport in this city. We have seen the introduction of such benefits as flexi-time to complement that transport scene.

Mr Knox always has been a rather controversial character. He has not been frightened to say what he thinks, and that is a most important attribute. I think he had a happy knack of knowing exactly how far he could go. He certainly had power—the power of a Royal Commissioner—which to my knowledge is not written into any other legislation. However, I do not think he used it. He had the difficult task of going to the Commissioner for Railways to ascertain something about the finances of his department, and delve into various matters. After all, that organisation is very large.

The Commissioner for Railways is a most competent man and has a competent staff. Obviously any researcher must have the ability to consider things closely and give an independent view. Nevertheless, Mr Knox had good working relations with these people. I know he never used his powers as a Royal Commissioner and I do not think he waved such a stick to obtain information. He obtained good co-operation from them and carried out that sector of his work very well indeed.

Much mention was made of his annual report and the fact that it came out so close to the end of the financial year. The references to that matter worry me because I wonder whether any member has ever bothered to read one of these reports. The report is fine indeed but when it is made public it is of little consequence. It is the one report without a financial statement or balance sheet; it does not refer to trading figures except from the point of view of statistics in regard to the individual modes of transport.

The Hon. F. E. McKenzie: Why shouldn't it?

The Hon. D. J. WORDSWORTH: It is a research report.

The Hon. F. E. McKenzie: Is that another area in which he contravened the Act?

The Hon. D. J. WORDSWORTH: He referred to matters such as, and I quote "the west coast concept, port development, port legislation, a study of Western Australian ports, the Western Australian Port Statistics Data Bank, port pricing in Western Australia, and port promotion".

The Hon. F. E. McKenzie: Just because it does not refer to financial aspects does not mean it is not an annual report.

The Hon. D. J. WORDSWORTH: It is an annual report, and whether it comes out on 1 January, 1 March, or 1 June of each year does not really matter, provided it comes out each year. He presented thoughts on transport for public perusal.

It is rather interesting to read what he said about the Minister. If members had read the last report they would have found that Mr Knox wrote about the Minister's office. That makes one realise how controversial a character Mr Knox is. What annual report would comment upon a Minister? He states—

> The organisational structure of the Transport Portfolio forces the Minister to rely individually on the 14 separate institutions within the portfolio for day-to-day technical advice or, to put it another way, day-to-day working support.
>
> All of the 14 institutions are geographically separate from the Minister, some like the Port Hedland Port Authority, being upward of 1 500 kilometres away.
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> The Minister's problem is compounded by the organisation of his own office, which is designed to provide him only with clerical support.

The Hon. Neil Oliver: Was the reason the report commented for the first time on the Minister because Mr Knox was told he should review the Minister's office? Is that the reason? I have not seen any report on it previously.

The Hon. D. J. WORDSWORTH: The director general can refer to any subject in the field of transport which he feels he must air and give his views on. I might add that in regard to this particular issue we have legislation coming before us in regard to marine matters. Mr Knox highlighted that in his report. He had been thinking about the matter and it was something about which the Minister for Transport asked for his advice. Mr Knox prepared the advice and it will come to us in the form of future legislation. He referred to the matter in his annual report so that members of Parliament and other members of the public have an opportunity to read his views. To continue—

> It is also compounded by the fact that the Minister presides over no "supreme" permanent head, an institution which everyone in the portfolio believes we can well do without.

That has been stated before. To continue—

> Much of the day-to-day working support in recent years has been provided by the Director General's office, but that too is geographically separate from the Minister's office, albeit by only a very few hundred metres.

The director general has reported to Parliament and we have had an opportunity to read his views. Indeed, we will see legislation brought forward on advice he has given to the Minister. Of course, the Minister had to decide what to do, but what I have quoted is an extract of the information he has been given.

In Canberra there is a Transport portfolio, and that is unfortunate; I have had to work with it through the Australian Transport Advisory Council. The Federal Minister is on that council and he brings along with him his permanent head. I do not believe that man has an expertise in any of the transport fields and, indeed, the Federal Government does not have many transport fields. That is one of the ridiculous aspects when we consider it has called itself Transport Australia.

Transport in Australia is supplied by the States and very few Federal organisations are involved. Commonwealth involvement includes the old Department of Civil Aviation, a slight influence in railways, and some influence as regards the handing out of road funds but that is about as far as the Federal Government goes.

Certainly it is not Transport Australia as claimed.

I believe it is sensible to use the word "co-ordinator". The original concept put forward by Mr Cyril Wayne, who was the Commissioner for Railways at the time, was to develop a large portfolio of Transport. This has never been carried out, either by a Liberal Government or a Labor Government. We prefer to continue with the Minister making the decisions. In this way he gets advice from each department. Frequently he must make a decision after obtaining advice from both departments. He is the one who actually makes the decision and signs the approval. The only staff he has are secretarial.

The Hon. G. C. MacKinnon was quite right when he said that the Transport portfolio is quite unique. It is a fairly difficult one to administer, and undoubtedly the present Minister (Mr Cyril Rushton) is doing a very good job indeed. At times it is very difficult to achieve a balance between the various modes of transport.

I was rather interested to hear that the Hon. Fred McKenzie felt the Director General of Transport had power over the previous Labor Minister for Transport and that is the reason he took no notice of Trades Hall. I am afraid I cannot agree with that statement. It could happen that the person who took over the Ministry then had a wider view of the situation than he had had previously from a close interest in railways, or from advice from individual unions concerned with the railways and the Metropolitan (Perth) Passenger Transport Trust.

The Hon. F. E. McKenzie: The point I was trying to make was, we hear so much claptrap about Trades Hall having power over Ministers, and that is just not so.

The Hon. W. R. Withers: They had it over Jerry Dolan.

The Hon. D. J. WORDSWORTH: Now the Hon. Fred McKenzie is changing his statement a little. Every Minister must consider the various arguments and then make decisions. I must say that when I was responsible for this portfolio I enjoyed a very good relationship with the union leaders. They complained, as the honourable member does, that they were not happy about what the Liberal Government has done for railways, but they felt that the Labor Government was worse. That view is quite correct—the Liberal Government has done a great deal for railways.

The Hon. F. E. McKenzie: The Labor Government never closed down a railway line. Look at Meekatharra.

The Hon. Neil McNeill: They proposed that in the first instance.

The Hon. F. E. McKenzie: When?

The Hon. D. J. WORDSWORTH: We had better not go too far back into history.

Which Government is it which has purchased the new suburban rail coaches?

The Hon. F. E. McKenzie: There are hardly any railway lines now.

The Hon. D. J. WORDSWORTH: But it was the Liberal Government which bought the new coaches.

The Hon. F. E. McKenzie: You have cut it by a third.

The Hon. D. J. WORDSWORTH: One or two other matters have been raised. The Transport Advisory Council was another concept introduced by Mr Cyril Wayne when he developed the legislation. Perhaps an advisory board was necessary under a permanent head, but we never reached the second stage of having a permanent head, so it was not necessary to have the advisory board. It met probably once or twice a year.

The Hon. F. E. McKenzie: In answer to a question we were told it met once in two years.

The Hon. D. J. WORDSWORTH: I think it was more often than that in my time.

The Hon. R. Hetherington: Things have deteriorated since you left.

The Hon. D. J. WORDSWORTH: I will point out its deficiencies to members. The board was composed of the Commissioner for Railways, the Commissioner of Main Roads, the Commissioner of Transport, the deputy commissioner, the Chairman of the Metropolitan (Perth) Passenger Transport Trust, the Chairman of the Western Australian Coastal Shipping Commission, and also there must have been ministerial nominee members as well. There was certainly a representation of the private transport industry. In fact, I remember Mr Manford being at one meeting. I believe the Minister had the power to co-opt other members. At one time we also called on the General Manager of MMA, because at least these two modes of transport had not been included in the original concept. There is a limit to how far one can use such an advisory committee. Really it was composed of a hotchpotch of experts, each a top man in his field, but there are limits to the contribution such people can make other than to review.

The Hon. F. E. McKenzie: Were you getting input from all those bodies?

The Hon. D. J. WORDSWORTH: I point out that this would hardly be an appropriate group to talk about the need for more parking space in Perth, or to talk about the necessity for a new road across the Nullarbor. It is questions such as this that the Minister must decide.

The Hon. F. E. McKenzie: You had the Transport Users' Board to determine things like that.

The Hon. D. J. WORDSWORTH: The next organisation which could have been utilised was the Transport Users' Board. As has been pointed out by the Opposition spokesman, this was not used after 1971—in actual fact when the Labor Government came to power. I do not think that it was called together by a Minister after that time. The board was composed of five members, including the chairman, the Director General of Transport, and four persons appointed by the Government on the nomination of the Minister.

If the Minister had wanted to call the board together, he could have appointed anyone he wanted to as a member. Such a board may be of assistance in working out alternative transport needs for, say, the Meekatharra area. In fact, it was a very similar committee which decided the successful tenderer for road transport to Meekatharra. The difference there is that the director general does not have a great deal to do with road transport. The Commissioner of Transport handles this area through a completely separate organisation. Most of the work of the director general lies in other areas. So when advice is necessary on road transport matters, generally speaking it is the commissioner who is called upon.

Another matter raised was the salary of the co-ordinator. This has not been determined yet. His duties will be worked out in conjunction with the Public Service Board, but I draw the attention of members to the report of the determination of the Salaries and Allowances Tribunal which comes out once or twice a year. The report sets out the remuneration to persons holding prescribed offices, and a whole list of various classes is set out. On the back page, 33 individual officers are listed, eight of whom relate to the transport field. Generally speaking, the officers in the transport field have great responsibility and are senior public servants. The director general's classification is class 5, a very high class with only class 6 being higher. The Commissioner for Railways has a class 6 classification.

I cannot tell the honourable member what class the position will be. It will depend on the specifications of the position and will be decided after discussions have been carried on with the Public Service Board. I do not really believe that matter is relevant to this legislation, anyway.

I thank members for their support of the Bill.

Question put and passed.

Bill read a second time

In Committee

The Deputy Chairman of Committees (the Hon. R. J. L. Williams) in the Chair; the Hon. D. J. Wordsworth (Minister for Lands) in charge of the Bill.

Clause 1: Short title—

The Hon. R. HETHERINGTON: I accept the strictures of the Hon. Graham MacKinnon; I hope that pleases him. The short title of this Bill promises more than the Bill itself will achieve. It is a new Bill for the co-ordination of transport. I agree with the Hon. Graham MacKinnon that bureaucrats are important, and I accept they produce a great many of the initiatives in the various States of Australia which put us in front of other people.

What worries me is that as Government responsibilities grow, bureaucrats become powerful and, often, they can make policies in areas where they should not. It may sound as though I am trying to duck out of something I did not do, but I point out to the Hon. Graham MacKinnon that I was shadow Minister for Education for less than two years. When I left that position, I had been working on the possibility of a small department of the Minister for Education which would have a supervisory role over all the other sections of the department.

The Hon. G. C. MacKinnon: They tried that in New South Wales, and finished up with 100 people.

The Hon. R. HETHERINGTON: I know that. There are many problems and I did not want to go off half-cocked. We must be very careful that in restricting empires, we do not build new empires. If in fact I am wrong on that suggestion, I am still worried about the situation and believe something needs to be done.

As the Minister handling the Bill would be the first to acknowledge, I do not know enough about transport to make a major speech on the restructuring of the department. However, I believe what is being done in this Bill is pitifully inadequate and a closer look should be taken at the situation. I hope the day will come before very much longer when we have a debate in which the Hon. Graham MacKinnon may give us the benefit of some more of his expertise on this very important subject, and I may be able to join with him in the debate.

I remain opposed to the Bill; it is not very satisfactory. We need to examine the whole structure of government. I am not sure whether the Minister handling the Bill would agree with me, but I believe a great deal of this comes from the style of leadership of the present Premier. We are moving towards policy-making by experts, and some bureaucrats are being thrown into roles which they should not occupy.

I have never denigrated the ability of bureaucrats. For example, Dr Mossenson is a man of great ability and dedication; however, he is not infallible. The very business of day-to-day administration sometimes gets bureaucrats looking into too narrow a focus. Perhaps this should be a role for the Minister and his chief bureaucrat. It was a very interesting suggestion from the Hon. Graham MacKinnon.

As I say, I believe we need to look carefully at the whole structure of government. However, I must admit that in the dying hours of this session and on this particular Bill, I do not feel that I want to do it now.

Clause put and passed.

Clauses 2 to 13 put and passed.

Clause 14: Annual report—

The Hon. F. E. McKENZIE: I move an amendment—

> Page 8—Add after subclause (2) the following new subclause to stand as subclause (3)—
>
> (3) Such annual report shall be laid before both Houses of Parliament not later than the thirty-first day of October in each year.

It would appear from the Minister's remarks he does not believe any good purpose would be served by placing in the legislation a specific date by which the report should be tabled in Parliament. This Act has been in operation since 1966, and we have had a Director General of Transport since 1967. He has met the annual report requirement every year. The Minister pointed out that the report contains no financial statements, and it did not matter when we received it. I believe it does matter. Heads of departments have a responsibility to the Parliament to present their reports by a certain date.

The Hon. R. G. Pike: Quite right.

The Hon. F. E. McKENZIE: I am glad Mr Pike agrees with me. Section 27 of the Act states as follows—

> 27. As soon as may be after the thirtieth day of June in each year following that in which the Act comes into operation, the

Director General shall cause to be prepared a report containing—

(i) statements relating to the proceedings and work of the Director General, the Council and the Board respectively, during the financial year then last preceding;

(ii) any comments which the Director General, the Council and the Board think desirable to make relating to the administration or operation of this Act.

Such annual report shall be laid before both Houses of Parliament not later than the thirty-first day of October in each year.

The proposal contained in clause 14 of the Bill is very similar to that contained in section 27 of the existing Act. It states—

14. (1) The Co-ordinator General shall, as soon as practicable after 30 June in each year, prepare and furnish to the Minister a report on the proceedings and work of the Co-ordinator General and every Transport Strategy Committee during the year ended on that date together with any comments which the Co-ordinator General may wish to make relating to the administration or operation of this Act.

That is virtually the same thing, except there is no date on which he has to report to either House of the Parliament.

As the Parliament is the guardian of public affairs, it ought to retain in this Act a provision that the report be tabled here by a certain date. When it is not written into Acts, and even when it is written into Acts, some authorities have chosen not to comply. If the provision were still there, the Parliament would have the opportunity to ask questions. Unless my amendment is carried, we are relinquishing something that has been carried out over a long period.

No good reason has been submitted for this change. Certainly there was no mention of it in the Minister's second reading speech. It was only on reading the Bill that I learned that the provision for tabling the report in both Houses of the Parliament by 31 October had been omitted. If we had not examined the Bill carefully, this point would have slipped through without any query.

The provision was a good one. It should apply to many Acts of the Parliament. There is no difference between the responsibilities of the co-ordinator general and those of the director general.

The provision has worked satisfactorily until now, and it should continue. For that reason, I ask the Committee to support my amendment.

The Hon. D. J. WORDSWORTH: The proposed amendment is a direct extract from the Act. It fitted suitably within the Act, because it did not contradict the clauses before it. However, where it is proposed to be placed in clause 14, there would be a contradiction, and that is not suitable.

I do not disagree that the Parliament should have reports placed before it, and on time. The presentation of a report involves two operations. Firstly, the individual or the board presents the report to the Minister; and then the Minister tables it.

The Bill requires that as soon as practicable after 30 June in each year, the co-ordinator general shall report to the Minister. I do not think there is much in that. There is a requirement for the Minister to cause the annual report to be laid before each House of the Parliament within 15 sitting days of that House after he has received the report. If the date of 31 October in each year is added, it could be that the Minister would find himself with a report given to him as he walked into the Chamber. Therefore, the Minister would not have the opportunity to study the report before presenting it to the Parliament.

The provision in the Bill is satisfactory. It requires presentation as soon as practicable after 30 June. The Minister is required to present it within 15 sitting days. In other words, if there is something disagreeable in the report, the Minister cannot hide it.

The Hon. F. E. McKenzie: You are not opposed to the principle of a date being inserted?

The Hon. D. J. WORDSWORTH: It could not be done, because there are three governing sections in this clause. If a date is inserted, one has to work out that the report has to be written by a certain time.

The Hon. F. E. McKenzie: Was that not always the case?

The Hon. D. J. WORDSWORTH: No.

The Hon. F. E. McKenzie: Why was it not? The wording is very similar.

The Hon. D. J. WORDSWORTH: In fact the manner in which this report is printed, and the matters contained in it, are the important things. The date is not important to this report, because the financial reports of the transport authorities are presented to the Parliament separately.

The Hon. R. HETHERINGTON: I am not satisfied with what the Minister has said. "As

soon as practicable after 30 June" could be 12 months later, if there is anything in the report that the Government wants to dodge.

The Hon. D. J. Wordsworth: The Government cannot do that, because it has to table it.

The Hon. R. HETHERINGTON: It might be a matter when time is of the essence—say, in an election year when the Parliament sat in the second half of the year only. That might mean that the report was presented in, say, January—

The Hon. D. J. Wordsworth: It could mean that the Parliament is not sitting on 30 October.

The Hon. R. HETHERINGTON: When the Parliament is in recess, it has to be laid on the Table of the House after it begins sitting.

If the Minister does not like the form of the amendment, I would be glad if he would report progress and ask leave to sit again at a later stage of this sitting so he can come back with a satisfactory amendment.

There is need for a firm date so that we can have the report presented within a decent time. The Parliament is so powerless at present, without any decent committee system, that all we can do is make a noise about and publicise unsatisfactory reports.

When I was talking to Senator Rae, I learned that his committee had found that Commonwealth reports were sometimes almost years late. As his committee investigates any report that is late, reports are now presented on time.

If the annual report was presented three years later, it would still be within the meaning of the clause, because it could be argued that it was as soon as practicable.

The Hon. D. J. Wordsworth: You would have to act on that, would you not? I am sure you would not let it go through.

The Hon. R. HETHERINGTON: It is important that we have a definite time. I will support this amendment, unless the Minister is prepared to report progress. It would not take long, and he could draft an amendment which would specify a date and make sure that we would not be waiting an undue time. There should be some statutory date beyond which it is improper for the report to be considered. It is important that we have time limits, otherwise far too much discretion is allowed.

I am not accusing anybody of bad faith. However, it is possible, as the Minister well knows, that when the present director general goes and a co-ordinator general is appointed, a mistake might be made, and somebody might try to keep the report back. It does happen.

I ask the Minister to consider this seriously. We would co-operate with him, and whip the Bill through Committee if he was prepared to go away and obtain a suitable amendment.

The Hon. D. J. WORDSWORTH: As far as I am concerned, this is the form of reporting which has been used in all legislation passed recently. I believe the words "as soon as practicable" cover the situation and tie down the Minister.

The Hon. F. E. McKENZIE: At least the Minister has stated clearly where he stands. He indicates he believes the words "as soon as practicable" are more suitable than would be our specifying a date. The Hon. Robert Hetherington pointed out we would be prepared to let the Minister report progress so that he can discuss the position with the Director General of Transport. He could do that during the luncheon suspension.

This is probably only a minor matter, but by our specifying a date, it is possible to ensure the activities of the Co-ordinator General of Transport thoughout the year are examined when the annual report is tabled in Parliament. It also gives members an opportunity to question the report.

I see no good reason that the provisions in the Act should not be included because they provided that the report be tabled on a certain date. We cannot get a situation wider than the one which would occur as a result of this proposed amendment.

The Hon. D. J. Wordsworth: How can you argue about it? It would not be "practical" if a person turned up in three years' time. One would certainly be battling to prove it was.

The Hon. F. E. McKENZIE: The Minister may be right; but if the Director General of Transport has been experiencing difficulties reporting to Parliament by 31 October, we are quite happy that the period of time should be extended so that he may report by 30 June of the following year.

If the Minister believes the amendment is not suitable, we are quite prepared to discuss the situation; but we believe a specific date should be inserted in the legislation. Members should examine the duties of the Co-ordinator General of Transport under the new provisions as they appear in the legislation.

The Hon. D. J. Wordsworth: What do they have to do with the situation?

The Hon. F. E. McKENZIE: We want to know what has been done during the previous 12

months. Therefore, the Co-ordinator General of Transport should be required to report to Parliament by a specific date. We are quite happy for him to be given plenty of time in which to furnish his report. I do not argue about that. I do, however, argue that we should not remove these words from the legislation and replace them with words "as soon as practicable".

The Minister did not mention this matter in his second reading speech on the Bill. Had one not read the Bill, one would not know what was being done.

The Hon. D. J. Wordsworth: I hope you did read the Bill.

The Hon. F. E. McKENZIE: I ask the Minister to report progress so that he can discuss the situation during the luncheon suspension.

The Hon. D. J. WORDSWORTH: I am trying to point out to the Committee that, under the three subclauses in this clause, firstly, there is the provision as to when the co-ordinator general will write his report—

The Hon. F. E. McKenzie: Is that any different from the present provisions?

The Hon. D. J. WORDSWORTH:—secondly, there is the provision as to what the Minister will do when he receives the report; and, thirdly, there is a proposed provision that the Minister must table the report by such-and-such a time. If the Minister does not have the report, he cannot table it.

The Hon. R. Hetherington: If he does not have it, there is going to be trouble.

The Hon. F. E. McKENZIE: That is the very point we are making; it is the responsibility of the Minister to ensure he obtains the report for tabling by a certain date. Is the Minister afraid he will overlook the fact that the report must be tabled by a certain date? I am not worried about whether the date is 30 October or 31 December. I am arguing about the principle of leaving the situation wide open.

The Hon. D. J. WORDSWORTH: The co-ordinator general will have responsibilities under the Act. If the Opposition wants to write into the legislation the fact that he must report by a certain time, it should be written into the provision which relates to the writing of the report, but that is not what the member is doing by adding a new subclause (3)

Amendment put and a division taken with the following result—

Ayes 7

Hon. J. M. Berinson	Hon. R. Hetherington
Hon. J. M. Brown	Hon. F. E. McKenzie
Hon. Lyla Elliott	Hon. H. W. Olney
	Hon. Peter Dowding *(Teller)*

Noes 18

Hon. H. W. Gayfer	Hon. Neil Oliver
Hon. Tom Knight	Hon. P. G. Pendal
Hon. A. A. Lewis	Hon. W. M. Piesse
Hon. P. H. Lockyer	Hon. R. G. Pike
Hon. G. C. MacKinnon	Hon. I. G. Pratt
Hon. G. E. Masters	Hon. P. H. Wells
Hon. Tom McNeil	Hon. W. R. Withers
Hon. Neil McNeill	Hon. D. J. Wordsworth
Hon. I. G. Medcalf	Hon. Margaret McAleer *(Teller)*

Pairs

Ayes	Noes
Hon. R. T. Leeson	Hon. N. E. Baxter
Hon. D. K. Dans	Hon. N. F. Moore

Amendment thus negatived.

Clause put and passed.

Clauses 15 and 16 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by the Hon. D. J. Wordsworth (Minister for Lands), and passed.

Sitting suspended from 12.40 to 2.30 p.m.

MINING AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by the Hon. I. G. Medcalf (Leader of the House), read a first time.

Second Reading

THE HON. I. G. MEDCALF (Metropolitan—Leader of the House) [2.31 p.m.]: I move—

That the Bill be now read a second time.

The Bill is presented for the purpose of validating a long-standing practice of granting mining tenements pegged on land temporarily reserved under section 276 of the Mining Act 1904, and ensuring that miners' rights issued under the 1904 Act will subsist with the Mining Act 1978.

The Bill also validates a long-standing Mines Department practice for the renewing of miners' rights.

For many years occupancy rights to explore for minerals over land temporarily reserved under

section 276 of the Mining Act 1904 have been granted on the condition, *inter alia*, that—

> Notwithstanding any other condition contained herein the Minister may from time to time cancel any part of this reserve and the right of occupancy of that part, and in respect of such land—
>
> grant one or more mining tenements to any person—including the occupant—in respect of any application comprising ground marked off pursuant to the Mining Act prior to the creation of this reserve; or
>
> for any mineral other than the said mineral(s) if the Minister is satisfied that any such grant would be unlikely to interfere with occupant's operations on this reserve; or
>
> for any mineral the subject of any application made not later than three months after the commencement of the term hereof and pursuant to the Mining Act, if the Minister is satisfied that the applicant was at the time of the creation of this reserve, carrying out bona fide prospecting operations on the ground applied for.

This is a condition well known to, and accepted by, the mining industry and long-standing practice has been to allow—

> the occupant of the reserve;
> an applicant for a mining tenement for minerals other than those granted to the occupant in his right of occupancy; and
> a bona fide prospector applying for a mining tenement within three months of the creation of a temporary reserve,

to peg within the boundaries of a temporary reserve and, on any subsequent grant of an application so pegged, the Minister for Mines simultaneously cancels the coinciding portion of the temporary reserve.

A decision of the Full Court of the Supreme Court of Western Australia delivered on 26 November, 1980, in the matter of CRA Exploration Pty. Ltd. *v.* Australian Anglo American Prospecting Limited is that the pegging of a mining tenement over ground temporarily reserved under section 276 of the Mining Act 1904 is invalid.

This decision has placed all mining tenements pegged on land temporarily reserved, including tenements pegged by the occupant of the reserve, open to challenge. The decision has far-reaching implications extending over many years, and could involve thousands of mining tenements.

The decision of the court means that before lawful pegging can take place within a temporary reserve, the Minister for Mines must first cancel the portion of the reserve concerned.

Administratively, this is completely impracticable, because it is impossible to establish accurately such an area on the ground unless pegs have first been placed to indentify the ground required.

This Bill therefore seeks to amend the Mining Act 1904 to include a new section 277B to provide that a mining tenement granted or applied for over land that at the relevant time of pegging was temporarily reserved under section 276 shall not be invalid by reason only that the pegging took place whilst the ground was so temporarily reserved.

Provision is included to make it absolutely clear that the amendments will confer a right to mark off a mining tenement within a temporary reserve only. It will not confer any right to occupy, mine, etc. until such time as an application for a mining tenement is granted.

Some doubt has been expressed also as to whether miners' rights issued under the provisions of the 1904 Act will continue in force when the Mining Act 1978 is proclaimed.

The last amendments to the Mining Act 1904 on 8 December, 1978, included the repeal of the provisions restricting the term of miners' rights to one year from the date of issue, and allowed them to be issued for an unlimited term, and this situation will apply also under the 1978 Act.

It was the intention that miners' rights issued under the 1904 Act would continue to be valid after the 1978 Act was proclaimed, and therefore an amendment has been inserted to provide that a miner's right issued under section 22 of the Mining Act 1904 and in force immediately before the repeal of that Act by the Mining Act 1978 shall, notwithstanding such repeal, continue in force and have effect in all respects as if it were issued under section 20 of the Mining Act 1978.

The amendments also make provision for miners' rights renewed under section 38 of the Mining Act 1904, which was repealed on 8 December, 1978, to be in force until the date of expiry shown on such miners' rights.

I commend the Bill to the House.

THE HON. J. M. BERINSON (North-East Metropolitan) [2.36 p.m.]: As the Minister has explained, this Bill is to validate a practice of long standing. So far as the Opposition can see, there

is no reason for objection in principle; in practice, the legislation would appear to be highly desirable.

The Opposition supports the measure.

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.

VALUATION OF LAND AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by the Hon. I. G. Medcalf (Leader of the House), read a first time.

Second Reading

THE HON. I. G. MEDCALF (Metropolitan—Leader of the House) [2.37 p.m.]: I move—

That the Bill be now read a second time.

The Bill seeks to amend the Valuation of Land Act which came into effect from 1 July, 1979, and which was enacted for the purpose of standardising and co-ordinating procedures that were to be used for all rating and taxing valuations.

When drafting the legislation, it was necessary to incorporate in the one Act portions of several existing Acts and to amend certain definitions because of the standardisation of valuations.

At the time, it appeared that the modified definitions would be acceptable and would apply in all circumstances.

However, it has been found that some definitions are possibly capable of more than one interpretation and other items need to be clarified. In addition, certain situations that were not in existence at the time are not covered by the current legislation.

In particular, it is now necessary to amend the Act in respect of the definitions of the terms "gross rental value" and "unimproved value" and to be more specific regarding the inclusion or otherwise of improvements in the determination of gross rental value where structural work is in progress.

At present, the phrase "gross annual rental" as used in the definition of "gross rental value" may be interpreted in a number of ways; for example, 52 times a weekly payment or the amount of a single annual payment paid in advance. It is, therefore, proposed to amend the definition of the term "gross rental value" to attain uniformity of interpretation. There is a further need also to amend the definition of the term "gross rental value".

Under the legislation superseded by the Valuation of Land Act, the "annual value" of land on which improvements were being erected was determined as if it were vacant land until such time as the improvements were completed or were capable of being occupied.

This is a well-recognised valuation procedure supported by established legal precedents. However, there is now some doubt regarding the application of these precedents, as "annual value" in the previous legislation has been replaced by "gross rental value". Therefore, it is proposed to make statutory provision in the law to enable the continuation of this long-established valuation procedure.

The proposed amendment will apply also to existing improvements that are rendered incapable of occupation as a result of alterations or extensions being in progress.

Difficulties have arisen also in the determination of the term "unimproved value" as presently defined. An amendment is necessary in the first place to provide for the valuation of certain leases of Crown land which were not in existence when the legislation was drafted and are therefore not covered by the present definition.

In the second place, it is equally necessary to amend the existing definition in order to ensure that townsite lands are always valued on the basis of their site value, as was intended originally.

As the definition now stands, the proviso enables certain leases to be valued on other than a site-value basis. Additionally, difficulties have arisen regarding the present definition of the word "improvements". The definition includes as "improvements" fixtures to the land, but excludes machinery.

The particular problem relates to certain fixtures which have themselves a mechanical content and it is proposed to clarify the situation and put the matter beyond doubt by specifying those items of fixtures which are to be included in valuations.

At the same time, it is proposed to remedy a minor deficiency in respect of section 5 of the Act by amending subsection (2) so that the

transitionary provisions of the section will relate both to the financial years and the rating years.

Finally, there are a number of references to areas of "4 000 square metres" and the opportunity is to be taken to convert these measurements to "a hectare" which is the usual unit of area applicable to larger land holdings.

I commend the Bill to the House.

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.

BUSINESS FRANCHISE (TOBACCO) AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by the Hon. I. G. Medcalf (Leader of the House), read a first time.

Second Reading

THE HON. I. G. MEDCALF (Metropolitan—Leader of the House) [2.46 p.m.]: I move—

That the Bill be now read a second time.

The Bill has two main objectives, these being—

the conversion of the present annual licensing system to a two-monthly licence; and

the inclusion in the law of grouping provisions.

In addition, it is proposed to rectify one minor anomaly which has come to light since the legislation was amended last year to remove the fees payable by tobacco retailers. As mentioned, the first objective is to convert the present annual licensing system to a two-monthly arrangement. Under the principal Act a wholesaler is required, by February each year, to pay an annual licence fee of $100, together with an additional fee of 10 per cent of the value of the tobacco products sold in the State during the preceding 12-month period ending on 30 November.

Provision exists for that additional fee of 10 per cent to be paid in six two-monthly instalments, the first of which is to be paid, together with the $100 licence fee, by February each year.

Recently, there has been a number of cases where a wholesaler has lost a customer to another wholesaler. In such instances, the cause for concern is the payment of the 10 per cent additional fee which has already been determined for the current licensing year. The resultant loss of income sustained by the wholesaler places him in a difficult, or perhaps impossible, position to meet his liability for payment of the remaining instalments.

On the other hand, the wholesaler who has benefited from the additional trade has a consequential increase in income, but is not, under the present law, required to pay any additional fee on those increased sales until the expiration of his current annual licence.

For obvious reasons, both these situations are inequitable as, on one hand, a wholesaler is required to pay a fee that is higher than his current sales indicate and, on the other hand, another wholesaler is paying a fee that is less than 10 per cent of his current sales.

In addition, should a wholesaler be unable to meet his licence fee commitments, for one reason or another, several months' revenue could be at risk.

A similar situation can also arise when, for one reason or another, a wholesaler ceases business. The Bill proposes to overcome this inequitable situation by the introduction of a two-monthly licensing period.

The new licensing system is to commence from 1 March 1982, immediately following the expiration of the current wholesale licensing period.

The adoption of a two-monthly licensing period will mean that the loss of a customer will be almost immediately reflected in the sales of tobacco products with a corresponding reduction in the 10 per cent fee payable by that wholesaler.

Similarly, the result of the increased sales will be more promptly reflected in the sales of the wholesaler who gains from the new business, with a compensating increase in the fees payable by him.

As it is proposed to convert annual licences to a two monthly licence, the basic annual fee of $100 payable by wholesalers will, of necessity, also have to be paid every second month.

A direct conversion of the present fee would result in the amount of $16.66 being payable every second month. However, as the fee has remained unchanged during the past five years, it is proposed that there will be a small increase to the more convient amount of $20.

Reference was made earlier to the additional fee payable by wholesalers, of 10 per cent of the value of tobacco products sold. As the change to a two-monthly licensing system will require the additional fee to be levied on more recent sales, there may be, subject of course to fluctuations in the value of future sales, a marginal increase in the revenue collections.

Schedule 1 of the Bill lists the various licence periods and the relevant sales periods, upon which the fee is to be assessed. The second main objective is the proposal to protect the revenue because of arrangements made by groups of companies or businesses to minimise the payment of their licence fees. This is to be achieved by including in the law, provisions which will enable commonly-controlled businesses of one type or another to be grouped for the purpose of assessing and collecting licence fees.

It is proposed that the grouping provisions will operate from 1 July 1981. The proposed grouping provisions are similar to those that were included in the Pay-roll Tax Assessment Act a few years ago.

The Bill sets out the various tests that are to be applied before businesses will be grouped, and as is also the case with the Pay-roll Tax Assessment Act, the commissioner, where the circumstances so justify, will be able to exclude certain businesses from those grouping provisions. All members of the group will be jointly and severally liable for the payment of the licence fee.

As the legislation now stands, it is possible for a wholesaler to fragment his operations and by the manipulation of sales as between the various outlets adversely affect the amount of the additional annual fee based on 10 per cent of the value of product sold.

The introduction of a two-monthly licence fee referred to earlier will counteract this particular problem to a large extent. However, the introduction of grouping provisions, similar to those contained in the pay-roll tax legislation, will ensure that no matter what restructuring or rearrangement of business activities are made, each member of the group will be jointly and severally liable for payment of the fee and, therefore, the revenue will, at all times, be safeguarded.

The final point is a minor matter concerning a retailer of tobacco products. Last year the legislation was amended to relieve the normal retailer from the necessity of having to be licensed and to pay a fee when he purchased all his tobacco products from a licensed wholesaler.

Subsequent to amending the law, it has come to the attention of the Commissioner of State Taxation that some small retailers are actually buying from other retailers such as chain stores, in lieu of purchasing from licensed wholesalers. It was never intended that this type of situation would necessitate a retailer to be licensed and, therefore, it is proposed to amend the law to overcome the anomaly that has arisen.

Although reference has been made only to licensed wholesalers, there is also a small number of licensed retailers. At present, wholesalers are licensed until 27 February 1982, and retailers who purchase products from unlicensed wholesalers until 30 June 1981.

It is therefore proposed in future to have all licences operate from the one point in time and, for the sake of uniformity, to bring all licences into line as from 1 March 1982, immediately following the expiration of the current wholesalers' licences.

Therefore, certain provisions of the Bill will operate from different dates and for varying periods of time until 1 March 1982, when all licensing periods will be standardised on a two-monthly basis.

The proposed schedule to the Act lists the licence period and the corresponding sales period upon which the fee is based. The initial licensing period of March and April 1982 will require the payment in February 1982 of a fee similar to that payable at that time under the present annual licensing system.

Therefore, the transition from the annual licensing system to a two-monthly licensing system will cause no change to a wholesaler's existing financial arrangements.

I commend the Bill to the House.

THE HON. J. M. BERINSON (North-East Metropolitan) [2.53 p.m.]: The Opposition supports the Act which the Government now seeks to amend. If anomalies or opportunities for evasion have emerged since the Act was introduced, and that is apparent from the Minister's explanation, they ought to be attended to promptly. We accept the Government's view of the need for this Bill. The Opposition will support it.

THE HON. I. G. MEDCALF (Metropolitan—Leader of the House) [2.54 p.m.]: I thank the Opposition for its indication of support for the Bill. I can assure the Hon. J. M. Berinson that anomalies have arisen and it is necessary to take this action in the interest of revenue.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (the Hon. R. J. L. Williams) in the Chair; the Hon. I. G. Medcalf (Leader of the House) in charge of the Bill.

Clause 1 put and passed.

Clause 2: Section 2 amended—

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

Page 2, line 30—Insert before the word "preceding" the word "immediate".

This minor amendment is designed simply to ensure that we bring into coincidence the two-monthly licensing period with the two-monthly sales period on which the two-monthly licensing period is based. The licensing period is now to be for two months and we want to make sure it immediately precedes the two-monthly sales period rather than, perhaps, some sales period dating back to a previous year.

If members examine the schedule they will see that March and April are mentioned in column 1, the licence period, and reference to a sales period of December and January is made which is two months in a preceding period. No year is stated so to make sure it is the immediately preceding period the word proposed to be added should be added.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 3 to 13 put and passed.

Title put and passed.

Report

Bill reported, with an 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 returned to the Assembly with an amendment.

WORKERS' COMPENSATION SUPPLEMENTATION FUND AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by the Hon. G. E. Masters (Minister for Fisheries and Wildlife), read a first time.

Second Reading

THE HON. G. E. MASTERS (West—Minister for Fisheries and Wildlife) [2.59 p.m.]: I move—

That the Bill be now read a second time.

This Bill to amend the Workers' Compensation Supplementation Fund Act has three main objectives.

In the first instance, it brings the principal Act into line with the workers' compensation legislation currently before Parliament.

Secondly, it will enable an employer whose insurer is dissolved or is unable to provide the indemnity required by that employer's policy, and who has paid or reimbursed a claimant, to claim on the fund. Advice has been received that some employers have made payments to claimants in instances where their insurer has not been able to meet the claim.

The Bill makes provision for such employers to apply to the fund for reimbursement.

Finally, the Bill seeks to limit the retrospectivity of claims. The Act in its present form has no limit on the retrospectivity of claims. It would not be feasible economically to have unlimited retrospectivity as it would increase considerably the amount of levy required to finance the fund. This amendment, therefore, limits the retrospectivity to 1 January 1979.

I commend the Bill to the House.

Debate adjourned until a later stage of the sitting, on motion by the Hon. H. W. Olney.

(Continued on page 2201.)

GENERAL INSURANCE BROKERS AND AGENTS BILL

Second Reading

Debate resumed from 12 May.

THE HON. J. M. BROWN (South-East) [3.01 p.m.]: Over the years insurance salesmen, whether we refer to them as agents, consultants, corporate brokers, or anything else, have served the insurance industry very well. Many people have been assisted by these salesmen at some time during their lives. This assistance may have taken the form of consultation on insurance matters, on how to make an application for a loan, on how to draw up a will, or on many other issues. The community at large has accepted the advice and service these agents give.

With the growth of the industry and the opportunity for its members to expand into other fields, many insurance brokers have collapsed. It is for that reason the Government found it necessary to introduce this Bill, and I must point out that it was introduced with the support of all parties.

Last year when there was a further collapse to the extent of $3 million, the Leader of the Opposition in another place said that something must be done at State level. This was necessary because of the lack of action at Commonwealth level. I am referring, of course, to the recommendations of the Law Reform Commission which were presented to the Federal Parliament and also, to the Commonwealth, States, and Territories Consumer Affairs Ministers' meeting which was held early in 1981 in Melbourne. At the meeting concern was expressed about the matter, and it was proposed that urgent action should be taken to implement the Law Reform Commission's proposals to regulate the activities of insurance brokers.

So it is agreed at State and national level that it is a national problem, but no action has been taken at a national level. Because of the continued collapse of insurance brokers in Western Australia, it was necessary to legislate at a State level to protect the consumers in particular and the industry itself which plays such an important part in our activities.

We must regularise the activities in the industry because of the large number of failures. When the legislation was presented to Parliament, I thought we would receive representation from some sections of the industry as I felt the industry would be anxious to present its views to the Australian Labor Party. Unfortunately this did not happen, and this seems to be a situation similar to that arising with the amendments to the Real Estate and Business Agents Act where the people involved did not think it was worth while consulting with the Opposition or the ALP—whichever way one likes to describe us.

I have read the correspondence from REIWA to the shadow Minister in another place. The institute stated it was quite happy with the Bill after consultation with the Chief Secretary. So it was fortuitous that several of us had an opportunity to consult people in the community because we realised that there were some shortcomings in the legislation. As a result the President of REIWA wrote to the Leader of the Opposition in this House to say that it agreed with the amendment we proposed to introduce to include a grandfather clause in the Real Estate and Business Agents Act. Also, the institute enclosed a list of problems it could foresee that would arise as a result of the legislation.

So on the one hand the industry is telling the Opposition that there is nothing wrong with the Bill, and on the other hand people in the industry said they are not happy with it. The Government recognised the efforts of the Opposition and agreed to one small amendment.

If the industry is to progress, the Government should consider the arguments so that correct and proper legislation can be passed by the Parliament. Everyone should know about it, because, as I said earlier, we are members of this House to represent consumers in such a situation.

Over the last few days we have debated the Settlement Agents Bill. On that legislation also the people involved in the industry did not feel it was necessary to consult with the Opposition, and expressed concern only at the 11th hour. Although debate took place, the legislation was not amended. It was only a last effort on the part of the Law Society that did anything to safeguard that very important person—the consumer.

Here we have another Bill, and there has been no interest on the part of the industry to consult with us about such a very important matter. Our supporters are great contributors to the insurance industry because of the desire to safeguard their possessions; so it concerns me that, with this string of events, the industry does not see fit to consult with the members of Her Majesty's Opposition. It concerns me, for more than the reasons I have just explained.

It concerns me, because the whole essence of the success of any operation is to have a complete knowledge of what it is all about. If those people think it is *infra dig.* to consult with us, they should recognise that we are the alternative Government, and that we are responsible people who try to carry out our responsibilities so that the present system has a fair deal.

The industry should have a close look at its operation if we are to have fair and equitable legislation.

It has been suggested that there are fewer than 100 insurance brokers in Western Australia, and that there are 10 000 agents. I would disagree with both these figures. If we had 10 000 agents, it would mean there would be one salesman for every 125 or 130 people. That does not add up.

The Hon. J. M. Berinson: Who has suggested that figure?

The Hon. J. M. BROWN: The Chief Secretary suggested there were 10 000.

The Hon. P. H. Wells: I suggest it is correct.

The Hon. J. M. BROWN: I am suggesting it is not correct.

The Hon. P. H. Wells: I suggest about 4 000 to 6 000 of those are farmers who are registered as agents, but probably do not carry on any actual business.

The Hon. J. M. BROWN: May I continue? I am well aware of the appointment of agents so that the insurance companies can legitimately transact business with discounts for consumers. I am well aware of that. Every farmer in Western Australia was offered an agency. If we want to go a little further, we could deal with all the little agencies spread around. Whilst they are agents under the definition of the Bill—

The Hon. H. W. Gayfer: Why farmers?

The Hon. J. M. BROWN: I am just talking about the small agencies. I query the number of 10 000. In an effort to assist, I am making a contribution to the debate, and I am saying we do not accept that figure. It works out at one agent for every 120 people.

The Hon. P. H. Wells: What do you estimate it could be?

The Hon. J. M. BROWN: Far fewer than 10 000.

The Hon. P. H. Wells: Five thousand?

The Hon. J. M. BROWN: Far fewer than 5 000. Does the Hon. Peter Wells want to try another one?

The Hon. P. H. Wells: I am just wondering of what order.

The Hon. J. M. BROWN: I query the number of agents specified. When I deal with the Bill, I will expand further how the Bill arrives at that figure, and what the Bill spells out. I am generalising in the first instance. Some statements should be queried.

We are supporting this legislation. I want it understood that we supported this proposition before it was presented to the Parliament. Indeed, it took a newspaper report before the industry, somewhat reluctantly, rang the Leader of the Opposition and said "We would like to talk to you about these matters." Members should understand that an insurance agent, consultant, or broker has always regarded himself to be, rightly or wrongly, in a rather prestigious position in the society.

The Hon. P. H. Wells: Some are doing a very good job.

The Hon. J. M. BROWN: If the Hon. Peter Wells had listened to my opening remarks, he would understand that that sort of interjection is tedious repetition.

The Hon. H. W. Gayfer: Tell me, Mr Brown, did you lose some of your prestige when you tried this House?

The Hon. J. M. BROWN: I am starting to lose it.

When we deal with legislation and it is said that there are fewer than 100 brokers and that there are 10 000 agents, for my part those statements have to be queried. I have not been lobbied on this subject, as the Minister for Lands often reminds us. The Pastoralists and Graziers Association has made no comments.

The whole matter has been brought to the Parliament because of the very serious and dangerous effect the industry has created within the community by the failure, to a lesser extent, of insurance companies and, to a major extent, of brokers.

I take the opportunity to remind the House that companies such as VIP, MMG, and Palmdale Insurance Ltd. have created a great deal of concern in the industry. I have a communication from the Insurance Council of Australia which was sent to me by the Western Australian regional director (Mr Reg Trigg), who is in this House. That indicates that one of the most significant events in 1980 was the collapse of Palmdale Insurance Ltd. because of its substantial workers' compensation portfolio. That led to consideration of legislation in several States.

The following appears in the 1979-80 annual report of the ICA—

> Palmdale Insurance Ltd was placed in official liquidation in New South Wales in February 1980.
>
> The industry decided not to accept voluntarily Palmdale's liabilities. As a result, ICA regional representatives in all other states and territories, except Queensland, have urged their respective governments to introduce legislation patterned on the Guarantee Fund now operating in Victoria.
>
> The situation is still unclear. In New South Wales existing legislation has been amended to establish a special fund to meet claims against Associated General Contractors Insurance (Palmdale Insurance Ltd). Legislation in other states is not expected until later in the year.

The Hon. Neil Oliver: In Victoria, is the guarantee fund based on registration, an indemnity fund, or approved guarantor?

The Hon. J. M. BROWN: I am unaware of the situation in Victoria. I am aware that the insurance industry decided not to accept voluntarily the Palmdale liabilities. It can be said that the industry recognises it has a responsibility to give some type of protection to the insured.

That was a very important statement in the report, which recognised that there should be some type of protection. The industry is prepared to offer some protection. It is a rather important facet of the report.

I have a question of the Minister. When has the industry been able to relieve the insured of further financial liability in respect of his premium payments? That is a very important issue; and one has to ask such questions. When has the industry been enabled to assist, because the Insurance Council of Australia on this occasion did not see its way clear to accept the liability of Palmdale Insurance?

There could well be good reasons that would happen, but one asks "Why did they not accept it?" Perhaps one could ask also whether they have accepted responsibility in the past, or is this a programme set down for them to accept some responsibility in the future?

Whilst we are concerned with the brokers in the first instance and the agents in the second, we cannot forget the insurance industry itself and the responsibilities it has. I want to say also that agents or consultants—I prefer to call them "salesmen", because they have something to sell and apart from the service they provide, they are selling protection—

The Hon. Neil Oliver: Everybody is a seller.

The Hon. J. M. BROWN: I do not know what sort of picture the honourable member who has just interjected is trying to paint. I believe the industry has certain responsibilities. There is a term in the betting industry known as "welshing on the bet" and within the insurance industry, on occasions it is difficult to have a claim recognised. However, in fairness to the industry, I realise there are occasions on which a claim has been met when in fact the insured has not paid his premium. I know also that, on occasions, when incorrect cover as far as the insurance proposal is concerned has occurred through an agent or consultant, the industry has paid out on the claim, because the intent was there.

I recognise the role played by the industry and the fair way in which it endeavours to operate. I cannot refer to any specific instances, but it has been brought to my attention that on occasions, in relation to life assurance, claims have been paid out when in fact the policy has lapsed.

Generally the insurance industry recognises its responsibilities and operates in a fair manner. It is a pity the Government did not adopt the recommendations made by the Law Reform Commission which looked into this matter at a national level. However, we believe the State legislation will be a forerunner of essential Commonwealth legislation which will be introduced eventually.

Whilst we are concerned about brokers and agents in this instance, we are concered also about the companies themselves. This Bill has been introduced because of the collapse or closing down of insurance brokers in the last few years resulting in thousands of people losing millions of dollars and being put in a position in which they are no longer insured.

These are important factors and, in the main, they result from sheer dishonesty within the industry. Some of the firms which in the past have advertised that they are available to service the industry are Morley Insurance Brokers Pty. Ltd.; Douglas Insurance Brokers Pty. Ltd.; Ibis Holdings Pty. Ltd.; Dyson Insurance Brokers Pty. Ltd.; Beneficial Insurance Brokers Pty. Ltd., which is one of the most recent ones; Harry Eylis and Associates; Trend Holdings Pty. Ltd.; and J. D. Searle and Co. Pty Ltd. Although these companies have advertised they have portfolios with large insurance companies, they have gone to the wall. Generally this has occurred through dishonesty. I could use the words "expropriation of funds" or the fact that these people have tried to invest on a market which fluctuates dramatically as can be seen by a day-to-day examination of the share market.

The Hon. R. J. L. Williams: Sheer fraud!

The Hon. J. M. BROWN: Mr Williams used two words that might be more appropriate—sheer fraud. So, that is why we have legislation on this very matter. These people can go out and set up an industry tomorrow. Indeed, in one shady deal a company was sold off to another, but it had the same directors. Mr Williams' comment emphasises what it really involved—sheer fraud.

The people involved with Beneficial Insurance Brokers Pty. Ltd. complained about what the Government was doing with some of the land the company owned in Albany. I wonder how that company acquired $500 000 worth of land before it went to the wall. Some of these companies have been handled in what I consider to be very devious ways. They are a discredit to society.

A South Australian Federal member of Parliament, Mr Ralph Jacoby, has been endeavouring, on behalf of the consumers, to make some impression on the Prime Minister and the Treasurer in order to have some action taken on this matter.

The Hon. J. M. Berinson: He has been working on that since 1969.

The Hon. J. M. BROWN: I received some correspondence from Mr Jacoby at the beginning of 1980. He mentioned a question he asked in Federal Parliament in an endeavour to have something done in South Australia. The position in South Australia would not be dissimilar to the situation here. On 21 February he asked Mr Howard the following question—

> Has his attention also been drawn to (a) press statements alleging that these companies are adopting unsatisfactory, misleading, unethical and fraudulent practices in pursuance of their business, . . .

Mr Howard replied that he was aware of Press reports to the effect that complaints had been made about several insurance brokers.

Similarly, it can be said in this State that there have been Press reports which indicate that the fraud squad has been making investigations. The same would apply to this State as it does in South Australia; no progress or prosecutions have been made. In other words, these people have a licence to do what they have done. Mr Jacoby said that these people have protection in the pursuance of their business and they are undermining the industry. Of course, the person who finally pays the penalty is the consumer.

Whilst I am pleased this legislation has been brought forward I must admit I do not think it will be effective enough. However, it is a start and that is probably the most important thing.

I wish to remind those involved in the industry that they have to take cognizance of the situation in the same way as the real estate agents and the settlement agents must do. I suppose we have a type of compulsory unionism in this legislation because people must have a licence to carry out their job.

Whilst I am speaking of broking firms and their collapse, the Insurance Council of Australia is attempting to promote itself to make it known that the organisation is a progressive one which is designed by Australians to assist Australians. The unscrupulous activities within the industry are of concern to the council and it has expressed its belief that what has happened in the industry is of concern to them, as it has been to the Labor Party.

I have received two communications on the matter; one condemned the brokers and the other supported them. So, it would be easy to guess that one letter was from an agent and one was from a broker.

The West Australian issue of Saturday, 2 May 1981, bore the heading "Brokers are not liable—judge". The article read in part as follows—

> Mr Justice Gobbo ruled that where money was received by an insurance broker and not yet paid out to Palmdale, the policy-holder was still liable for the unpaid premium.

Mr Justice Gobbo ruled that there was a restriction of liability on the broker. The largest single amount owing to Palmdale Insurance was owed by a company called Kinloch Pty. Ltd. which was in liquidation. I assume that company was a broking company in the Eastern States.

There was no liability upon the broker to pay the premium and that is what this legislation is all about.

I also received a letter from the Association of Representatives of the AMP Society which read in part as follows—

> It has come to our notice that General Insurance Brokers have grossly misrepresented to you the true position of Agents and Brokers in respect to the General Insurance Brokers and Agents Bill.

The brokers sent telegrams to the Premier and members of the Government parties. They did not consult the Opposition and they did not send us telegrams. It was naturally assumed within the agency operation of the industry that every member of Parliament had received a telegram and they were somewhat surprised when I rang them to ask them about the matter. I was told to consult Mr Wells about it.

The Hon. G. E. Masters: Mr Wells has consulted with the Minister and has done a lot of work on this.

The Hon. J. M. BROWN: It has been all one-sided. They did not consult with the Labor people, perhaps because they believe that the Labor people do not have insurance problems. It is obvious they did not think we were the alternative Government.

The Hon. D. J. Wordsworth: That is a reflection upon you.

The Hon. J. M. BROWN: No it is not. The Minister cannot substantiate that argument.

The Hon. D. J. Wordsworth: If they had thought you were an alternative Government they would have consulted you.

The Hon. J. M. BROWN: The Minister for Lands takes notice of lobby groups; that seems to be his forte.

The Hon. P. G. Pendal: You don't think they should?

The Hon. J. M. BROWN: It all depends on what one calls a lobby group.

The Hon. D. J. Wordsworth: I said "lobbied" by people.

The Hon. J. M. BROWN: These people did not consult with us.

The Hon. G. E. Masters: That is their choice.

The Hon. J. M. BROWN: They thought we would not do any good. We did do something for the real estate and business agents and the settlement agents, although we failed in our attempts with the settlement agents—not because of the debate, but because of our numbers.

The Hon. G. E. Masters: You must not get cross with us; it was they who made the decision.

The Hon. Neil Oliver: You are reflecting on the policy holders of the AMP.

The Hon. J. M. BROWN: The Association of Representatives of the AMP Society said that it had come to its notice that the General Insurance Brokers had grossly misrepresented the true position of agents and brokers in respect of the General Insurance Brokers and Agents Bill.

We are debating this Bill, and I would like to know how they have been grossly misrepresented. The brokers sent a circular to all members of Parliament, although some members may not have felt it worth while to open the letter. The circular was issued under the letterhead of the Life Insurance Federation of Australia, under the signature of Mr R. K. Breen. The circular states—

> This Federation is most strongly opposed to the suggestion that a Broker be defined by the volume of premium he processes.

It goes on to say—

> The Life Insurance Federation of Australia supports the Bill as it was originally proposed. Though not in agreement with the Amendment to the Bill which has already been passed through the Assembly this Federation far prefers that Amendment to any proposed Amendment which would define a Broker according to the volume of premiums processed.

It refers to the amendment passed in the other House before we received the Bill, and I will explain that when I get onto the Bill itself. What I am trying to say is that this circular came to us at the 11th hour without a full explanation, and it contains propositions of which no-one was aware. It is seeking a clear and concise debate on a very important industry which is responsible for thousands of millions of dollars in premiums. I just cannot understand why the association should say those things. It should have more sense.

I turn now to the Bill. In his second reading speech the Minister explained the reason for the introduction of the Bill and he said that following many complaints to the Government early last year, a working party carried out investigations. That working party comprised—

> the Commissioner for Consumer Affairs;
> the General Manager, State Government Insurance Office;
> and representatives of—
>
> > the Insurance Council of Australia Ltd.
> > the Life Insurance Federation of Australia, and the
> > Insurance Brokers Council of Australia.

The terms of reference of the working party were—

> (a) to investigate and report upon the reasons for the recent failures of insurance brokers in Western Australia;
> (b) to investigate the possibility of further failures occurring and to recommend measures, if any, which could be taken immediately to protect consumers and insurers; and
> (c) to investigate and report upon the desirability for the control of the operation of insurance brokers and the form it should take.

The Hon. John Williams probably hit the nail on the head when he said the reason for the failure of insurance brokers was fraud. The working party reported to the Government in July 1980 and mentioned several factors resulting in broker failure. They included lack of relevant insurance or business experience, or both, on the part of principals. Obviously those aspects require questioning. The companies represented by insurance brokers should ensure that brokers have some background and experience; they should ensure they have the ability to be able to build up a portfolio of clients. Another reason reported by the working party was inept management. In that case the broker himself is to blame; and, as Mr Williams said, it is a case of fraud.

Sitting suspended from 3.45 to 4.03 p.m.

The Hon. J. M. BROWN: Another important matter deals with the granting of a licence to a person and clause 10(1)(a) to (d) reads—

> 10. (1) Subject to this Act a person, not being a body corporate, who applies to the Board for a licence and pays to the Board the

prescribed fee for the licence shall be granted and may hold a licence if the Board is satisfied that—

(a) he is a person of good character and repute and is fit to hold a licence;

(b) he is a qualified person;

(c) he has sufficient material and financial resources available to him to enable him to carry on business as an insurance broker;

and

(d) he has the insurance required under this Act in relation to the business to be operated under the licence.

This refers to the fidelity cover, the professional indemnity of $100 000. This would mean there would be many Western Australians in the industry, both male and female, who would be eligible. No doubt this qualification will be amended at future times so it is in accordance with the responsibilities involved. The responsibilities are very heavy because of the millions of dollars that we know have been lost in the industry as a result of malpractice.

I want to refer to the investment portfolio, and the Act explains how the broker will handle the funds of which he has custody and how they shall be invested when he has those funds in trust. This is a considerable responsibility and a great deal of acumen is required to carry it out properly. Clause 16(1) under the heading "Short term investment" reads as follows—

(a) an investment of a class mentioned in paragraph (d), (e), (f) or (o) of section 16 (1) of the Trustees Act 1962; or

(b) an investment prescribed, or of a class prescribed, for the purposes of this section.

It is worth while spelling this out because it is to be spelt out to the industry just what are the requirements. I refer members to clause 16(d) to (f) and (o) of the Trustees Act which reads as follows—

(d) in any one or more of the following, namely—

(i) on fixed deposits in any incorporated or Joint Stock Bank carrying on business in the State;

(ii) on deposit in the Savings Bank Division of the Rural and Industries Bank of Western Australia; and

(iii) on deposit in any savings bank authorised to carry on savings bank business under the Banking Act 1959 of the Commonwealth or under any Act passed in amendment of, or in substitute for, that Act;

(e) on fixed deposits in or in the shares of any incorporated building society carrying on business in the State and certified by notice in the *Gazette*, signed by the Treasurer, as a society in which trustees may invest;

(f) with any dealer in the short term money market, approved by the Reserve Bank of Australia as an authorised dealer, that has established lines of credit with that bank as a lender of last resort;

(o) in the common trust fund of a trustee corporation;

Members will see that allows considerable opportunity for further investment. I will watch with interest to see whether this area is expanded, because I would like greater restrictions applied. This would be better for the industry. I would rather we stick with one investment portfolio in the first instance because the opportunity for brokers to invest those funds means the insurance companies are not receiving them after they have been paid by the insured. This means they have either a very good credit rating or they are not paying their premiums on time. In the past this has caused the collapse of many companies. The terms spelt out have been far too generous and this has been a contributing factor to the collapse of many insurance broking companies. This was pointed out by the working party. Only this morning I was given to understand that because of the introduction of this Bill, people are closing their doors because they would not be in a position to carry on. The portfolio of investment in the Trustees Act should not be expanded, but restricted. The opportunity the brokers have to invest trustee funds means they are not paying their accounts or they have very generous terms and conditions.

As far as the brokers themselves are concerned, the regulations that will be coming forward will receive a good deal of scrutiny because they are probably going to be the most important item following the introduction of the Bill. Obviously the Bill must be introduced before the regulations can be made.

Another matter of concern is the qualification of a broker and this was misrepresented in the Press following deliberations in another place. It was qualified subsequently by the Minister

responsible and the number proposed for the board was extended to 10.

The public generally, and even members of this House, had an idea there was an examination so that a person would not be declared a broker. If one had four or more agencies one was declared a broker. If someone had up to 10 he had to declare himself and it was the responsibility of the board to make the declaration that a person was a broker. If a person had five agencies the board could declare him a broker. If someone had between four and 10 agencies the board could offer an exemption. The extension of the number to 10 is reasonable because it gives the board power to extend the requirements to any number between four and 10. I acknowledge the importance of that amendment. We are not looking for flexibility. We do not want flexibility when people are handling other people's money and investing it. We need firm controls. Clause 6(1) reads as follows—

> 6. (1) Subject to this section the Board shall consist of 4 members appointed by the Governor of whom—
>
> (a) one, being a person who is neither an insurance agent nor an insurance broker shall be appointed to be a member and chairman of the Board;
>
> (b) one, being a person nominated by the Minister who is neither an insurance agent nor an insurance broker, shall be appointed to be a member and deputy chairman of the Board;
>
> (c) one shall be a person who is conversant with the business and operations of insurers and insurance agents and is nominated for appointment by Insurance Council of Australia Ltd, a body corporate; and
>
> (d) one shall be a person who is a licensed insurance broker and is elected for appointment by licensed insurance brokers (in the Schedule to this Act called an elective member).

In the first instance four members are to be appointed by the Minister. After the formation of the board the Insurance Council of Australia Ltd., a body corporate, will elect one person. Brokers will elect the other member. If they are the Minister's appointees they will probably be re-elected.

The numbers are not sufficient. Furthermore, the General Manager of the SGIO should be a member. The recommendations from the working party which included the General Manager of the SGIO indicate the importance of the involvement of the SGIO in the industry. Its premiums are competitive because its operations in a restricted franchise are very progressive and effective. In answer to a question, we learned that in 1978-79 the SGIO paid $2 353 798 into Consolidated Revenue. In 1979-80 a Budget figure of $5 712 000 was prepared to show payment into Consolidated Revenue. Members cannot underestimate the value of the State Government Insurance Office.

The General Manager of the SGIO, when all is said and done, is a public servant. However, it is a disappointment that he has not been allowed to be a member of this board. He was involved in the working party which included a Consumer Affairs Bureau representative. Perhaps the Minister will be able to explain the position to me. I know he must be guided by the Minister responsible for introducing this legislation. I read the reason for his refusal to accept the amendments placed on the notice paper in another place.

I strongly disagree with this part of the Bill. It would have been far better to have the industry controlled within the State system and have the General Manager of the SGIO, a public servant, responsible to the Minister. It would have been very wise to have the industry monitored in that way. The SGIO manager should have been appointed as a member of the board not only because he has a contribution to make, but also because the SGIO is a large part of the industry in this State.

I do not know whom the Minister has in mind for the positions of chairman, and deputy chairman. I do not know whether we will have any indication of who those people will be until we read about them in the Press. However, I would appreciate some indication of the type of people it is intended will hold those positions. I see the board as having a responsibility to regulate an industry which for a century has regulated itself.

I now refer to the officers employed by the board who will assist to control the industry at the direction of the board. The Government must not think very highly of the board because it has allowed for only a secretary or other such officer necessary for the proper function of the board. He will be a C-II-3 grade officer with a tremendous responsibility to regulate and control insurance brokers and agents. He will earn approximately $15 000 a year and have a clerk and a typist

available to him to handle the 10 000 registrations envisaged by the Government. I dispute that there will be that many, but time does not allow me to continue on that point. The secretary will have in excess of 100 brokers to control. The position will be one of the most difficult in regard to any board in operation.

Having met insurance agents, brokers, and others involved in the insurance industry, I understand some of their activities and, especially, the activity for which they are trained; that is to put forward claims for their clients and themselves. I wonder how they will fare for themselves in this situation. I put forward a strong protest against there not being further consideration given to appointing the manager of the State Government Insurance Office, who played an important role in the working party and who has a responsible position in the insurance industry, to a position on the board. Many times he is called upon to assist the Government with problems confronting the insurance industry, particularly in regard to brokers, and the failure of brokers. To my mind the Bill lacks vision by not including provision for the appointment of a person who would be able to do so much towards the establishment of the board.

Much more could be said about the Bill in regard to so-called benefits for consumers and protection of the industry. It is only because of the time factor I am winding up my speech. I want members clearly to understand that. I have marked clause after clause as being ones on which I intended to speak and raise queries with the Government.

We must place this industry on a sound footing; we must protect the insuring consumer of this State much more than we have in the past. We must make those people responsible for the fraud which has occurred within the industry contribute to this State in the manner in which they should. They have denigrated an industry which in the past has been a responsible business enterprise.

Finally, I want to say something about insurance agents and the fact that they will be registered on a triennial basis. That will be good for the industry in the long term, regardless of the point that they believe they should not be registered. Insurance offices must supply the board with a list of those eligible for registration, and by way of registration, funds will be generated for the operations of the board.

Top-quality men are required to administer it and I believe a further extension of the number of members on the board is required.

I will say something further about agents. Most agents who have a portfolio in the life insurance section of the industry also have a portfolio in the fire and general insurance section of the industry. They should be embraced so that every insurance agent, whether he deals with life or other matters, is covered. I believe the Bill does not go far enough, but on the basis that it is a starting point we support it.

THE HON. NEIL OLIVER (West) [4.22 p.m.]: The member who just resumed his seat referred in his opening remarks to various associations which made information available to the Opposition as to how they viewed various legislation presented to the House. In one instance he referred to an organisation which I believe was the Real Estate Institute of Western Australia. However, he then went on to speak about the Real Estate Agents Supervisory Board. The comment he made referred to a grandfather clause, and I am a little uncertain whether the Leader of the Opposition passed correspondence to the member which indicated that the Real Estate Institute of Western Australia was in favour of a grandfather clause. I would ask the Leader of the Opposition to assure me that was what the institute intended.

The Hon. J. M. Brown: After our amendment was put forward they wrote to the Leader of the Opposition and said they agreed.

The Hon. NEIL OLIVER: I take it the institute agreed that a grandfather clause was appropriate.

The Hon. J. M. Brown: That was after our intentions were made known. I do not think that has anything to do with this Bill.

The Hon. NEIL OLIVER: I raised the matter because when I dealt with the legislation the situation was quite the reverse and I wondered how the Labor Party was manipulated and the Government may have been manipulated. It would be a dangerous state of affairs if a prominent organisation wrote to the Leader of the Opposition stating one course of action and wrote to the Government stating another. I still do not fully understand what happened, but no doubt when I read *Hansard* I will be able to clarify the matter.

This is intended to be consumer legislation, but it is archaic in the extreme. It is so archaic that it will batter consumers. As far as I know the first registration board was established in 1936, that being the Painters' Registration Board. It was covered by a private Bill introduced into the Legislative Assembly by the Hon. H. E. Graham

who may have been at that time the member for Balcatta.

The Hon. J. M. Berinson: I think it was East Perth.

The Hon. NEIL OLIVER: It may have been East Perth at that time. Since 1936 only tremendously narrow and archaic legislation has come before this House for the purpose of establishing registration boards. The legislation has not moved with modern times to protect consumers.

I do not doubt in any way the sincerity of the member who spoke before me, but it is unfortunate that in these modern times the current legislation has come before us. Yesterday in the Settlement Agents Bill and again today in this Bill I noted the only difference between the 1936 legislation and these Bills is that the clauses relating to the qualifications of the members of boards, their terms of reference, and how members can be dismissed relate to the particular industry controlled. Such provisions are contained in either the Bill or its schedule. If we cannot improve legislation in 45 years I must agree with the Hon. Howard Olney when he referred to the need to review legislation in this House.

I would like to go a little further and refer to what was said about consultation with the insurance industry. The Leader of the Opposition should be aware of submissions made to the Government. When I made submissions prior to my becoming a member of Parliament I met with the Opposition, the Government, and the National Country Party. In 1971 I found the Labor leader most co-operative. In one instance I did not need to make a formal submission; I was able to contact the current Leader of the Opposition by telephone and obtain an immediate and satisfactory response.

We have not gone far enough with this legislation, and in regard to the uncertainty inherent in it, I agree with the Hon. J. M. Brown. He referred to what happened in 1975. I do not know whether it was late 1974 or early 1975 when the Whitlam Government initiated an effort to nationalise the insurance industry.

The Hon. J. M. Berinson: That is not true.

The Hon. NEIL OLIVER: The initial overtones occurred then. At one point the Melbourne City Council was told it could bank only with the Commonwealth Banking Corporation. These matters were not headlines at the time.

The Hon. J. M. Berinson: In regard to nationalising the insurance industry are you talking about the national compensation scheme?

The Hon. NEIL OLIVER: Yes.

The Hon. J. M. Berinson: Do you accept that as nationalisation?

The Hon. NEIL OLIVER: That was the start. The Commonwealth Banking Corporation was involved in attempts to nationalise banking when the Melbourne City Council was told it could not bank with any bank other than the Commonwealth.

The Hon. D. K. Dans: Who told it that?

The Hon. NEIL OLIVER: It was Chifley. During the period the Whitlam Government was in office the national insurance corporation was to be established. Because the insurance companies of Australia were accused of making huge profits on behalf of their millions of policyholders, the Whitlam Government felt there should be more competition with the introduction of the national insurance corporation under the free enterprise system.

The Hon. J. M. Berinson: But in what area?

The Hon. NEIL OLIVER: The whole general life insurance field. I do not know whether it was prepared to take on workers' compensation. We then saw some large-scale demonstrations on the Perth foreshore. An insurance company's reserves and premiums are invested in long-term fixed assets, and it is then able to redeem the policies as they fall due. For example, if a competitor came into the market, it would not have needed reserves to meet any claims, and obviously it would be at an advantage over insurance companies which had been operating over many years. If a national insurance corporation came into existence and had a bottomless pit of taxpayers' funds to meet its commitments including claims, the private insurance companies would not have a cash inflow because new policies would not be written in sufficient quantity. Therefore, the insurance companies of Australia and their policyholders, which number probably eight million or nine million people, would have been faced with the possibility of having to liquidate their assets which had been locked in long-term investments.

When I studied this matter in detail, I was amazed to realise how quickly socialism could take over in this country. That is probably one of the reasons that the insurance companies did not open their hearts to the Opposition. As well as that 1975 occurrence, when a move was made to nationalise the banks, there would have been the

additional problem of the future of the bank employees.

All I can say to the Hon. Jim Brown is that he should build on his idea with sincerity. If he has good faith, he will achieve a rapport with and respect from the insurance brokers, and he will justly deserve that.

I have made the point already about registration. Our present method of registration is archaic—it is some 46 years old. Naturally we would expect the Labor Party to support registration, because it would like to register everyone. It registered hairdressers and painters, and in 1973 it introduced into this House a Bill to register contractors. Fortunately that was tossed out. Similar legislation was introduced by the Dunstan Government in South Australia, and it has turned out to be a total disaster to the consumer. In fact, *The Australian Financial Review* reported on the fact that the Australian National University underwent an examination of registration in New South Wales. Unfortunately the copy of that report is in my electorate office. Certainly such provisions do not protect the consumers—in fact, they batter the consumers with public bureaucracy.

Earlier this evening I was very interested in the remarks of the Hon. Robert Hetherington. They were not relevant to the Bill, but I took a note of his thoughts and philosophy.

The Hon. R. Hetherington: Now you worry me.

The Hon. NEIL OLIVER: His philosophy in regard to the registration proposals included in the transport legislation was that it was a dangerous concept of bungling bureaucracy. We could say exactly the same about the registration provisions in this legislation. I know the Hon. Robert Hetherington is concerned about the bungling bureaucracy he sees in the Education Department.

The Hon. R. Hetherington: It is there all right, my word it is; it needs a bit of sorting out.

The Hon. NEIL OLIVER: Just because it is there, does not mean it is not anywhere else. Here we have a man of learning who recognises that that is not an isolated case.

The Hon. R. Hetherington: We have an old saying you know: "Have a bureaucrat on tap, and not on top".

The Hon. NEIL OLIVER: There is another old saying: "Where there is smoke there is fire".

The Hon. R. Hetherington: Perhaps it is better to have them on tap to put out the fire!

The Hon. NEIL OLIVER: I would like to put a question to the Minister. I understand that the passage of this Bill is urgent and I realise that the Commissioner for Consumer Affairs submitted some recommendations. However, I do not know why it was thought necessary to consult the General Manager of the State Government Insurance Office, unless the SGIO is not a member of the Insurance Council of Australia Ltd., in which case I would stand corrected.

In regard to the failure of insurance brokers, brokers have played a valuable part in the industry from the middle ages. In fact, broker trading was undertaken even before the days of currency. The broker has always been a middle man. Many people in rural areas have not always been sympathetic to brokers. However, a broker must do the best he can for his client; he must obtain the best price for his client. An insurance broker shops around to ensure that his client gets the best deal possible from any insurance company. If there is a decline in the number of insurance brokers operating, a very monopolistic situation will eventuate.

Any business field has its failures, but some insurance companies have not supervised their credit management efficiently. They have permitted long extended credit terms. It is not unusual for wool brokers to grant payment terms of 120 days, 160 days, or even longer. The wool that comes from the Hon. H. W. Gayfer's farm—

The Hon. H. W. Gayfer: Not much these days.

The Hon. NEIL OLIVER: —is purchased by a broker. Although the actual producer receives his money for the wool, the broker, the scourer, and the spinner do not receive any money until the suit made from the wool is hanging up in the retail shop or is being worn by its purchaser. However, this is normally covered by export payment insurance corporation premiums. So brokers serve a useful service in the whole framework of an industry. It seems that brokers are a dying race. Generally they are small businessmen, but if they leave the industry, we will all be paying higher insurance premiums in the future.

I will not say much more about the Bill except to point out that it is archaic—it is about 46 years old. It is time we looked to modernise it. Really, its provisions are no different from those contained in the Painters' Registration Act, except as I said previously, for the difference in the schedule, the composition of the board, and the manner in which members can be disqualified. There is something wrong if we have not advanced at all in 46 years.

I appreciate the urgency of this legislation, but I would like at least an undertaking from the

Minister that he will update the legislation. Most industries are self-regulating, but under the control of Statutes. In this instance Parliament will decide what authorities and what type of associations will be regarded as guaranteed insurers. Guaranteed insurers will be those people registered with the Insurance Council of Australia Ltd. and members of the Life Insurance Federation of Australia. It is up to these associations to make sure their members conduct their businesses in an ethical manner. This is not a matter to be policed by bureaucracy—by an army of inspectors who would go around battering the consumers, and adding to costs ultimately borne by the consumer.

Guaranteed insurers must have adequate indemnity and fidelity funds so that the policyholders are protected. In my opinion we should introduce an insurance policy liability fund Act directed towards protecting the insurance policyholders. The responsibility to protect the policy holders should lie with the industry.

I will not name the insurance companies involved, but part of the reason for some of the failures was that the companies offered substantially lower premiums than those prevailing generally in the industry. The consumers who took that risk got a better deal initially. I draw a parallel to the Painters' Registration Board.

The Hon. H. W. Olney: You cannot get insurance with the Painters' Registration Board.

The Hon. NEIL OLIVER: In Victoria, a person can take out insurance against a builder going insolvent and against faults in the building for up to six years.

The Hon. J. M. Berinson: How do they insure against the collapse of the insurance company?

The Hon. NEIL OLIVER: A very prominent insurer asked me that same question. In fact, 26 insurance companies subscribe to the scheme and, as Mr Berinson would know, unity is strength. The Australian Mutual Provident Society is associated with that scheme, and it has funds probably in excess of $12 billion. The largest amount committed by any of those insurers is $300 000.

The Hon. J. M. Berinson: I am sorry I asked.

The Hon. NEIL OLIVER: I had great pleasure in listening to Mr Olney, because many of his ideas are new to this House. I would have hoped he would extend the same courtesy to me because the proposal I am putting forward is a reasonably new concept, without all the bureaucracy and controls attached to it. Not only would it protect the consumer, but it would also lower the cost to the consumer. If that is not consumerism, I do not know what is.

I support the Bill reluctantly and trust the Minister will look kindly at a review so that the legislation can be updated to make it more in keeping with the 1980s and not the 1930s.

THE HON. W. M. PIESSE (Lower Central) [4.48 p.m.]: This is new legislation which undoubtedly will suffer some growing pains. We know that as a Government we must be prepared for this, and I am sure the insurance companies and insurance brokers also recognise that fact. We are not trying to sew up all the holes instantly; however, this Bill is a fair attempt to cater for the situation.

This legislation is before the House because of the considerable number of insurance brokers who have gone to the wall in recent times. Whilst it may be true to say that they have suffered, in many cases their suffering has been self-inflicted. The people we are concerned about protecting are those people who, in good faith, paid their money to people calling themselves insurance brokers, not knowing the outfits they trusted were very shaky indeed. These clients deserve some effort on the part of the Government to provide them with redress.

In his second reading speech the Minister stated—and I think it will bear repeating—that the difference between an insurance agent and an insurance broker is that one sells on behalf of a company, and the other buys on behalf of a client. It should also be understood that in decades gone by, insurance brokers confined their operations to very large enterprises where a great deal of hard bargaining over insurances took place; although several companies may have appeared to be doing the same thing—such as constructing huge buildings—the conditions each required in their insurance contracts were quite different from those required by their counterparts in another area. So, of course, insurance brokers took up the job of seeking out the best terms and prices for the insurance cover on these massive construction works.

It may not be a popular remark, but I believe the move of insurance brokers in more recent times into what might be called small-time insurance, covering such things as small buildings and the like, reflects badly on the insurance industry.

Insurance is a very competitive industry. Any industry handling such tremendous sums of money as do insurance companies must be competitive. An insurance agent operates on behalf of an insurance company, and is backed by

the resources of that company. However I am sure that if any of us were to walk down the street and ask people whether they knew the difference between an insurance agent and an insurance broker, the majority of people would not know. This is something which should be more widely known. Perhaps it could be included in the curricular of secondary schools. Indeed, some final year students in country high schools are lectured on this aspect of the insurance industry.

As I said, an agent operates on behalf of an insurance company and he carries identification to that effect; he offers a package insurance deal at a particular price. The client engaging him generally is advised to make out the premium cheque to the company, not the agent, following which the agent issues the client with a cover note so that the client's risk is covered during the time the final documents are drawn up and the payment is cleared.

However, that is not the case with insurance brokers. This is not fully understood by the ordinary householder. The legislation provides conditions for the granting of a licence to an insurance broker. One condition, clause 10(1)(c), referring to the applicant states—

> . . . the board must be satisfied that—
>
> (c) he has sufficient material and financial resources available to him to enable him to carry on business as an insurance broker;

I am hoping the Minister will explain more fully the term "sufficient material"; of course, the meaning of "financial resources" is patently obvious.

Regarding conditions for licensing of agents and brokers, all members will have received two roneod circulars on this matter. I should like to quote to members a letter I received from the Association of Representatives of the AMP Society; it states as follows—

> It has come to our notice that General Insurance Brokers have grossly misrepresented to you the true position of Agents and Brokers in respect to the General Insurance Brokers and Agents Bill.
>
> They have grossly misrepresented insurance agents who have not constituted a risk to the public because the Companies they represent carry responsibility for premiums being held by bona fide Agents.

I do not think anyone has argued that the insurance agents are at fault in this regard. The letter continues—

> We also understand that representation is being made to members to amend the Bill to restrict the amount of money an agent may accept for a single transaction.

This may have arisen from a question I asked as to what would be a likely amount of money for an insurance broker in the small category to handle. I wanted to know about certain aspects of the activities of insurance brokers. It was pointed out that they could handle in excess of $250 000 in premiums alone. This brings me to my next point: Surely these people should have an office, and a reasonably good accounting system in operation. They should not be allowed to operate without proper bookkeeping.

I have had the experience of an insurance agent signing up insurance in my home for a few thousand dollars, but he was backed by the full accounting facilities of a large insurance company. Similar provisions must be applied to insurance brokers. It has been pointed out to me that in many cases insurance brokers have gone to the wall as a result of bad management. Whoever is handling these large sums of money must be required to have basic accounting skills to enable him to keep account of his dealings.

I also received a circular from the Life Insurance Federation of Australia referring to the General Insurance Brokers and Agents Bill in the following terms—

> This Federation is most strongly opposed to the suggestion that a Broker be defined by the volume of premium he processes.

It was never intended he should be so defined. However, that certainly is a yardstick, because if he is handling large amounts of other people's money he must be equipped to handle it.

Most of the other matters have already been covered by the previous speakers and, as I do not wish to delay the House, I will confine my speech to those few remarks.

THE HON. J. M. BERINSON (North-East Metropolitan) [4.58 p.m.]: Obviously, this Bill seeks to meet a very serious problem, and one of some complexity. It is also a field which needs to be covered urgently. Precisely because it is so serious, complex, and urgent, I believe it requires much more care and attention than it is likely to receive in its passage through Parliament.

I do not reflect on the contributions of any member who has already spoken and, obviously, not on the contributions still to be made. I speak simply of the position in which I find myself. Speaking for myself, the proper consideration of this Bill is bound to be another victim of the

absurd arrangements into which the present parliamentary session has slipped.

As I have complained on an earlier occasion, we were required by the Government to spend four full weeks at the beginning of the session doing absolutely nothing. We were engaged for all that time, at the Government's insistence, on the Address-in-Reply. That, for all practical purposes, amounts to no useful effort at all. We have since been faced with a flow of legislation of some complexity and of a nature which requires careful consideration; and we have had insufficient time to devote ourselves to it.

This Bill has been before the House for less than 48 hours. I do not need to remind members that we have not exactly been idle in the meantime. On both the days since the introduction of this Bill, we sat past 2.00 a.m. We have had legislation of a very contentious nature before us, and this has required our concentrated attention. While all that has been going on, the prospect of giving satisfactory attention to this legislation has been negligible. I pay my respects to the members of the House who have been able to give the legislation more attention than I have. I find myself regretting very much that I come into the debate unprepared. My usual practice is not to participate in debates when I find myself in that position.

The Hon. H. W. Gayfer: Why the sudden change?

The Hon. J. M. BERINSON: I will keep the Hon. Mick Gayfer happy by explaining. My reason is, firstly, because this happens to be an area in which I have taken an interest for a number of years; secondly, because the problem at which the Bill is directed is a very important problem; and, thirdly, because even on a first impression of the Bill and of the second reading speech, it is very easy to develop a feeling of unease as to whether the Bill will not do the job for which it has been presented.

According to the Commonwealth Law Reform Commission, there were at least 27 insolvencies of insurance brokers in the years 1970-1979. Additional failures have taken place since then. Most of them have been well publicised. Associated with the difficulties which show up in those failures are questions related to insurance agents and, even more fundamentally, the position of the insurance industry itself.

There have been spectacular failures in the insurance industry sector in the last few years. No-one appears to believe that there will not be more failures to come. I am speaking, of course, of the general insurance industry and not the life insurance industry, which is under close regulation by the Commonwealth Life Insurance Commissioner.

It seems that the only real solution to this apparent instability in the various sections of the general insurance industry is comprehensive Commonwealth legislation. The inertia at that level can be regarded only as deplorable.

Insurance, in all its aspects, is clearly within Commonwealth jurisdiction. There have been innumerable calls and authoritative reports in support of Commonwealth action; and the interstate and even international aspects of insurance make Commonwealth legislation the preferable course. If I understand the position correctly, even the present Government, with all its emphasis on State rights, shares that opinion; and it has come somewhat reluctantly into the field. My understanding, which I leave to the Minister to correct if I am mistaken, is that the State has been attempting to urge the Commonwealth into action; and this legislation is being introduced in response to the continued failure by the Commonwealth to accept its responsibilities.

Looking at the Bill in its present form, and having conceded my inability to analyse it thoroughly, I propose to take the very limited course of comparing the extent and form of the protection provided by this Bill with the form and extent of the protection which we discussed recently in the course of considering the Settlement Agents Bill.

The first thing to notice is that the professional indemnity and fidelity insurance requirements under this Bill are limited, in the first place, to what is called a "prescribed sum" defined as not less than $100 000. The Settlement Agents Bill is no doubt fresh enough in the minds of members for them to recall that the equivalent protection required under that measure was $250 000. I question seriously whether a figure of $100 000 is anywhere near adequate in the circumstances sought to be protected by this Bill. It is not, as some superficial examination might suggest, just a question of protecting premiums which have been paid to the broker and not transferred to the insurance company. Although serious, that is probably the least of the problems of insured persons or persons believing themselves to be insured when one of these crashes occurs.

The real danger, with quite spectacular potential, is the situation where a broker has collapsed without passing a premium on to an insurance company, and a calamity occurs to an individual or company which believes that it is

insured, but finds that it is totally unprotected. Under those circumstances, its only recourse is to sue the broker. Of course, the broker would not have collapsed if he was capable of meeting that sort of obligation. So, the person or company which believed itself to be insured is left unprotected and facing potential calamity.

It is in that context that one has to ask whether protection of $100 000 is adequate.

The Hon. P. H. Wells: Clause 17(1)(a) allows it to go up.

The Hon. J. M. BERINSON: But there is nothing to suggest that it will go up immediately. In fact, if it were to go up immediately, it would make the prior examination by the Government look absurd. It would indicate that the Government suggested $100 000 as an adequate figure, whereas the board, immediately on coming into operation, said that the Government was out by a factor of 2½.

The Hon. P. H. Wells: Are you saying that a small operator should very likely pay the same as a large broker?

The Hon. H. W. Olney: It is not the size of the operation. It is the size of the loss that the customer suffers if he has a $1 million house and it is burnt down when it is not insured.

The Hon. J. M. BERINSON: Other members may have been as impressed as I was last year when Bunker Hunt was before one of the Senate committees in the United States. I was left with an indelible impression on my mind. He had just lost $1 000 million in the great silver crash. One of the senators asked him "Do you really think your company can survive that sort of loss?" He replied "Well, you know, a billion dollars isn't as much as it used to be." That really impressed me, because I did not fully comprehend how much $1 billion—

The Hon. P. G. Pendal: Used to be!

The Hon. J. M. BERINSON: —is today, let alone what it used to be.

The thread to which I am trying to attach that thought is that I am conscious of the fact that $100 000 is not what it used to be.

The Hon. W. M. Piesse: One house!

The Hon. J. M. BERINSON: Exactly. It is not difficult to think of a calamity which could incur a loss of $100 000. It is not just property loss. It could occur in many instances. It could occur in personal injury cases; it could occur in a workers' compensation situation where more than one person is concerned. It is true that $100 000 is not what it used to be; and it is not very much.

If the Government is really setting out to cover this situation, I suggest seriously to the Minister that he ought to give some attention to a very simple amendment to clause 17 which would replace $100 000 with the amount of $250 000.

From what I have been told, the difference in premiums would be very little. As a matter of general experience public liability insurance premiums do not increase proportionately to the amount of the cover—nothing like it. In fact, a table in the Law Reform Commission report, at page 58, confirms that the difference in premiums compared with the difference in cover is really not significant. I do not want to mislead the House and pluck out a figure that might not be representative; but I shall not ask for the table to be incorporated in *Hansard*, out of respect for the sensitivities of the President. I will take one figure or one set of figures from a range of companies to indicate that the difference in premium between cover of $100 000 and cover of $250 000 is the difference between $2 000 and $2 250. It is not a big difference, compared with the protection it provides which, in my submission, is necessary—and that is a change the Minister should be prepared to make.

There is another significant difference between these provisions and those in the Settlement Agents Bill, that shows up in the absence of any possibility for a master policy agreement. In the Settlement Agents Bill, in my opinion, that was a very important and useful device because it made sure that everyone will be covered compulsorily; and there is no possibility of individual licensees slipping out of cover.

There is a third difference between the two measures and that is that this Bill, unlike the Settlement Agents Bill, makes no provisions for something in the nature of a fidelity guarantee fund.

Having listed those few differences, I put a hypothetical, but I am sure common position, to the House. The position I offer would include the following combination of circumstances: An insurance broker in a mess and out of funds; his fidelity insurance policy lapsed between annual returns; and a client suffering loss through negligence or fraud of that broker in not effecting insurance for which a premium had been paid.

In those circumstances, which are pretty well every-day circumstances, where brokers are in trouble, how will the client be better off under this legislation than he would be if we did not have it? He would not be better off at all. If anything, the legislation in a sense might even lead members of the public into a worse position.

At least now if they read the papers they ought to be on guard that dealing with insurance brokers is a matter which requires some checking and a bit of care to make sure the policy is issued for any premium paid; but once this legislation is passed, people reasonably enough will come to believe they are protected when in fact they may not be protected at all.

The Hon. Neil Oliver: Apart from the policy lapsing, what about the cancellation of the policy during the triennium?

The Hon. J. M. BERINSON: From memory, I do not think we are dealing with a triennium. As I recall it, it is an annual licensing provision.

The Hon. Neil Oliver: But even on an annual basis, having taken out a policy and then surrendering the policy—

The Hon. J. M. BERINSON: He would be uninsured. He would be in the same position as he would be in if it had lapsed and the renewal had not been paid.

If I could summarise these propositions, they are as follows: Firstly, that the Minister should look seriously at accepting the proposition that the prescribed sum for professional indemnity and fidelity insurance should be increased to $250 000; secondly, that a compulsory, master policy, analagous to that provided for settlement agents, ought to be considered for some future reference, if that is not appropriate or practical now; and, thirdly, that at least some consideration should be given to the equivalent of the fidelity guarantee fund in the Settlement Agents Act.

I am not sure the latter would be a practical proposition in this case, because I have no idea of the sorts of funds held from time to time and how much income might accrue on the investment of a small proportion of them. I merely put that third possibility peripherally to the others.

I have one other question which I put to the Minister and it is really only to obtain his advice in reply. Having read the Bill and the Minister's second reading speech, I am not sure as to why insurance agents are to be made subject to licence. In his second reading speech the Minister said—

> I am sure that members generally will understand that the essential difference between a broker and an agent is that a broker acts on behalf of and as the agent for people seeking insurance, whereas an agent is the agent of the insurance company or insurance companies which he represents.

So the Minister is saying, that brokers are different from agents and so they are; but I would have thought the difference is that payments to an agent bind the insurer whereas payments to a broker do not bind the insurer.

The Hon. Neil Oliver: That is correct.

The Hon. J. M. BERINSON: If that is so, what is the point of agency registration, no matter how many companies the agent represents as an agent? I have noticed in recent days that there has been some discussion as to whether it is a good idea to extend the ability of an agent to have four agencies before he comes under the definition of an "insurance broker" or whether it is desirable to extend the number to 10. In fact, in the Legislative Assembly, the number was extended to 10. In principle, I do not understand, if the agent really is an agent as opposed to a broker, why he should not be entitled to an unlimited range of companies for which he is agent without coming within the definition of a broker. I put that as a genuine matter of inquiry and I invite the Minister to respond.

The Hon. Neil Oliver: Normally the agent pays the premiums to his principal and then receives the commission later.

The Hon. J. M. BERINSON: I accept that; but I really do not see that it changes the point of the question I am putting.

Finally I make clear again that the Opposition supports the Bill—I certainly support it myself—and if there are any reservations they are only out of concern that its form may not be adequate and that its protection may not be as complete as is really necessary.

I repeat also the reservation that arises from the absence of Commonwealth legislation covering both the area of this Bill and the much wider and more serious area of the regulation of the general insurance industry.

Even given the passage of this Bill, I hope that the Government will not relax its efforts to obtain effective Commonwealth action in this field. I am well aware that a certain self-generating impulse comes from the establishment of any statutory authority and none of them are anxious to self-destroy, so they gradually work themselves into the system.

I urge the Government to continue its present efforts in respect of obtaining Commonwealth cover and to make it clear to the Commonwealth that the passage of this legislation is not with a view to precluding national action later.

THE HON. P. H. WELLS (North Metropolitan) [5.25 p.m.]: I rise to support the Bill although, along with other members, I voice the opinion that, in the light of experience, the

legislation may require amendment at a later stage.

One of the comments made by the lead Opposition speaker on the Bill made a great deal of sense; that is, that this Bill is a starting point. I refer to the situation in regard to the working party which examined this matter. Some people may argue it was most representative of the industry whilst others would say that, on an analysis of the industry, they feel other factors should have been considered. However, a working party was established which provided a basis on which we could work.

There has been a great deal of input from all sectors of the industry including insurers and agents. The people concerned gave their views with regard to the proposed legislation and then generally went away and had another look at the matter. Despite the different views expressed in regard to the provisions in the Bill, it is clear that all concerned are aware of the necessity for the legislation. Members opposite have indicated also their recognition of the necessity to introduce a Bill such as this.

I was surprised the Hon. Joe Berinson expressed the view that we had not had adequate time to consider the legislation, because the Hon. Jim Brown told us the matter was raised some time ago.

The Hon. J. M. Berinson: It was related only to the form of the Bill, not the content of it.

The Hon. P. H. WELLS: I have a great deal to learn about the insurance industry and I am daily gaining knowledge in this regard. However, particularly since the newspapers have drawn attention to the needs of the industry, I have made inquiries, as have a number of other members, in an effort to understand the position.

I believe we have had adequate time to examine the Bill, although I agree that all members of Parliament find it difficult to research Bills properly, because of the pressure of time. However, I have certainly studied this matter and I have some misgivings in regard to it.

My personal experience with the insurance industry, including that with insurance companies, brokers, and agents, has been excellent.

Unfortunately some time ago the back portion of my house caught fire and I was thankful that it was insured. However, I had forgotten to sign the cheque which I submitted with the renewal notice prior to going on holiday at Christmas time. I was on my way to Meekatharra where my family had booked the town hall for a Christmas function and blew a gasket.

The Hon. P. G. Pendal: Who blew a gasket, you or the car?

The Hon. P. H. WELLS: On my way there the car blew a gasket. When I returned home that night I found the back part of my house had been burnt down. I discovered later that the cheque I had submitted with the renewal notice had not been signed so technically my insurance policy was null and void; but the insurance company accepted I acted in good faith.

The Hon. P. G. Pendal: That would not have been because they knew you were a member of Parliament, would it?

The Hon. P. H. WELLS: It was some years ago and the attitude of the insurance company had nothing to do with my standing in the community.

I have always had good relationships with insurance companies and I speak highly of them. I must admit, however, that I did not have such a pleasant experience with the SGIO when I forgot to renew my comprehensive vehicle insurance policy. When I did attempt to renew the policy prior to driving to the Eastern States, I was told that the company could not insure my car, because I was going to Melbourne, but it would insure the vehicle on my return.

I then insured my car with the RAC, despite the fact that I was travelling to the Eastern States. I guess there is some reason for their not wishing to have cars travel to the Eastern States; maybe they will stay there.

Generally, my experience with the insurance industry has been good. When I was working with a company I had access to competent brokers who could give good advice and make assessments over a wide range of insurance requirements. I would suggest that most of us who have had the need to be involved in the administration of any company would agree that that area of the insurance industry makes a worth-while contribution.

I wish to say to Mr Brown that my review of this Bill is as a back-bench member of this House. The Minister represents the Government in terms of the Bill and my research into the Bill has been done as a back-bench member and because I have had an interest in the industry and I wish to see it improved in terms of legislation.

The Hon. J. M. Brown: It was only by chance I was told that. I accept what you say.

The Hon. P. H. WELLS: Another point I wish to raise in that respect is that members of the industry spoke with back-bench members and I was pleased to hear that the AMP Society said it had dealt with me. I had not realised that that was so because the letter the member received

from the AMP was a roneod letter received by other members of Parliament.

I rang them and asked them how they knew that I had been misinformed. Apparently they had made that assumption and had written the letter in the hope that it would generate some action.

The DEPUTY PRESIDENT (the Hon. R. J. L. Williams): I wish the honourable member would be less interlocuitous and address his remarks to the Bill.

The Hon. P. H. WELLS: I am speaking of the input to the debate on the Bill because I wish to illustrate that I sought information from the industry so that I might be able to present a better understanding of the Bill. I went to a wide range of people to find out information. I think it is important that when we legislate we are aware of the feeling of the industry. An article in the *Western Mail* stated—

> TODAY's disclosure by the Western Mail that more than half of WA's insurance brokers are in severe financial difficulty underlines the importance of the Government's move to regulate the industry.
>
> The strongest provisions of the proposed legislation are those requiring insurance brokers to put clients' premium money into approved accounts. This will stop brokers using the money for their own purposes—which has been the cause of some collapses.

That highlights the fact that some brokers show the public no consideration. However, I do not think that is the case with the majority. It is possible that a broker could put the money from premiums into the TAB. The aim of the Bill is to ensure that there is certain protection for consumers.

The article continues to point out that the legislation will cause a shape-up in the industry.

There are many reasons for the legislation; however, that does not mean that we should have such wide-ranging powers in the Bill.

I draw the attention of members to the Law Reform Commission Report No. 16 on insurance agents and brokers. On page 10 of that report it is stated in part—

> The Commission accepts the guiding philosophy of the Trade Practices Act 1974 (Commonwealth), namely, that interference with freedom of competition is to be justified, if at all, by the public benefit which results from a particular form of regulation. Finally, legislative control should be no more than is necessary to cure a perceived and remediable wrong.

I think the problems associated with the collapse of a company should be highlighted and this has been stated clearly in terms of the legislation. Certainly, we wish to control those people within the community who have access to premiums, but this legislation should not be so wide. It should cover the concept for which it was set up and that is to control the industry.

If we take a look at the insurance industry we know there is a wide range of choice for the insured. He can buy protection from a Government insurance office, he can buy protection from one of the mutual offices or public companies; and he can buy his insurance through an agent or a broker. So, there is a wide choice available to the consumer. However, there has been some doubt as to whether there should be any control. We have heard members mention some of the failures of insurance companies and I am told on good authority that the Commonwealth Government did legislate. It legislated so that there was a need for licensing for fire and general insurance and despite that legislation, insurance companies have collapsed.

The main point I wish to suggest is that it is almost impossible for us to legislate about every section in life.

The Hon. J. M. Berinson: There is not often a provision for general insurance companies.

The Hon. P. H. WELLS: We cannot have legislation to cover every eventuality in life. To quote one experience: Whilst I was working for a mining company the accountant there embezzled in excess of $100 000. So, I wonder whether we should set up legislation to provide for every accountant to have insurance. It would be like expecting a child who worked for Hungry Jack's to have insurance because he may slip 20c into his pocket.

The Hon. J. M. Berinson: You are opposing this legislation?

The Hon. P. H. WELLS: I am saying that we should make certain we set out to cover the problem which has been revealed.

The Hon. J. M. Berinson: The general insurance problem is much greater than the protecting problem.

The Hon. P. H. WELLS: Perhaps some members may be interested in the organisation of the industry. I find it interesting. There are many bodies within the industry. There is the Life Insurance Federation of Australia which represents 45 life operators in Australia; they are

known as LIFA. The Insurance Council of Australia represents 75 general insurance companies which operate in Western Australia.

The brokers and agents have a wide range of organisations also. There is the Life Underwriters Association which represents some 420 agents out of a total of 700 to 800 full agents. There is also a Confederation of Insurance Brokers of Australia which was recently formed and it has a membership of approximately 100 to 200 companies.

The intermediaries in the industry also have organisations to which they belong and which set up certain laws and regulations within the industry. For example, the Insurance Brokers Association of Australia submitted to the Federal Treasurer a paper on the regulation of the insurance industry. A copy of this submission was sent to me and I shall quote a statement made in the report, as follows—

> The object of a joint industry action should be where people seek to protect the insuring public against broker failure and to protect the insurer against broker failure.

I think it is inherent in the legislation that we have set out to cover those people who have access to funds.

The reason that a working party was set up with agents was to obtain submissions on the matter. Submissions had already been put to the Federal Government that the definition of a broker and an agent should be made.

If we refer to the Bill we will note the following—

> "insurance agent" means a person whose business, either alone or as a part of or in connection with any other business is to act, under an agency agreement or agency agreements and for or in expectation of gain, as an agent for one or more insurers in the transaction of general insurance business;
>
> And,
>
> "insurance broker" means an insurance agent who is a party to agency agreements with four or more insurers.

It was considered that three agents were adequate to carry out the normal business because, as has been pointed out, most life insurance agents have general agencies as well. At least the allowance of three would provide enough agencies in which they would be able to carry out normal business without having to take on the character of a broker.

The Hon. J. M. Berinson: I really cannot understand that the number of agencies changes the character of a person from an agent to a broker.

The Hon. P. H. WELLS: The people representing the broking industry have some very real fears about the matter. Once a broker gets up to 10 agencies he will be required to have this protection and to pay for insurance cover to protect the public. In addition he will be required to pay a licence fee, which I would estimate to be about $1 000; whereas on the other hand the agent will be required to pay a fee of something like $20. If it is possible for an agent to find a flaw in the legislation, just like a tax loophole, this could enable him to carry on the character of an insurance broker whilst still claiming to be an insurance agent. So we may not have provided the protection that we need.

Let me give an illustration which I am told actually occurs, and this will demonstrate the area of concern to me. I am told that an agent has credit arrangements in terms of paying his account with the insurer. Not a great number of agents are involved in this. It is quite possible that an agent might have three agencies, and he may pay one cheque to cover those three areas of insurance. The agent could put that cheque into his account and write out a receipt, and inform the companies concerned. That is what an honest person would do. If it happened to be a major retail company that accepts general insurance cover, it would be taking cheques over the counter every day of the week. That money would find its way into the general revenue of the company and would be invested from day to day on the short-term money market, and the accounts would be paid monthly.

The difference is that the agent is acting on behalf of the insurer, and once he writes out the receipt the insured is protected. However, let me take a hypothetical case. Let us assume the Hon. Joe Berinson, because of his standing in life, has a Mercedes motorcar and he comes to me and asks me if I can cover the vehicle for $30 000 with the SGIO.

Assuming that, as an agent, I had an agency agreement with the SGIO, I might be able to get only $10 000 cover. However, I have written out a receipt to Mr Berinson informing him that he has the cover requested.

The Hon. J. M. Berinson: Then you are acting fraudulently as an agent, but not as a broker.

The Hon. P. H. WELLS: The point I started out to make is that Mr Berinson would be protected. What would happen if his vehicle was stolen that night? Would he be protected?

The Hon. W. R. Withers: If he is with the SGIO he would be.

The Hon. P. H. WELLS: That is fortunate. I can see the reason this was introduced into the legislation. However, I believe the general understanding of the legislation is that the agent acts on behalf of an insurer and does not invest money or hold it. Instead he transfers the money to the insurance company. That is the understanding I had about the Bill right from the beginning; that is, the agent receives a cheque either in the name of the company or in his name, which in the normal course of events would be directed to the company in which the insurance was held, and the agent would issue a receipt.

The Hon. J. M. Berinson: I do not think that is required by the Bill.

The Hon. P. H. WELLS: The Bill goes on to say in respect of registration of agents that they must be able to issue papers.

The Hon. J. M. Berinson: It does not say he has to pass over the premiums immediately.

The Hon. P. H. WELLS: That is right. Two areas of insurance are involved. I would agree with the statement that many of the general public do not understand how brokers and agents work, and I suggest the Bill to some extent will confuse the situation even more. An insurance agent may be a life insurance consultant; he may be even a broker registered under this Bill and may call himself a licensed insurance broker. The Bill is intended to apply to him only to the extent that he is a licensed general insurance broker, because it does not cover life insurance at all. How many people would know the difference between life insurance and general insurance? Certainly people know what their cover is, but they may not know the difference.

I suggest that often people are not certain whether an insurance agent is a specialist in a particular area. Probably some confusion becomes inherent in a situation because we have omitted to include the word "general" in the definition on page 2. I think the word "agent" should really read "general insurance agent". If we went right back to the beginning and started to write this Bill again I would argue that we should be looking harder at the people who will be covered by the licensing provisions; that is, the brokers. It has been said there are between 100 and 200 brokers in Western Australia, whereas the number of agents could be 4 000, 5 000, or 10 000. Certainly there are many more agents than brokers.

It would appear to me that the method by which we could ascertain which people are brokers is to get insurance offices to give us a computer print-out of agents who have credit arrangements. We could make it a requirement that all brokers be registered under the proposals in the Bill if the computer print-out from the insurance companies shows they have four or more accounts; and they could be drawn under this Bill. The number of agents would be much fewer than 10 000, because many smaller agents would not remain in the business. However, I am not certain of the number.

Most definitely, in the early stages many people would drop out, because some stores in the country might have five or six agency agreements, and they would relinquish those because it would not be worth their while paying the registration fee of $1 000. They would not make that much from the agency agreements.

It is not my intention to delay the passage of the Bill, because the matter would need to be researched, and it could take six to 12 months. In the meantime it is necessary that the Bill be introduced. If it had been required that insurance companies provide the board with a list of all agents who have a credit arrangement with them, we would have a list of people who have access to premiums and, depending on the amount of the premiums involved, they should be covered by the Bill. The matter could be dealt with that way rather than by registering 4 000 or 6 000 agents.

I believe if the working party had thought of that angle it could have developed a definition which would not include every agent, but only those who need to be covered.

The Hon. J. M. Brown spoke about having additional representation. I would say if there is going to be additional representation it should come from the agents, because they are to be required to register. The board should have consideration for their needs. Perhaps some thought could be given to putting an agent on the board.

The point is that at this stage one is not prepared to delay the legislation. However, perhaps at another time we could do what I suggest. The process would be simpler than that recommended by the working party. I am not in the business of sending people out of the broking industry unless they cannot compete in a fair way and offer protection to the public.

Under this Bill an insurance agent is a person who does not hold premiums and, therefore, does not invest them or hold money for his own purposes. It would have been better to include the words "and does not hold insurance premiums for his own use or investment" in the definition on

page 2. On the other hand, it could be included in clause 5 which deals with the composition and functions of the proposed board. The provision makes allowance for exceptions. The exception relating to the fact that the board may grant that a person with in excess of four agencies be not required to be registered is listed in clause 4(5)(a) which says—

> (a) he is *bona fide* an insurance agent and has not assumed the character of an insurance broker;

I believe if my first proposed amendment is not acceptable, then that is where it should be made.

I gave strong consideration to an amendment to the Bill. I have been led to believe two things. First of all, most likely it will be the intention of the board to consider the matter in that vein in any case.

The Hon. H. W. Olney: Has the board been appointed?

The Hon. P. H. WELLS: No, not to my knowledge, but if the member reads the second reading speech of the Minister he will find the intention is that should be the case; that is, that an agent is a person who handles money on behalf of the insurer but does not invest it.

The Hon. H. W. Olney: You said the board has an intention.

The Hon. P. H. WELLS: I am saying I am led to believe that situation is inherent in the Bill. It is understood that an agent is a person who does not invest money. Perhaps the Hon. H. W. Olney would like to give me some free legal advice. The advice I have is that if a person does invest premiums whilst an agent, he would be at fault at common law. If that is the case, as I have pointed out, the board will be required to interpret the matter. Probably an amendment is not really required.

I believe we should give consideration to amending the Bill at a later date. I do not want to go through the whole Bill because I accept the other parts of it, and I have indicated my concern in respect of those two matters. Mr Brown said he would not speak further because of the time, and I would hope there has been no direction from this side of the House in terms of limiting his ability to discuss the Bill.

The Hon. H. W. Olney: He just has compassion for others.

The Hon. P. H. WELLS: That may well be. I did not notice that compassion last night as I sat quietly and listened to the debate until after 2.00 a.m. In respect of the other areas referred to by Mr Brown, and the fact that the ALP had many supporters in the industry, let me say that if one cares about an industry and does not get an input from it, one should go back and tell the industry to make an input.

The Hon. J. M. Brown: The consumers in the industry.

The Hon. P. H. WELLS: I went to a wider range of people, as I generally do in order to seek out information about Bills. I do have some areas of doubt, but I support the principle of the Bill. It is necessary. This legislation is breaking new ground and the Government is certainly taking the bull by the horns in giving direction to the community. I support the Bill.

Sitting suspended from 6.02 to 7.30 p.m.

THE HON. H. W. OLNEY (South Metropolitan) [7.30 p.m.]: It already has been indicated to the House that the Opposition supports this legislation. It does so on the basis that the Bill represents an endeavour to provide something better in the way of consumer protection than we already have. What we have at the moment is nothing, so on the basis that something may be better than nothing, we support the Bill.

The more I look at this Bill the more I wonder whether we are supporting virtually nothing. We have a different view of consumer protection from that expressed recently by the Chief Secretary who I am told said something to the effect that consumer legislation must be supported by intelligent consumers. I would have thought that consumer legislation is designed to protect consumers who are not intelligent, who are not in a position to look after themselves, who are easily duped, and who need protection. It seems to me that if the Government's policy is in fact that as expressed by the Chief Secretary then this Bill fits into that concept.

When one refers to the Bill one sees some very real questions can be asked as to how effective it will be. I agree with the Hon. P. H. Wells that when a Parliament passes remedial legislation that legislation ought to be aimed at remedying the mischief which has arisen. The mischief which has arisen in regard to this legislation is, of course, the failure of insurance brokers caused by the misappropriation of premiums received by brokers for passing on to insurers concerned but which, of course, have not been passed on. Therefore consumers—if one cares to use that word, or refer to them as the insurance clients—have been left without protection they thought they were buying by the payment of a premium.

The Bill sets out to provide for the registration and licensing of brokers and agents engaged in general insurance business. The first objectionable provision that I came across was in clause 4 to which reference has been made in the context of the amendment made by the Assembly.

As yet no-one seems to have touched upon subclause (1) of that clause which provides that the Minister may by notice published in the *Government Gazette* except any person or class of persons from the meaning of "insurance broker" in and for the purposes of the legislation. The definition of "insurance broker" has similar words tacked to the end of it. The definition does not include a person or a person of a class, for the time being excepted from the meaning of the expression pursuant to clause 4.

When one reads that clause in isolation it appears a general power will rest with the Minister to except any person or class of persons from the operation of the legislation. Perhaps I am a bit slow in understanding this point, but I cannot see any further provision in the clause which limits the power of the Minister to the circumstances covered in subclauses (4) to (8). That may be so, but it certainly was not the case when the Bill was brought into the Lower House. The subclauses to which I have referred were added by way of an amendment.

It appears provision is made in this Bill to allow the Government to exclude from the operation of the legislation anyone the Government wants to exclude. I would like the Minister in due course to straighten me out on that point if I am wrong. I would like to think that I am wrong, but that remains to be seen.

The second matter which causes me some concern relates to clause 10 of the Bill which empowers the board to grant a licence to an applicant if it is satisfied of certain things; that is, that the applicant is a person of good character and repute, is fit to hold a licence, is a qualified person, has sufficient material and financial resources available to him to enable him to carry on business as an insurance broker, and has the insurance required under the Bill in relation to the business to be operated under the licence. The term "qualified person" is defined in clause 10(2) in these terms—

> . . . "qualified person" means a person who has such qualification by way of experience or otherwise as is prescribed, or if no qualification is prescribed, such qualification by way of experience or otherwise as is approved.

It seems to me we have a situation whereby in adopting this Bill the House simply will be handing to the board the power of granting a licence to an applicant without knowing precisely what form of experience or qualification will be necessary for him to attain the status of a qualified person. This is much the same sort of complaint many of us raised in regard to the Settlement Agents Bill.

The really important details will be left to prescription by regulation. Indeed, the very hypothetical proposition I put the other night is quite applicable now. If indeed regulations are brought to this House and laid on the table and disallowed—surely that must be the Minister's answer to my complaint that we do not know what will be in the regulations—the regulations will be entirely within the discretion of the board. The Minister will say the regulations will be determined and placed on the Table of the House and, if the House does not like them, be that as it may.

This clause shows that if no qualification is prescribed it will be as approved; that is, approved by the board. Such matters will be entirely within the discretion of the board. In my submission that is not a satisfactory explanation. We cannot comfortably go away from here knowing we have legislated in a manner that will guarantee properly experienced and qualified people are to be the only people registered or licensed under the legislation.

The Hon. P. H. Wells: What about the power of the Minister under clause 7(3)?

The Hon. H. W. OLNEY: Ever since I have been in this House—indeed, since my maiden speech—I have expressed the importance of the public being able to look at the written law of the country, being able to read it, and being able to understand what it means. If this Bill is passed in its present form the situation will arise whereby—it may be only a hypothetical situation—no-one looking at the Act will know for certain what the qualifications for registration might be.

I made this point before and I will make it again and again. We have been told this legislation will be a first-off Act. If it is, why cannot the nature of the qualifications be spelt out in detail so that the Parliament knows the exact position? We have been told already in the second reading speech that initially no academic qualification will be prescribed. Simply it will be a matter of the board's considering the experience of the applicant to be adequate.

It just so happens the very point I am making—the need to be able to understand the law—was brought to my attention in a different context today. I have been shown that it is an age-old problem with which we are faced. I am not the first to express the complaint that the law should be capable of being understood by a person merely by his reading it. Indeed, in 1648 the House of Commons had occasion to pass a manifesto, which was a law in those times.

I am referring to the year before Charles I lost his head. In the manifesto it is stated—

> That considering its a Badg of our Slavery to a Norman Conqueror, to have our Laws in the French Tongue, and it is little lesse then brutish vassalage to be bound to walk by Laws which the People cannot know, that therefore all the Laws and Customs of this Realm, be immediatly written in our Mothers Tongue without any abbreviations of words, and the most known vulgar hand . . .

At that time, 333 years ago, the complaint of the Parliament was that the ordinary people could not get hold of the laws of the land which at that time were written in what was called "law French" and were not able to read them or understand them if they could get hold of them.

I make a further plea to the Government to desist from this practice of setting up a situation whereby it appears on the face of the Act that some protection is being given by way of providing qualifications to people who will be able to exercise special rights, but on an examination it is found no guarantee is given that any real qualification will be provided.

The Hon. J. M. Berinson already has touched on the question of insurance, and I will comment on it briefly. Under clause 17 the prescribed sum is fixed at $100 000, unless fixed at some other figure. Apparently $100 000 will not necessarily be the minimum, although one would think it ought to be. It is interesting to note that in similar legislation—the Settlement Agents Bill—the required amount was $250 000. When we think about it, the sort of loss a citizen may suffer as a result of a defalcation on the part of an insurance broker, and the loss he may suffer if a settlement agent were to default, would be comparable. Even in Fremantle today quite a number of homes are bringing $100 000. It does not matter much whether a citizen loses his major asset by virtue of a settlement agent pinching the money out of his trust account or by his house being burnt out if he finds himself uninsured because an insurance broker has not paid the premium to an insurance company as required. The loss would be similar.

I query the real value of this insurance protection. It is, of course, of some value in that it is intended to cover the situation of negligence on the part of an insurance broker because professional indemnity insurance is required. It is intended also to cover the situation of fraudulent conduct on the part of an insurance broker because a fidelity guarantee is required.

I am not certain whether the fidelity guarantee insurance will extend to the employees of an insurance broker. It may well be if there is a criminal misappropriation of an insurance broker's trust fund by an employee, the insurance cover will not be adequate.

As has been said, there is nothing in the Bill to cover the uninsured insurance broker. There is nothing in the way of requiring a contribution to a guarantee fund to cover situations where a defaulting broker has not bothered to renew his insurance as required. That is a major defect in the Bill.

I wish to draw attention to the role of the legislation as it relates to insurance agents. For the life of me I cannot understand the reason for the particular provision requiring the registration of insurance agents. It will be an offence against this Bill for a person to carry on business as an insurance agent unless he is a licensed insurance broker. Clause 24 provides—

> An insurance agent who applies to the Board for registration and pays to the Board the prescribed fee for registration shall be granted registration.

So by mere application, any insurance broker is entitled to register. By definition an insurance agent is—

> "insurance agent" means a person whose business, either alone or as a part of or in connection with any other business is to act, under an agency agreement or agency agreements and for or in expectation of gain, as an agent for one or more insurers in the transaction of general insurance business;

An insurance company can employ any person whom it wants as its agent. No consequences seem to flow from the registration of the agent. Certainly an insurance agent is not required to meet any other qualification but that of being an insurance agent. I ask the Minister why it is necessary to register insurance agents.

Under the provisions of clause 28 every insurance company is required to notify the board annually in October of every insurance agent who

is a party to an agency agreement with the insurer.

This is so the board will know who the insurance agents are, and I suppose it can then chase up anyone who is not registered. The board having got them registered, one wonders what the benefit of registration will be to the community.

I realise that an insurance agent who has a substantial number of agencies may tend to move more into the role of a broker than an agent. If he brokes rather than acts as an agent he is required to have a licence under the provisions of the Bill. I put this matter to the Minister in the hope that he will give us some sort of explanation.

THE HON. G. E. MASTERS (West—Minister for Fisheries and Wildlife) [7.52 p.m.]: I thank members for their support and for their comments. I will try to answer as many of their questions as I can—and I hope successfully—and then we will be able to save time during the Committee stage, as I believe the clauses have been covered fairly well.

The lead speaker for the Opposition, the Hon. Jim Brown, stated that he welcomed the Bill. I think it is fair to say that the Bill is welcomed in Western Australia, and indeed in Australia. Requests for copies of the Bill have been received from many parts of Australia and other States are looking to see whether they can copy it.

The insurance industry is a valuable one for the State; in one way or another every person in the community has some interest in insurance. So it is important not only to those working in the industry, but also to the public generally in their everyday lives.

We know that in the other States and certainly in this State a number of brokers have collapsed for one reason or another, perhaps through bad management or the misuse of funds. In this State quite recently one particular broker fell by the wayside and caused a great loss to certain members of the public. The Bill seeks to protect the public, but it may be that some of the arguments put forward tonight were valid—the legislation may have some weaknesses. However, it is a start and a genuine effort to come to grips with a problem we know exists.

The Bill seeks to control and identify brokers as such. That is the main objective, in fact, almost the total objective of the Bill before us. At the same time we considered that registration of insurance agents was necessary, and I will come back to our reasons for that later.

We know the brokers are the agents of the clients who wish to be insured one way or another.

The Hon. J. M. Berinson: The other way, I think.

The Hon. G. E. MASTERS: I mean that the broker is the agent of the client. If I wanted to take out different types of insurance, I would use a broker. The broker is the agent of the person who wishes to take out insurance.

The Hon. J. M. Berinson: We all agree on that.

The Hon. G. E. MASTERS: If I wished to take out a number of insurance policies, I would approach a broker and ask him to obtain the best deal possible. Probably he would produce a portfolio of his recommendations. If I accepted his recommendations, no doubt I would say that I was quite happy for him to become my broker and when I wanted to alter or increase my policies, I would ask him to take care of the matter. That is the usual procedure.

On the other hand, an insurance agent is the agent of an insurance company and the insurance company is responsible for the actions of its agents. Once the money is in the agent's hand, the insurance company is responsible for any loss of funds and for meeting any claim.

We have spoken of the amount of insurance cover required, and some members feel that $100 000 is insufficient. That may be so, but from the advice we have received and a study of the proposals before us, we feel that $100 000 in indemnity insurance and $100 000 in fidelity insurance is sufficient. Perhaps the amount will need to be raised, either fairly quickly, or after the passage of a longer period. That will be at the discretion of the board and, if necessary, at the direction of the Minister.

The Hon. J. M. Berinson: You do not really need expert advice to know that $100 000 is insufficient. You would know that from your own experience.

The Hon. G. E. MASTERS: Sure.

The Hon. J. M. Berinson: Why stick with a figure which is patently inadequate?

The Hon. G. E. MASTERS: I am not convinced it is patently inadequate. We think it is a reasonable figure. The insurance fee will be very high.

The Hon. J. M. Berinson: Did you have a figure different from ours?

The Hon. G. E. MASTERS: No.

The Hon. J. M. Berinson: How do you know it will be high?

The Hon. G. E. MASTERS: I consider it will be fairly high. If we place too much of a load on a small broker, we may overburden him and he may

have to go out of business. We will say to the broker "You go ahead and we will look at the insurance policy and see how it works." We know that many broking companies take out a much higher cover than the $100 000 required. The figure can be lifted if necessary.

The Hon. Jim Brown suggested it was a little hard to understand how the principals of an insurance company could default. In some cases the principals virtually are the company. It is a fact of life that sometimes one finds a bad egg in the basket and we are endeavouring to sort out the good from the bad. Insurance broking accounts which are required to be operated by the insurance brokers will be audited every year.

When the broker seeks to renew his licence each year, those audited accounts will be examined; therefore, there is a monitoring of possible misappropriations of funds or improper operations and in such cases, obviously, the broker would not be relicensed.

The avenues in which a broker is permitted to invest money are set out in the legislation. I understand approximately 90 per cent of brokers currently operating invest their money in that area, and the legislation is designed to tie up the loose ends.

The Hon. J. M. Brown referred to clause 4, which provides that an agent can have three agencies. However, if he has between four and 10 agencies, the board has discretionary authority to classify that person as an agent. In fact, the legislation provides the board with various discretions.

The board membership has been mentioned on a number of occasions. Once again, this is a matter of opinion and decision by the Government which could be argued either for or against by the Opposition. Clause 6 provides for the composition of the board and members will note that the first two members shall be neither insurance agents nor insurance brokers; it does not provide that the person shall be legally qualified; in fact, it does not provide what he shall do for a living. It is left completely open, and can be anyone the Minister so desires. I believe it is reasonable that the board should comprise four members; it should operate very well as a board and to the benefit of the industry.

The Hon. Neil Oliver raised a number of points and made some suggestions which certainly are not included in the Bill. He said the Bill was archaic; I do not necessarily agree with that. However, he put forward some novel ideas which I undertake to refer to the responsible Minister for consideration. In certain circumstances, his suggestions could work quite effectively.

The Hon. Win Piesse gave us the background of insurance broking. She mentioned the insurance broker originally concentrated on large projects and that over a period of time and possibly to the detriment of the insurance industry, insurance brokers had expanded their activities to include small building insurance and the like. Possibly this expansion has been encouraged in part by the insurance companies themselves. I think it is more likely that the public tend to be a little lazy and because insurance matters can become a little complicated they take the easy way out and let someone else do the work and carry out the documentation. Of course, the public could use insurance agents rather than brokers, but many prefer to go to an insurance broker.

The Hon. Win Piesse asked how I would define "sufficient material resources" as provided for in clause 10(1)(c). I take this to mean the insurance broker would need some backup in the way of real estate, but not necessarily of finance. More particularly, it would suggest the broker needs to establish a suitable office, with backup facilities. I am sure that when the board is considering the activities of insurance brokers it will take into account their operating efficiency and their ability to carry on business in a proper manner.

It was suggested the Government should impose a ceiling on the amount of money handled by brokers. The Government does not intend to limit agents or brokers, which I think is a proper course at this time, despite the query from the Hon. J. M. Berinson as to the level of insurance. Trust accounts will be audited and thoroughly inspected once a year which should provide sufficient policing of the provisions of the legislation.

The Hon. J. M. Berinson recognised the urgency of the matter and made the point that an insurance cover of $100 000 was not enough. Clause 17(2) provides the board with the discretion to increase that indemnity insurance.

The Hon. J. M. Berinson: Also to decrease it.

The Hon. G. E. MASTERS: That would not be expected. In addition, if the Minister believes the indemnity insurance should be increased, he can direct the board to do so.

It is accepted the new Bill will cause a few problems in the early stages of its operation; in fact, some concern has been expressed by agents and brokers. However, it will sort itself out over a period. The fact that we have an annual licensing requirement and that some brokers already have

increased their insurance cover make it evident the industry will regulate itself almost internally.

The Hon. Howard Olney asked why it was necessary for agents to be licensed triennially or, for that matter, licensed at all. The Government believes it is essential the board keep a record of the number of agents operating in this State. By keeping this register, it will be able to compare it with the information provided annually by insurance companies as to the number of agents in the industry. The working party which considered this Bill thought that if it was necessary to define "insurance broker" it would be almost certainly necessary to define "insurance agent". I believe it is expected there will be moves within the industry from agents to brokers and from brokers to agents. For the efficient early operation of the legislation, it would seem necessary this matter be considered.

The Hon. H. W. Olney: What about clause 4(1)?

The Hon. G. E. MASTERS: Clause 4 provides for exceptions to "insurance broker". The information I have is that this will apply principally to banks. I do not know whether there would be any other exceptions.

The Hon. J. M. Berinson: Just using the analogy of the settlement agents legislation, why is that not specified as it is in the earlier Bill if it is as limiting as that?

The Hon. G. E. MASTERS: I do not think it is as limiting as that; I have just informed the House of the exceptions the Government believes are likely. I am unable to inform members as to specific cases, but I can obtain that information very quickly. The Government believes this to be a reasonable clause in the circumstances. I realise it is open ended and will give the Minister—no doubt, on the advice of the board—the power to grant exceptions. The Minister has discretion in this area as he has in the rest of the Bill. He is able to direct the board.

The Hon. J. M. Brown: He has unilateral powers under this legislation.

The Hon. G. E. MASTERS: Yes; that is fair and proper. After all, he is responsible to Parliament and that is what Parliament is all about. I believe those Acts which do not contain such a discretion should have that provision written into them.

Clause 10 sets out the qualifications to be expected of an insurance broker. No doubt experience would be one of those factors. When we talk of "prescribed regulations" we are referring to regulations which must be tabled in this House. For this reason, the matter would be under constant scrutiny by members of Parliament.

Doubtless, as this legislation begins to operate, amendments will become necessary; that is to be expected. I am quite sure the legislation will not be infallible. The Government is making a genuine effort to come to grips with this problem to ensure the public are protected as far as possible and to ensure that brokers operate in a properly regulated way. I emphasise that most brokers do operate properly; however, unfortunately there are always a few who do not, and it is this minority with whom we must come to grips.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (the Hon. Tom Knight) in the Chair; the Hon. G. E. Masters (Minister for Fisheries and Wildlife) in charge of the Bill.

Clauses 1 to 3 put and passed.

Clause 4: Exceptions to "insurance broker"—

The Hon. J. M. BROWN: I should like the Minister to confirm whether the requirements of the legislation mean that if an agent represents eight or nine different companies, he must advise an intending insurer of that fact.

The Hon. G. E. Masters: Yes.

The Hon. J. M. BROWN: The Minister agrees with my interpretation of this provision. I hope agents who have been granted the privilege of exemption remember this requirement when they are talking to their clients.

The Hon. H. W. OLNEY: I express concern at what the Minster has described as the open-ended nature of clause 4(1). It appears that the proposed legislation will apply only to such insurance brokers as the Minister decides. Perhaps that is putting it back to front; but certainly it is the case that anyone who has the ear of the Minister and can influence him, for good or ill, could get him to exclude him from the operation of the Act.

Whilst banks may be a very worth-while group of people to exclude from the operation of the proposed Act, it alarms me that no guidelines are set down for the exercise of that discretion by the Minister.

If the Minister would not mind passing a message to his principal Minister, I advise him that Trades Hall Insurance Brokers Pty. Ltd., of which I am a director, would appreciate being exempted from the provision and the need to pay a premium on insurance!

The Hon. G. E. MASTERS: I have noted the remarks of the member. I will most certainly pass them on to the Minister.

The Hon. P. H. Wells: That is a conflict of interest.

Clause put and passed.

Clause 5 put and passed.

Clause 6: Composition of the Board—

The Hon. J. M. BROWN: I emphasise that the board will be four in number. We in this Chamber, similarly to our colleagues in another place, express disappointment that no notice was taken of the amendment introduced in another place for representation from the SGIO.

I advise the Minister and the Hon. Peter Wells that I do not think it is necessary for the agents to have representation on the board. The main function of the Bill is the registration of insurance brokers. It is the broking industry with which we are mainly concerned.

The Minister has already explained that he considers it is the licensing of brokers that is the main purpose of the Bill.

I emphasise the work that was done by the committee in the first instance, and the fact that the SGIO has been left out of the board of four members. We are disappointed that the Minster in another place did not accept the recommendation, because it was made in good faith. We think it would strengthen the board. As we have already indicated, the Bill has scope for many amendments in the future.

It is not necessary to have the agents represented on the board. We do not think that that is the crux of the matter. However, we regret that there is no representation by the management of the SGIO.

The Hon. P. H. WELLS: I wish to put a contrary view to that expressed by the Opposition, so that it is available to the Minister and his advisers. Regardless of the experience of the present manager of the SGIO, as a State instrumentality it should not be represented on this board, or on any other board. I do not want to be derogatory of the man. He may have made a good contribution to the committee; but his position in the SGIO does not give him the right to be a member of the board.

The board will be occupied far more in regulating brokers within the private enterprise area. I might have accepted the argument that there should be a consumers' representative—

The Hon. J. M. Brown: What other areas would they be regulating?

The Hon. P. H. WELLS: The Minister has indicated that it will be possible for the Commissioner for Consumer Affairs to have a position on the board.

Dealing with representation of the agents, if we had to make a decision between the SGIO and the agents, I would argue for the agents. The broking industry will be represented on the board; and the insurance industry will be represented because the insurance council represents its members collectively. The board will be deciding which persons are agents or brokers; and if we are extending the representation we should give representation to the agents.

The broker is the person who has access to the premiums; and hence he represents the insured. The multi-agents are the agents working for more than one insurer; and under the proposed Act they will continue as agents. Then we have sole agents, who work solely for one insurance company. In fact, the majority of the people to be registered under the Bill are agents.

The four nominations set out in the Bill are a good start. However, the manager of the SGIO should not be on the board by virtue of his position. He may be the best man for the job now; but the next manager may not be suitable.

The insurance brokers and the insurance council will be represented; so it is important that there be two persons on the board who are not involved in either of those industries, to give the balance.

The Hon. G. E. MASTERS: The Hon. Jim Brown said that the Government did not take any notice of the statements made in another place and here tonight. I can tell him that it certainly has.

The SGIO has not made any representations to the Minister to be a part of the board—

The Hon. J. M. Brown: Would you expect it to?

The Hon. G. E. MASTERS: No. I would say that the two people nominated in clause 6 will be the best that the Minister is able to nominate. The board will operate well with the four representatives. If in the future there is a need for the board to be increased, the Minister and the Government will be able to increase or decrease the board, with the support of the Parliament.

Clause put and passed.

Clauses 7 to 15 put and passed.

Clause 16: Insurance broking account—

The Hon. J. M. BERINSON: I have one question which did not arise in the second reading debate. It relates to the nature and treatment of

the so-called insurance broking account. It is not called a trust account, but it has most of the characteristics of a trust account with one important exception.

Clause 16(6)(a) allows the broker to invest moneys which he holds on behalf of other parties in short-term investments, presumably for his own benefit. This seems rather odd. If the money represents premiums to be paid to an insurance company, then it is the money of the potential insured, and not the money of the broker. If it is money being directed through the broker from the insurance company by way of payment of a claim, then it again is the money of the insured; in either case it is not the money of the broker.

The situation is inconsistent with the treatment of similar funds, whether they be moneys held in trust by estate agents, solicitors, or even settlement agents. As far as I am aware, none of them is entitled to use the moneys temporarily in his hands on trust for his own benefit.

The Hon. P. H. Wells: What about stock brokers?

The Hon. J. M. BERINSON: I do not know the position with stock brokers. The three areas I mentioned seem perfectly analogous. None of those people is entitled to use the money for his own interest. It is difficult to see why there should be a different treatment here.

Considering that there have been so many difficulties with the collapse of broking firms because of their improper or imprudent use of their funds, this is a strange provision. Clause 16(6)(a) seems to encourage brokers to use these funds; and to refrain from paying out to the insured or to the insurance company their entitlement to the money for as long as possible. That could encourage problems.

The Hon. G. E. MASTERS: It is not fair to say that this paragraph encourages brokers to take this action. We have to be realistic. Brokers operate in this way, they have always done so, and if they are to survive, they must continue to do so.

If we removed this paragraph, the brokers would immediately stop operating in this State. I know that this provision depends on their investment in fairly safe areas, and we have set those out in the Bill.

It is obvious that when a broker is handling a fairly large portfolio, there is a great deal of documentation and a tremendous amount of detail. The broker may handle those moneys and invest them in the way we have suggested.

The purpose of this Bill is to ensure that when the moneys are used for this purpose, there is protection for the public. The audited accounts will ensure that the moneys are used in a proper way, and replaced at the earliest opportunity. That will ensure that there is no shortfall.

The Hon. H. W. OLNEY: Mr Berinson has, of course, hit upon the real nub of the problem in the insurance broking industry; that is, the problem which has been manifest of late. In no other situation of which I am aware can a businessman, acting in an agency capacity, receive money belonging to one person for the purpose of passing it on to a third person and be entitled to make a profit for his own purposes out of the investment of that money. It is not possible for solicitors who handle enormous sums of money to collect interest on their own trust accounts.

The Hon. Peter Dowding: Or settlement agents.

The Hon. H. W. OLNEY: Neither settlement agents nor real estate agents can do that. In relatively recent times Parliament passed a Bill in relation to the legal contribution trust which provides that a small proportion of a solicitor's trust accounts must be held temporarily in trust for investment and the income available is used for the maintenance of the legal aid scheme.

That was the sort of situation we were talking about in connection with settlement agents the other night. It seems to me the insurance broking industry, as the Minister said quite correctly, has operated on the basis that it is not bound by the same sorts of strictures as the ones to which I have just referred. I would have thought that, up until the time the Bill is passed, an insurance agent would be legally obliged to account to his client for income earned or money held by the broker on behalf of the client until the time it is paid to the insurance company.

Whilst it is fair to say "If you do not let the broker take a bit of lolly off the top he will not be able to operate as productively as he does now", the fact of the matter is it is in the insurance broker's interest not to pay premiums onto the insurance company and that is the problem which has arisen. Brokers have received premiums and they have not paid them to the insurance companies.

The Bill does not put a time limit on the period the broker may hold the funds. It is of no use saying his books must be audited each year. The books could be perfectly in order and show the broker has complied with every requirement of the law, but he could still be in the position that he is holding premiums which ought to have been paid onto the insurance companies.

I suggest the Government give earnest consideration to setting a time limit for which

premium money may be held by the broker prior to his paying it to the insurance company.

The Hon. G. E. MASTERS: The limitation would have to come from the insurance company itself, and it may well be that, over a period of time, insurance companies have been a little too lax. But surely if a company is running an efficient business, it would rely on the funds for its operation.

The Hon. Peter Dowding: Haven't some of them gone broke?

The Hon. G. E. MASTERS: Is the honourable member referring to brokers?

The Hon. Peter Dowding: Yes.

The Hon. G. E. MASTERS: What does he think the Bill is for?

The Hon. G. C. MacKinnon: How does the insurance company know the premium has been paid?

The Hon. G. E. MASTERS: If a person requests a broker to take out insurance, he obtains a price and says to the client "Is this what you want?" If the client then says "That is fine", the broker obtains a cover note, brings it to the client and says "You owe me so much". The insurance company then says to the broker "You may keep it for two months" or, for one reason or another, the broker retains it and invests it until the insurance company requests a payment.

We hope this legislation will tidy up the problems which have been evident in the past.

The Hon. P. H. WELLS: This is the hub of the issue before us. If we remove the investment rights of brokers, we will close the industry.

The Hon. J. M. Berinson: Are you saying the commission is not enough to keep them going?

The Hon. P. H. WELLS: I believe the situation is rather unique in that it is recognised generally the insurance broker receives adequate funds from the commission to pay the overheads of his operation, but the profits of the business come from investments. That is what I have been led to believe by Press reports relating to the industry.

The Hon. J. M. Brown: Is that why they go broke?

The Hon. P. H. WELLS: Some brokers do not invest correctly and they go broke. The principle of investing money can be found throughout the commercial area.

The Hon. J. M. Berinson: But not as it relates to trust money.

The Hon. P. H. WELLS: As I understand the situation, the broker receives the money against his firm, he takes out an insurance policy for his client, and the insurance company then gives him a certain period of time within which to pay. Once the broker takes out the cover note—as occurred in relation to Palmdale Insurance—until the company collapses the broker is legally responsible to pay the accounts. That situation is no different from the position which exists in regard to commercial stores which buy goods against an account, receive them on 90 days' credit, and invest the money on the short-term money market. That sort of activity is found in commercial industries.

As I understand the situation, the agent receives money against an insurance company. That money belongs to the insurance company. The broker takes out a cover note with the insurance company on the money he has received. It is a rather unique situation in relation to the broker who works on behalf of the insured.

The real question is whether insurance brokers have made a contribution to the industry and I believe they have.

The Hon. G. C. MacKINNON: I do not approve of this sort of legislation and the whole spate of protective Bills we have been dealing with recently. As responsible Australians, we should be trained to stand on our own feet.

The Hon. Peter Dowding: Perhaps we should learn to trust people.

The Hon. G. C. MacKINNON: The idea expressed by the Hon. Peter Dowding is a good one. When trust is betrayed, the person who betrays it should be punished.

The Labor Party seems to believe that if a fellow commits a crime he should be rehabilitated, but not punished. We see a classic case of that sort of thinking in tonight's paper. The man who shot the Pope should in fact have been executed for a crime he committed in Turkey.

The Hon. J. M. Berinson: That seems a bit remote from the Bill.

The Hon. G. C. MacKINNON: It is the same principle, because we should punish insurance brokers who default. If Mr Masters wants to introduce socialistic legislation which will protect everybody from every sort of activity, he should at least go the whole hog.

I do not accept the proposition of the Minister that an insurance company will know the broker has received payment for the policy. The real situation is that the insurance company issues a cover note by telephone and it would not know whether the broker or agent had received payment. That situation could exist for a

considerable period of time during which the broker could default.

If we intend to introduce ALP-type legislation, which we are doing every day of the week, we should at least do what the ALP wants to do and when the fellow is caught we will be able to blame the Government, because it made the situation so rosy that the public will never be able to be caught again.

I do not believe the Minister's airy-fairy statement that the company would know the client had paid. I am sure at least half a dozen members of this Chamber have taken out cover notes and perhaps six weeks or two months later have received notification to the effect "We have to advise we still have not received your cheque". The broker could have been paid the day after the cover note was taken out.

All we need to do is develop a degree of trust and that is the proper way in which to conduct business. When a person betrays that trust, he should be treated very severely.

The Hon. J. M. Berinson: How does that help the client who is betrayed?

The Hon. G. C. MacKINNON: There are other ways in which that can be handled. For many years lawyers have had a system under which clients are protected and a person who betrays the code of ethics of lawyers is treated very harshly. This situation could be handled very easily.

The Hon. G. E. MASTERS: The member never ceases to amaze me. I watched him perform for three years and thought he would have mellowed in his old age. He knows the remarks he has made are not correct, but if he does not realise that, he needs protection more than anyone else. If the member pays for his insurance before he receives the cover note, heaven help everyone else, because I thought he was fairly smart! I think the member is playing games. He knows as well as I do that this is not socialistic legislation. If, in fact, the member has been making insurance payments as he indicated, we need this legislation even more than I thought we did.

Clause put and passed.

Clause 17: Insurance requirements for brokers—

The Hon. J. M. BERINSON: I have previously raised the question of the inadequacy of the sum of $100 000 and I understand the Minister agrees also that it is inadequate.

The Hon. G. E. Masters: I did not say that.

The Hon. J. M. BERINSON: In that case, the Minister does not agree that it is inadequate. I would have thought that anyone with any knowledge of current costs and prices would agree that it is inadequate. I cannot understand the reason for the Minister digging in his heels and taking such an indefensible attitude. However we have come to expect "No" for an answer and I will take that no further.

Although the Minister did try to cover comprehensively a number of matters raised in the second reading debate, he did not comment on the possibility of a master policy analogous to that established in the last couple of days under the Settlement Agents Bill.

It seems to me that is a very practical way to overcome the number of risks associated with policies lapsing, being cancelled, and so on. Since the Government has set itself such a good example in the last couple of days with a master policy agreement, why not be consistent with that and include a similar provision in this legislation. I think that would be appropriate and it could overcome the concern as to whether apparent safeguards are safeguards in reality.

One other matter with regard to clause 17 arises from a lack of consistency in forms of expression. Perhaps it is unfortunate that the Minister brought in two similar Bills within one week and we still have the form of its first Bill in our minds whilst debating the other.

With regard to fidelity insurance under the Settlement Agents Bill, the requirement is that minimum insurance cover for each agent—and I am referring to clause 35 (3) of that Bill—under the policy effected in accordance with subclause (1)—

The Hon. G. E. Masters: What are you referring to?

The Hon. J. M. BERINSON: I am referring to the clause which deals with insurance under the Settlement Agents Bill. The clause states that the minimum insurance cover for each agent for fidelity insurance and professional indemnity insurance shall be the sum of $250 000 for each claim.

I put to one side the question of amount, but two matters still remain for discussion. The first is that in the Bill which we dealt with earlier this week the provision was made for minimum insurance for each agent whereas in this Bill the $100 000 does not appear as a minimum and may be varied downwards. It is not likely that it would be, but it could be varied downwards and we should not leave open that possibility; just as we did not leave open any such possibility under the Settlement Agents Bill.

I am not sure of the significance of the second matter, but members will notice that in the last phrase of the measure in the Settlement Agents Bill the provision for insurance is expressed as a minimum sum of $250 000 for each claim. That is not reproduced in the present legislation which merely calls for insurance in the sum of $100 000.

Now, without being dogmatic about it, because frankly I have not had the opportunity to consider properly the significance of that, the possibility does arise that $100 000 could constitute the maximum amount of claims in any one year rather than $100 000 for each claim as provided under the Settlement Agents Bill.

I ask the Minister, on that latter aspect, to state firstly, his understanding of the position. Secondly, if the possibility is open that all we are providing in the present legislation is for $100 000 in total for claims over a 12-month period would he be prepared to take this under consideration for further review?

The Hon. J. M. BROWN: I support the deputy leader of the Opposition. He has adequately canvassed the area of a master policy. Indeed, the Minister said in his reply to the second reading debate that this aspect—that is, the cost for $250 000 as against $100 000—would perhaps affect the smaller broker.

My understanding of the premium of an indemnity policy is that it is also in consideration of the wages paid upon the declaration by the employer, so a larger broker is paying a larger premium as against a smaller broker who is covered for the same amount. Mr Berinson suggested during the second reading debate that the premium on $250 000 was not a great deal more when we considered it against the cover of $100 000. The sum of $250 000 is not a great sum when we consider that an ordinary oil tanker driver holds $500 000-worth of public indemnity. I believe it is a question of being practical. I believe the amount should be at a higher level in the way it was explained as a package deal for the brokers and the smaller broker will not pay as much as the larger broker.

The Hon. H. W. OLNEY: I am afraid I must differ from the opinion of my colleagues. Having read subclause (2) first, one comes to the conclusion to which Mr Berinson came; however, if members take note of subclause (1)(a) and (b) they will realise the insurance must amount to not less than the prescribed amount or such greater sum as the board may in any particular case require. That seems to me to cover the question of the possibility of the reduction of the cover below $100 000.

I agree that the sum of $100 000 is a low figure for a minimum. To put the record straight, because a suggestion has been floated on two occasions tonight with regard to professional indemnity insurance, the Committee should remember that, we are not looking at the possibility of $100 000-worth of premiums being misappropriated; we are looking at the amount of loss suffered. This could be by reason of the would-be insured not being insured by reason of default, etc. So, loss of premium is not the problem; it is the loss of the house or whatever for which the person is not insured, but should be.

For example, there might be a broker who has ever written only one policy; a policy covering the AMP building which is worth $50 million. The claim against the broker in that case, should he default, would be the value of the property lost and not the value of the premium paid for that cover.

The Hon. G. E. MASTERS: I thank Mr Olney for his help. The comment was made that master policies could be considered by the board in the future. I agree there could be changing circumstances and it may be that the board will consider a master policy could be the appropriate means of covering insurance. I believe the sum of $100 000 is reasonable. If I were to take an insurance policy on $100 000 for the year I would think it would be the maximum claim. I understand indemnity applies when a client is ill-advised and sued at common law; it is not the level of claim at all.

Clause put and passed.

Clauses 18 to 38 put and passed.

Schedule put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by the Hon. G. E. Masters (Minister for Fisheries and Wildlife), and passed.

PUBLIC MONEYS INVESTMENT AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by the Hon. I. G. Medcalf (Leader of the House), read a first time.

Second Reading

THE HON. I. G. MEDCALF (Metropolitan—Leader of the House) [9.00 p.m.]: I move—

That the Bill be now read a second time.

The purpose of this Bill is to give effect to the conclusions arising from a major Treasury review of the adequacy of the Public Moneys Investment Act to deal with changes in the short-term investment market. The review also pointed to the need for support to be given to the development of an active secondary market in State semi-Government securities.

Recent litigation in New South Wales contesting ownership of securities lodged with local authorities as security for an advance to a merchant bank has pointed also to the desirability of introducing new procedures for establishing a register of dealers and ensuring that a similar circumstance could not arise here.

In summary, the Bill provides for—

(a) advances to be made to registered dealers against prescribed securities;
(b) the establishment of a register of approved dealers;
(c) the introduction of offer to deal and acceptance agreement;
(d) provision for trading in Commonwealth or State guaranteed securities;
(e) the inclusion of the Rural and Industries Bank in the definition of banks with which funds may be deposited; and
(f) provision for certain other securities issued by Commonwealth Government authorities and bank accepted bills of exchange to be accepted as security for advances on the approval of the Governor.

The changes proposed represent a substantial reconstruction of the machinery provisions of the Act, but there will be no major change in the nature of Treasury investments which will continue to conform to well-established market practices and to place emphasis on the complete security of any investment.

The Government is seeking more to streamline procedures, remove some obvious anomalies such as the exclusion of the Rural and Industries Bank from the list of authorised banks, and to provide a more flexible framework for the future.

The stated purpose of the Public Moneys Investment Act, when introduced in 1961, was to empower the Treasurer to invest temporary balances of funds in the public account with banks or the then newly-developed short-term money market.

It needs to be appreciated that funds available to be invested are for the most part short term in nature. In the course of the year, the pattern of receipts as against expenditure can result in cash balances in the Government account which will be required at a later date to meet committed expenditure, but are temporarily available to earn additional revenue instead of lying idle.

As the size of our Budget grows, these balances can reach substantial figures. As an example, this State's share of personal income tax is paid to us in monthly instalments of $61 million on the 15th of each month. Even assuming that all this sum is expended within the following month, there will be an average balance of $30 million available for investment for short periods during that time.

This is no different from an individual's personal bank account, which can have a fluctuating positive balance at all times, even though debits to the account throughout the year equal the amounts credited.

In addition to balances arising from transactions on the Consolidated Revenue Fund, Loan Fund, and other general accounts, the Treasury acts as banker for and administers the accounts of a number of statutory authorities, and is responsible also for a range of trust accounts.

Cash balances arising from all these sources constitute a pool of funds which are invested as a pool, rather than as a series of separate transactions.

The operation is a complex one, requiring the Treasury to forecast the cash requirements of all funds well ahead, and to place funds out at a range of maturities to ensure that the correct amount of cash is always available as required.

The art, of course, is to minimise the uninvested funds standing in the Government account while ensuring that cash is always available to meet day-to-day commitments.

The success of the investment operations is attested by the total of $161.1 million earned on the investment of cash balances from the enactment of the legislation in 1961 until April last. During that time no losses have been incurred, which fact reflects the care taken by the Treasury to ensure the security of investments.

To assist members at this point, a brief explanation is given on how the earnings are brought to account.

The amount likely to be earned in any year will depend on two unpredictable variables; that is, the average level of cash balances and short-term interest rates available. The latter element has been particularly volatile in recent years.

In addition, part only of the amount earned from the pool is available to the Government because earnings on trust and some other accounts must be credited to those accounts. To preserve the economies arising from the investment of a pool of funds as distinct from keeping all balances in separate compartments, earnings are allocated on the basis of the average rate of interest earned on the pool.

The difficulties involved in forecasting the earnings likely to be available during the year in respect of each source of funds, and budgeting in any meaningful way for expenditure of the earnings during the year, will be readily apparent.

Consequently, the procedure that has been followed for many years is to pay earnings accrued during the year into Treasury receipts in suspense, and at the end of the year, to allocate to trust and other contributing accounts their share of the earnings in proportion to the amounts contributed to the investable pool from each source. The balance of the earnings is then available for appropriation to the services of the following year as a known amount.

This procedure is an eminently sensible one, but has the consequence that a substantial balance is shown in receipts in suspense at 30 June each year until allocated in conformity with the following year's Budget provisions. It is this balance which presumably has led to claims that funds are being hidden away and that the Government is concealing a surplus on the year's transactions.

However, it must be appreciated that the amount available to the Government is not known until the close of business at the end of the year when the distribution is effected. The balance shown in the account at 30 June each year immediately becomes part of the revenue available to the Government in the following year and is treated accordingly.

No advantage would be gained by drawing on the earnings in the year they are generated. Indeed, the only result would be greater uncertainty in budgeting and a more complex administrative task in investing the pool and allocating earnings.

I trust that explanation will clarify for members a basically simple and effective accounting procedure around which a great deal of confusion has arisen.

To return to the purpose of the Bill, the present Act envisaged two main ways in which cash balances could be invested, these being—

(a) by depositing funds with banks or providing advances to money market dealers which have "lender of last resort" rights with the Reserve Bank; or

(b) by investing in securities of or guaranteed by the Commonwealth or the State.

The Act therefore places emphasis on the security or safety of the avenue of investment, and this principle has been central to Treasury investment procedures over the 20 years of the Act's operation. As mentioned earlier, no losses have been incurred.

Apart from the banks which actively seek short-term funds and quote competitive rates, the money market is made up of two groups of dealers—official dealers which have recourse to the Reserve Bank as "lender of last resort", and so-called unofficial dealers which do not have Reserve Bank backing in this way. The unofficial dealers are no less strong or well managed than the official dealers, and mostly comprise the money market arm of merchant banks and other financial institutions.

As the Act stands now, Treasury could invest with official dealers by providing direct unsecured advances. Investment with unofficial dealers has to be through the medium of acquiring securities of the types stipulated in the Act.

In practice, we do not rely on the security of official dealers' Reserve Bank backing, but provide funds to both categories, requiring adequate security to be lodged with Treasury.

To meet the requirements of the Act relating to investment in prescribed securities, the practice of requiring paper provided as security to be transferred to our name has been followed other than where possession of the paper actually confers ownership as in the case of negotiable certificates of deposit. When the advance is repaid, the securities are transferred back to the original owner.

As presently framed, the Act appears to be directed more towards trading in securities—that is, buying and selling—and less towards advancing funds against security taken, which is the soundest and most orthodox way of investing cash balances in calculated amounts and periods to ensure that cash is always available when required to meet a variable cash flow pattern.

The Bill therefore proposes that investments may be made in the following ways—

(a) by buying and selling securities of or guaranteed by the Commonwealth Government or the State Government;

(b) by placing funds on deposit with trading banks, including the Rural and Industries Bank; or

(c) by advancing funds on deposit with registered dealers against approved securities lodged with the Treasury.

The question of to whom funds may be advanced against security will be dealt with shortly, but first the more important issue of the nature of the securities which are to be taken is covered.

The most essential element of any investment policy is to ensure the safety of funds advanced. To whom those funds may be advanced is, in comparison, a secondary consideration.

The value of a security is determined either by its face value if it is held to maturity or by its market value if it is longer-term paper which may have to be sold on the secondary market to obtain the cash equivalent. This in turn requires Treasury to be concerned with the soundness of the issuer or the effective guarantor of the paper.

For this reason the Bill provides that the security which may be taken for advances to registered dealers shall be limited in the first instance to securities of or guaranteed by the Commonwealth or the State Government and negotiable certificates of deposit issued by a bank.

That represents a little change from the present situation and there is a need for the Act to provide for the possibility of other securities being added to the list.

From time to time, representations have been made to the Government to accept as security for advances, negotiable paper issued by Commonwealth statutory bodies such as the Australian Wheat Board or the Australian Industries Development Corporation which are not supported by a specific guarantee from the Commonwealth.

In addition, there have been a number of requests to give support to the commercial Bill market by agreeing to take as security, bank-accepted or bank-endorsed bills of exchange.

The Government's view is that the first responsibility is to give preference to securities issued by State semi-Government authorities such as the State Energy Commission, the Metropolitan Water Board, and Westrail.

An increasing proportion of the State's borrowing allocation determined by the Australian Loan Council is in the form of semi-governmental borrowing authority. The borrowing programme for infrastructure requirements also has added greatly to the borrowing programme of State authorities.

At the same time, the market has tightened and it is an increasingly difficult task to find lenders to fill the approved borrowing programmes.

There is no doubt that the problem of achieving adequate primary sales of State securities is made much more difficult by the lack of any substantial or organised secondary market in those securities.

It must therefore be a key part of our investment policy to give strong support to the development of a secondary market in our own securities by giving preference to State authority paper as security for advances. This we propose to do as I shall explain shortly.

However, as that market develops there could well be scope to accept a wider range of securities and the Bill provides for this to be done to a limited degree. Subject to the approval of the Governor, the list of acceptable securities could be extended to include securities issued by statutory authorities of the Commonwealth or the State which do not carry a specific Government guarantee and to bank-accepted bills of exchange.

In the case of the first category, the Treasury would, of course, be most circumspect about the securities proposed to be admitted and each type of security would be submitted to the Governor for approval.

The decision to provide for admission of bank-accepted bills of exchange as against bank-endorsed bills relates more to the relative ease of recourse to the guarantor bank rather than to any substantial difference in the degree of final security involved.

It is stressed that it is the Government's clearly stated intention to give preference to our own semi-Government securities until the aim is achieved of developing a sound secondary market in that paper. For this reason, it is not expected that the Government will seek to make use of this provision for some time.

There is also a need for a more flexible but controlled approach to determining the institutions with which the Treasury may deal if we are to move with the times and cope with the changing structure of the market.

In relation to the market today, the Act is deficient in that there is no provision for institutions to be able to apply to deal with the Government nor any approval or registration process. It does not, for example, allow investment with the Rural and Industries Bank in the same manner as with the trading banks because, as a State bank, the R&I is not covered by section 5 of the Commonwealth Banking Act. The simple step proposed to correct that anomaly already has been dealt with.

It is proposed to amend the Act to provide for persons or companies to be able to apply to the Treasurer for approval to be registered as a dealer for the purposes of the Act.

If the Treasurer approves the application after such investigations of the applicant's affairs as thought fit have been made by the Treasury, an offer to deal will be made to the applicant in the form of an approved offer and acceptance agreement.

The purpose of the agreement is to put beyond doubt the Government's right to obtain legal title to securities lodged with the Treasury in the event of default by the borrower or in the event of a petition being lodged for the winding-up of the borrower. This was the issue in the New South Wales equity court litigation to which I referred earlier.

On formal acceptance of the offer and the conditions therein, the dealer's name will be added to the register as an approved dealer.

Provision also is made in the Bill for a dealer to be removed from the register on the direction of the Treasurer and for the person or body to be notified accordingly.

The names of dealers registered with the Treasury would be available to the public at all times, but the amount and nature of transactions with individual banks and dealers should remain confidential to the Treasury for commercial reasons.

The Bill provides for funds to be advanced to registered dealers against lodgment with the Treasury of the limited range of securities prescribed in the Bill.

As mentioned earlier, the Bill makes specific provision for the purchase by the Treasury of securities of or guaranteed by the Commonwealth or the State as does the present Act. Such a provision is necessary as circumstances could arise where that would be the preferred method of securing an advance.

However, it is proposed that the main use of this facility in future will be to enable the Treasury to buy and sell State semi-Government securities to support the development of a secondary market in those securities.

Only limited amounts of semi-Government paper have been purchased as a direct investment in the past, because the term of the paper available, at four years or longer, is too long as a medium of investment of short-term cash balances.

To participate in the development of a secondary market in state semi-Government securities, the Treasury will need to buy and, if necessary, sell before maturity. Trading in securities as distinct from buying paper at issue and holding to maturity requires the investor to have regard to both buying and selling price as well as the interest rate payable in assessing likely net earnings.

The reason for emphasising this obvious point is to ensure that members appreciate the different nature of investment techniques involved in these circumstances and that it is the net result of the transaction that matters, not whether paper is sold for more or less than it was purchased.

It is not proposed that trading in state securities will constitute a major part of our investments in future. The Treasury will invest in this way only as worth-while opportunities arise and to the extent necessary to assist in the growth of a secondary market in those securities.

The existence of an active secondary market in State semi-Government securities would enable purchasers of our paper to realise on their investment for cash at any time. The negotiability of securities is an important consideration in determining their attractiveness to investors and in promoting a strong primary market and that, of course, is the ultimate objective.

An increasing proportion of the State's capital works programme is being financed by semi-Government borrowing. A short time ago, the State Energy Commission was the only State authority to raise public loans. Today it has been joined by the Metropolitan Water Board and Westrail and the volume of public loans being offered each year has increased dramatically.

There is a limit to the ability of the market to absorb Government and semi-Government paper. With all States seeking to raise much larger amounts in the market, it is essential that we do everything possible to enhance the attractiveness of Western Australian semi-Government securities to the investor and to build a strong local market.

Because the day-to-day investment of our cash balances is a highly technical operation requiring continuous contact with the market and on-the-spot decisions, it must be carried out by experienced officers with full authority to make those decisions. The operation is therefore conducted almost entirely by the Treasury with policy supervision by the Treasurer.

Although effective delegation can be given to Treasury officers for this purpose without specific reference in the Act, the proposed broadening of our investment activities could require somewhat

cumbersome documentation in the absence of a clear and specific delegation provision.

Consequently, it was decided that, on balance, it was desirable to provide in the Act for delegation of all day-to-day market operations to the Under Treasurer or other designated Treasury officers and the Bill provides accordingly.

The present Act has served its purpose well for 20 years, but continued changes in the market and the need to provide for the future warranted a complete overhaul of the present provisions. The Bill reflects the comprehensiveness of that review and draws heavily on the knowledge and experience of the Treasury and on discussions with experienced operators in the market.

I commend the Bill to the House.

THE HON. PETER DOWDING (North) [9.17 p.m.]: The Opposition does not oppose this legislation, but it does say that it does not go far enough in one respect with which I will deal later.

There are three charges the Opposition makes against the Government in relation to this matter. The first is that public funds have been invested illegally by the Government. The second is that in the course of those investments, those funds have been placed at risk. The third is that the Treasurer has misled and deceived this Parliament in respect of those two matters and in respect of a need for a review of the Act.

The authority to invest Government funds is contained in the Public Moneys Investment Act which was introduced and passed in 1961. Section 3 of the Act deals with the powers—the only powers—the Government has to utilise investment procedures. The intention of this legislation was to enable the Government to raise funds, and that is fully supported. What is objected to is the excess of power to invest funds by the Government.

It is obvious from the debates recorded in *Hansard*, that it was the Parliament's intention when passing the Act to, firstly, restrict the securities in which funds could be invested to securities of or guaranteed by the Commonwealth or State Government and, secondly, restrict the financial institutions with which funds could be invested to authorised and approved dealers in the short-term money market and any bank defined under section 5 of the Commonwealth Banking Act. The reality is that the Government exceeded them and in doing so acted illegally.

The Opposition has had great difficulty in ferreting out all the Government admissions of illegal conduct. It is not that there had been changes in the nature of the short-term money market in the last couple of years which have justified a change in the legislation; the truth is that the Opposition got onto the Government in 1979. The Government knew full well then that its illegal conduct had been discovered. A series of questions was asked of the Government and in reply the Government has consistently and continually misled Parliament and the people of Western Australia.

On 19 September 1979, the Treasurer said in reply to a question "There has not been any money invested by the Treasury outside the provision of the Public Moneys Investment Act. The kindest thing I can say is that the Leader of the Opposition has been informed that no public funds have been placed at risk." The Treasurer made two points: Firstly, that there was no investment outside the provisions of the Act and, secondly, that no funds were placed at risk. On 25 October 1979, in answer to a question, the Treasurer said—

> My short answer to his question would be "No". I do not think circumstances have changed so that amendments to the legislation are warranted . . . as far as the Government is concerned, as far as the Treasury is concerned, and as far as the best legal advice we can get is concerned, there is no need for change. The legislation is working smoothly and effectively and the taxpayers' money is fully protected.

Since October 1979 it is not true to say that there have been changes in the nature of the short-term investment market. The simple proposition is that the circumstances existing at the time those questions were asked in Parliament are the same as the circumstances existing now.

The first objection—which the Government now admits—was that the Government had placed investments with the Rural and Industries Bank. The Opposition does not say that any money invested with the R & I was placed at risk; but the Government did act illegally and it cannot get away from that proposition. The Rural and Industries Bank was not an authorised investment under the Public Moneys Investment Act; therefore the lodging of funds with it was illegal. Despite the changes I referred to in the second question I read, illegal conduct was being carried out in 1979, as the Treasurer has now admitted. This was admitted in *Hansard* on 20 September 1979, when the Government acknowledged money was being deposited with the R & I Bank. At that time the Leader of the Opposition asked—

(1) What amount of the $115.6 million placed on deposit with banks, as given in answer to question 1262 of 28 August 1979, was invested with—

(a) trading banks;
(b) savings banks;
(c) other banks?

(2) What are the names of the trading banks with which the public money was invested?

The Treasurer replied that the amount of $115.6 million was placed on deposit at competitive rates with trading banks. He then listed the trading banks involved and one was the R & I Bank. The clear admission is that the Government was acting illegally. The Leader of the House cannot pretend that it was some sort of vague slip. It was a specific and knowing breach of the Public Moneys Investment Act.

The power to invest was justified in the second reading speech and the Opposition entirely agrees with it. The Leader of the House said—

> The present Act has served its purpose well for 20 years, but continued changes in the market and the need to provide for the future warranted a complete overhaul of the present provisions.

That is nonsense. The change that has occurred is that the Opposition has found out about the Government's illegal conduct. It took the Government two years to introduce legislation, and the legislation is not retrospective, so the Government has conducted illegal activities for two years. This measure does not validate its activities. The Leader of the House said that in relation to the market today the Act is deficient, as there is no provision for institutions to be able to apply to deal with the Government in any approval for a registered society. This did not allow the Government—and does not allow the Government—to invest with the Rural and Industries Bank. So there is an admission by the Leader of the House in his second reading speech that investments admitted to have been conducted in 1979 were illegal. It is no good now for the Government to pretend that the reasons for the introduction of the legislation have anything to do with changes in the money market.

In answer to a question asked on 18 September 1979 the Treasurer said—

> Debentures issued by the State Energy Commission, the Metropolitan Water Board and Westrail in the course of public loan raisings which are lodged with Treasury as security for funds placed with dealers on the short term money market.
>
> The funds were not invested in these securities but were secured by them.

That is directly contrary to the provisions of section 3(1)(a) of the principal Act which states the Treasurer can invest—

> (a) in any securities of or guaranteed by the Government of the Commonwealth whereof the term is less than one year or has, when the investment is made, less than one year to mature;

There is evidence in the admissions of the Government in 1979 that that was not the case and that these investments were not made in securities, but that securities were received by way of security for a loan which does not constitute an investment.

The second reading speech hints that there is some new legal point which has occurred to put the question in some doubt. The Leader of the House has told us that the purpose is to put beyond doubt the Government's right to obtain legal right to securities lodged with the Treasury because of legal default. The Leader of the House would well know that where there is an illegally transacted act there is a body of law which makes it clear that the borrower may not have to repay if he is in liquidation. The liquidator could force the Government to repay the amount involved.

That would leave the Treasurer in a difficult position. It does put public funds at risk. On 19 September 1979 the Treasurer said—

> The amount of public moneys invested against prescribed securities lodged with the Treasury by dealers on the so-called unofficial market at 30 June 1979 was $75 942 210. I should like to repeat that it was fully secured and at no risk to the public.

On 3 October 1979, on page 3344 of *Hansard* the following can be found—

> "The Treasury invests funds with approved dealers on the 'unofficial market' only in return for the transfer to the Government of an equivalent value of securities of or guaranteed by the Commonwealth or State Government or bank negotiable certificates of deposit.
>
> In the case of Government securities, the securities are transferred to and endorsed in the name of the Government, so effecting formal possession of the securities to cover the advance.
>
> Bank negotiable certificates of deposits, which being bearer securities are not endorsed, must be supplied to the Treasury to the full value of an advance. Ownership of

the bank deposit is thereby transferred to the Government."

That is an admission of illegal conduct by the Government. It matters not quite frankly whether the illegal conduct did put public funds at risk. It is still illegal conduct and I will seek to demonstrate that, in fact, the public funds were very much at risk. In the case of borrowings on the unofficial short-term money market with dealers who are not specifically approved by section 3 of the parent Act and in the case of transactions where the Government is not investing in stock or other securities which are specifically approved by section 3 of the principal Act, the end result is that whilst security might appear to be provided by the borrower, since the principal loan is illegal, there are legal problems involved in ensuring security for the public funds.

I refer to the case of Auckland Harbour Board *v.* the King, 1925 Appeal Cases (318) at page 326 where the Judicial Committee of the Privy Council said—

> For it has been a principle of the British Constitution now for more than two centuries, a principle which their Lordships understand to have been inherited in the Constitution of New Zealand with the same stringency, that no money can be taken out of the Consolidated Fund into which the revenues of the State have been paid, excepting under a distinct authorization from Parliament itself. The days are long gone by in which the Crown, or its servants apart from Parliament, could give such an authorization or ratify an improper payment. Any payment out of the Consolidated Fund made without Parliamentary authority is simply illegal and *ultra vires*, and may be recovered by the Government if it can, as here, be traced.

This decision made by the Privy Council is binding on courts of this country—it is binding on a court of this State. Simply put, the Government has engaged in illegal transactions to which no Treasury official or governmental person was authorised to agree. They can be agreed to only by an Act of Parliament as acknowledged by the Bill now under discussion.

The sections of the Constitution which deal with the question of Consolidated Revenue are sections 64 and 65. The intention of the Constitution Act is that all taxes, imposts, rates, and duties should form part of the Consolidated Revenue Fund and not be part of some—as has been quite aptly described—slush fund on the side.

The only right to take moneys out of Consolidated Revenue—the only right to remove those funds—is that authorised by the Parliament. Money taken out contrary to that provision simply is illegally removed. The Leader of the House in his second reading speech has sought to tell the people of Western Australia that whilst the Government may have acted improperly and *ultra vires* in relation to section 3 of the Public Moneys Investment Act, there was full and sufficient security. That is not so; there was not sufficient security. There was no investing in the securities transferred to the Government or to the Treasury if they were for the purposes of security for another borrowing.

The real issue relates to why the paper was transferred to the Treasury. If the paper is an investment, it is required to be a true investment. If it is received as security then it is not an investment. In 1979 the Opposition took legal opinion from two silks unconnected with any political party who came to the same conclusion—the lending to official dealers and the securing of those loans by the receipt of paper which otherwise would have been an authorised investment under section 3 was in fact illegal because it was not an investment; the receipt of the paper was not an investment, it was merely a security for a loan.

The Hon. I. G. Medcalf: Is that not an investment?

The Hon. PETER DOWDING: It is not an investment, and as I say, we have taken the opinion of silks and they have made it quite clear it does not constitute an investment when the Government takes a security. That is not what is meant by section 3 which authorised the Government to draw and invest so much of public moneys in securities.

The investment is in the lending, and the security is not the investment. The security is ancillary to the lending and is not authorised by section 3. That is clearly the case. The Government's legal advice obviously is the same because the legislation it has proposed tonight clears that point.

The real concern is that people would say "Well, why worry about it? It would seem that with adequate security the public money was not at risk". The simple answer as I have suggested is that if the borrower of public moneys illegally invested became insolvent the liquidator could require the return of the security without the repayment of the borrowing.

Again the opinion we have taken from silks on that subject supports that proposition, and refers

to a line of authority going back to the beginning of this century. That does not mean that, perhaps, the matter might not be argued in a fresh tribunal such as the High Court of Australia, but it would seem the law suggests the proposition I have put is correct and the public funds would thus potentially be at risk.

The short-term money market transactions are complex and could be a mixture of legal and illegal transactions. If a body of paper is lodged with the Treasury as security in a series of transactions of mixed legal and illegal flavour—some legally authorised by section 3 and some not—the end result is that with a constant security the Government may not have a good title to the security if something goes wrong with the borrower. Where it holds security deposits, holds debentures, whether they are securities for legal or illegal transactions or other authorised investments, the transaction puts the security at risk.

The Opposition drew this to the attention of the Government in 1979, but before the election the Treasurer continued to issue a series of denials, and since then has continued to mislead the Parliament by suggesting the need for the legislation now before the House arises from some changes in the short-term nature of the money market, and I say that is palpably false. The Opposition drew this matter to the attention of the Government in 1979 and also drew it to the attention of the Treasury and the Auditor General. In this Bill an admission appears that all three of them were acting illegally and knowingly so.

We commend this Bill because we are concerned to ensure the Government maximises the use of public funds and generates such money as is consistent with its policies. However, we deplore a secondary boost to money markets which will not help semi-Government or local government instrumentalities.

This legislation will not back date the required validity. In fact, there may well be outstanding transactions of the type which I have described.

The second issue, apart from the illegal conduct of the Government, is whether the accounting processes adopted by this Government in light of the significant sums of money have been fair and open. The Minister referred to this in his second reading speech by suggesting problems exist with the appropriation of the funds and payment of them into the appropriate accounts such as the CRF and the GLF, and the moneys paid to Government instrumentalities, when that simply is not so.

It is not necessary for the accumulated balances to increment and increment which recently has occurred. It is not true to say these balances simply have been carried over because of difficulties with payment into the Consolidated Revenue Fund or one of the other proper accounts available for appropriation by the Parliament. The reality is that the Government has kept that fund away from Parliament, and although it is within the intent of section 64 of the Constitution, it has not been available to the Parliament to appropriate those funds. The appropriation of the funds has become a political act which the Government carries out at its will.

The allocation of those funds is interesting. As at 1 July 1977 there was $11.5 million in the fund; as at 1 July 1978, $24.5 million; as at 1 July 1979, $33.4 million; and, as at 1 July 1980, $44.5 million. Substantial sums of interest have been earned in each of the respective years. In 1977 almost no allocation was made to any Government instrumentality. In 1978 a very small allocation of $4.8 million was made to Government instrumentalities; $2.4 million to the Consolidated Revenue Fund, and $7.5 million to the General Loan Fund, a total to those funds of $9.9 million. That left a balance of $33.4 million.

I reject the proposition the Leader of the House has put before this House in an attempt to persuade it that those transfers took place because of the minor difficulties in predicting the sums available. That simply will not wash. In 1978-79 we saw a similar situation. The balance from interest earned was $44.6 million and transfers to the funds totalled $5 million.

The situation was quite different during the election year. It is the Opposition's complaint that the Government is not permitting Parliament to appropriate funds; it is utilising these funds to fulfil its election promises. As at 1 July 1980 $44.5 million was available from moneys derived from the short-term market transactions. That was the highest it had been in any year since 1970, but in 1981 it is reduced to almost half that amount. What did the Government do with that $44.558 million, and the $24.325 million derived from interest, a total of $68.883 million? It spent $7.3 million on Government instrumentalities. In other words, in the pre-election year it propped up instrumentalities without increasing their charges because it well knew that the increment in charges would affect its election prospects. It used the money accumulated over the preceding eight years and paid it to Government instrumentalities to the tune of $7.3 million.

From the balance of the funds, $11.3 million was paid into the Consolidated Revenue Fund

which of course funded lollies for the boys and girls who receive benefits to encourage them to vote for the Liberal Party.

An amount of $23.7 million was paid into the General Loan Fund for capital works, once again to fund election promises—to sweeten the electorate.

The electorate knows full well that once the Government was returned to power it set about upping all the charges by Government instrumentalities that it had previously propped up. It then set about tightening wage claims and other payments from consolidated revenue. It said it did not have funds for ongoing expenses in respect of health and other services and, especially, capital works. The electorate could rot and the hospitals could go hang as far as the Government was concerned. The reality is that these decisions left the Government with $26.5 million which no doubt will accumulate once again, not year by year to be paid into appropriation accounts, but year by year to accumulate until the next election expenditure needs to occur.

The view of the Opposition is that money should be allocated and shown clearly in the Budget papers. There is no reason in the world that reasonable predictions of expenditure and receipts cannot be made each year. It is done with other funds, including funds which generate income within their own sources.

The Constitution clearly instructs the Government to do that, but the only mention of accumulated funds for the short-term money market funds and income is found in the Auditor General's report and Parliament does not have the job, as it ought to have, of allocating sums of money of such magnitude.

The purpose is a genuine slush fund for the Government to have at its fingertips so it can spend it without any demands of Parliament, and without any investigation under the parliamentary investigation procedures.

In our view, provision for the accounting processes in respect of this money ought to be in the Bill before us. It is not. It is a tragic case of deceit and dishonesty, and a gross attempt to mislead the House and the public preceded the introduction of this Bill.

THE HON. I. G. MEDCALF (Metropolitan—Leader of the House) [9.45 p.m.]: We have heard the Hon. Peter Dowding repeating the things said in another place today, and he is traversing entirely the second reading speech which was given earlier. He said in effect it is a tissue of lies; the Government has acted illegally; it has made a great deal of money dishonestly; it has not made enough money; we could have made more because the Bill does not go far enough; the Government has placed the public funds at risk—

The Hon. Peter Dowding: I didn't say that at all.

The Hon. I. G. MEDCALF: The honourable member did. He said also the Treasurer had misled and deceived the public, and he said the Bill did not go far enough.

The Hon. Peter Dowding: I didn't say you had to make more out of it.

The Hon. I. G. MEDCALF: He said the Treasurer had misled and deceived Parliament.

The Hon. Peter Dowding: Yes.

The Hon. I. G. MEDCALF: As well as a whole heap of allegations—

The Hon. Peter Dowding: That is right.

The Hon. I. G. MEDCALF: —in relation to a Bill which he said he thought was a good one except that it did not go far enough. He did not explain exactly how much further he wanted it to go.

The Hon. Peter Dowding: I thought I told you I wanted the accounting procedures in.

The Hon. I. G. MEDCALF: I can well imagine, but we are taking this Bill only as far as we believe it is conservatively proper to do, bearing in mind the need to conserve public funds, and the need to continue the good record the Government has already in relation to the investment of public funds, and the fact we have made $161 million for the public in the last 20 years as a result of the investment on the short-term money market under the provisions of this Act.

I will not go into the argument on which three hours was spent in another place. It is simply a repetition of what has been said by the Leader of the Opposition who was reminded, quite effectively, by the Treasurer that he had declined an invitation to discuss with representatives of the Treasury matters on which he had been misinformed.

The Leader of the Opposition declined this opportunity. I would have thought that would be the first thing he should do.

The Hon. Peter Dowding: If he was wrong, why are you introducing the Bill today?

The Hon. I. G. MEDCALF: The explanation is in the second reading speech which the honourable member rejected, and to which the Government adheres. I reject totally the arguments which the honourable member has made, but nevertheless, I thank him for his

support of the Bill which I commend to the House.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (the Hon. Tom Knight) in the Chair; the Hon. I. G. Medcalf (Leader of the House) in charge of the Bill.

Clauses 1 to 3 put and passed.

Clause 4: Section 3 repealed and substituted—

The Hon. PETER DOWDING: The Leader of the House may well simply cast a brush over the arguments I have raised, and the Hon. Philip Lockyer, whose knowledge of these matters is obviously even less than it is on other matters, made some interjections, but I have quoted from the words of the Treasurer in 1979, and those words disclose admissions of illegal lending contrary to the provisions of the principal Act. Those admissions were made in Parliament.

It is all very well for the Leader of the House to say I made a whole lot of allegations; these are admissions made by the Treasurer himself. There is no doubt about that. There is an argument about whether or not the funds were put at risk. I agree that point is debatable, and I sought to put to the Committee an argument which says it was. But it matters not whether the funds were at risk; it simply is a matter of legality.

Was the Government authorised to invest money with the R & I Bank? The answer is "No". It still is not authorised, although, inevitably, the Parliament will pass the Bill before us now. I ask the Leader of the House: Is it not a fact the R & I Bank has received money invested under this provision which it is not authorised to under section 3? Is it not a fact that the Bill intends to authorise such investments?

The Hon. A. A. LEWIS: As I mentioned to one of my colleagues, the junior gentleman who has just resumed his seat has put the nails in the hands and the ankles of the Australian Labor Party. Here is a man destroying his own party by the use of words out of his own mouth to try to make personal capital for himself. He has tried to be rude and snide about everyone who is doing something for the State. The fact is that $161 million was made for the people of this State by the decisions of the present Treasurer.

The Hon. J. M. Berinson: That is not so, because it covers a period of Labor Governments as well.

The Hon. A. A. LEWIS: Ah, I thank the Hon. J. M. Berinson very much. Why did not the Labor Party do something about it?

The Hon. J. M. Berinson: Because we did not realise it; that is the difference.

The Hon. A. A. LEWIS: I saw the curious look in the honourable member's eye when he turned around to watch the junior member make his statement. Why did not the Labor Party do something about it?

The Hon. J. M. Berinson: It was not brought to its attention.

The Hon. A. A. LEWIS: Is the member saying that until the Hon. Peter Dowding came into this Chamber nobody understood it? What rot! What absolute piffle! I do not think the Hon. J. M. Berinson believes that himself.

The Hon. R. Hetherington: I gave it a passing mention a couple of years ago.

The Hon. A. A. LEWIS: That is all it would have been, because the Hon. Robert Hetherington would not understand it either. This State has benefited by $161 million. We have not heard any interjections about any losses.

The Hon. P. H. Lockyer: What would the losses run to?

The Hon. A. A. LEWIS: Nil. I would like to inform my junior colleague that it is spelt "n-i-l".

The Hon. P. H. Lockyer: It rhymes with "dill".

The Hon. A. A. LEWIS: We have been subjected tonight to a tirade from a young man who wants to make political capital. He does not want good government—he has crucified his own party. I do not think it will ever happen, but if the Australian Labor Party does come into power, his speech will be quoted and quoted for years to come. It will denigrate the ALP. It is a perfect example of a young man without any parliamentary experience, and never having been a member of Government, making rash and wild statements which could destroy Governments of the future. This young man has attacked the Treasurer and the Leader of the House. He has very little knowledge of procedure and even less about money matters.

The venture has been successful, and if our legal advisers tell us that it may have been illegal, then we must make it legal and continue to make money. I hope no-one in the Labor Party would disagree with that.

The Hon. P. H. Lockyer: He cast a terrible reflection on the Treasury.

The Hon. A. A. LEWIS: I am not worried about the reflection he cast on the Treasury,

because that department has proved itself. The Hon. Peter Dowding has not. If the Hon. Peter Dowding ever mentions money matters in this Chamber again, every member here will wonder whether he knows what he is talking about. He has proved tonight that he does not. Not only does he know nothing about financial matters, but also he knows nothing about political parties. One day the ALP may be in power, and what would the public think of that sort of statement if it ever did?

The Hon. P. H. Lockyer: They might make him the Treasurer!

The Hon. PETER DOWDING: Perhaps because he is so much older, but certainly not because he is any wiser, the Hon. Sandy Lewis has ignored completely my speech, and that is typical. I am used to it. It encourages me in the view that he is a delightful elder statesman who has his place in the upper Chamber.

The Hon. P. H. Lockyer: He has been in both Chambers. You have not yet been elected to the other one.

The Hon. PETER DOWDING: I sought to tell the Committee that in 1979 the Leader of the Opposition drew the matter to the attention of the Government, the Treasurer, the Auditor General, and the Treasury, and in the year prior to the election, he was told repeatedly that it was nonsense; that there was not one skerrick of truth in the idea. It is not, as the Hon. Sandy Lewis now says, that we are all in it together—we were all doing illegal things.

If the illegality was pointed out, one would hope even the Hon. Sandy Lewis would agree it was appropriate to put an end to it. Why wait until 1981 to amend the legislation to write out the illegality, to rule it out of the activities of the Treasury and then, as the Leader of the House has been forced to do, pretend it was not illegal at all?

If the Leader of the House had admitted to Parliament that an illegal Treasury practice had been uncovered and that his Government proposed to legislate to put a stop to it, the Opposition would have applauded the action of the Government and decried the time taken to put the amendment into effect. However, the amendment has come along dressed up as something completely different, and that something else is false.

We do not dispute that this Government or in fact any Government has made good use of the money. We do not dispute the fact that responsible Treasury officials have managed to produce $160 million as a result of these investments. However, we do dispute that the money has been acquired illegally and we believe the situation should have been rectified when it was pointed out.

We dispute that there have been no risks. However, we do not have access to the relevant documents in order to ascertain whether this is the case. There have been risks combined with that illegality and the inactivity of the Government and its refusal to be frank and honest with this legislation is what the Opposition is complaining about.

I do not think the Leader of the House is serious in suggesting I am criticising past Governments for not making more money out of the funds available to them. What I meant when I said the Bill did not go far enough was that in the view of the Opposition there should be a proper accounting of this money and its immediate deposit into one of the funds from which this Parliament makes appropriations. That is the long and the short of it.

The Hon. I. G. MEDCALF: The Hon. Peter Dowding endeavoured to extend the second reading debate in his discussion of clause 4, but I did not hear him say very much about clause 4.

I am not pretending anything; however, it does appear the Hon. Peter Dowding is pretending something. I am surprised, because I would have thought he would realise how much his credibility would suffer if he is a party to this kind of rash and exaggerated comment which leads precisely nowhere. He has admitted the Treasury invested the money well.

The Hon. A. A. Lewis: The second time he did; the first time he said the money was drawn into a slush fund.

The Hon. I. G. MEDCALF: He said it in two voices the first time. He said it was placed at risk.

The Hon. Peter Dowding: I said some of it was placed at risk. If you are going to quote me, at least quote me accurately.

The Hon. I. G. MEDCALF: I do not think it would be possible to quote the honourable member accurately. He has dealt with this matter in a most unfair and improper manner. The reason for this Bill is set out in the second reading speech. As far as I am concerned, there is nothing wrong with that, and I will not indulge in one of those childish games where someone says "That is untrue" and someone else says "It is true", and the other person says "It is not". I do not propose to indulge in that sort of schoolboy game with the honourable member opposite and that is the end of it.

The Government has done extremely well; even if moneys have been invested with the R & I Bank, they have been well placed. This Government does not hold anything against the R & I Bank. Indeed, it believes it is a very useful adjunct of the State Government; it is an institution we desire to foster. Successive Governments since 1961 through their various Treasury officers have placed money out on the short-term market and have made $161 million; all credit to them; it is a fine effort which deserves the congratulations of this Committee. The R & I Bank also deserves our congratulations for being available to assist in this manner. If anyone wishes to criticise that point, let him do so. However, I do not believe I am obliged to answer it.

The Hon. PETER DOWDING: I have never seen the Leader of the House quite so defensive before.

The Hon. A. A. Lewis: You have just received the biggest hiding you have ever had in your entire life.

The Hon. PETER DOWDING: He is a man of some legal experience, yet he was quite unable to deal with the point. I can understand some cloth-eared person—

The Hon. A. A. Lewis: Does not "QC" mean a member of the silk?

The Hon. PETER DOWDING: —some fool who cannot understand these matters—making such comments. I cannot understand the Leader of the House suggesting the Opposition has been critical of the R & I Bank.

The Leader of the House refused to deal with the issue; namely, that the Government was not authorised to deposit funds with the R & I Bank.

The Hon. A. A. Lewis: Which silk are you quoting now?

The Hon. PETER DOWDING: One does not need to be a silk to understand that proposition; one needs to do two things which I am sure some members opposite might find a little difficult. The first is that one needs to read the Public Moneys Investment Act 1961, and the second is to read the Commonwealth Banking Act. If the two members opposite with such vocal views on the subject had bothered to do that they would know what I am saying is correct.

In fact, the Leader of the House admits in his second reading speech it is correct. If he was told about this and the Treasury was told about this in 1979, and if the Auditor General knew about it in 1979, why will the Leader of the House not admit it was illegal and explain why it has taken two years for this legislation to be brought into play when there have been a series of illegal transactions which I have established clearly from questions that have been asked on the subject?

Why does the Leader of the House hedge around with the patent nonsense which is not worthy of his intellect that the Opposition is casting aspersions on the R & I Bank? We did not do that. We say that, due to a technical breach of the law which was drawn to this Government's attention in 1979 the R & I Bank received funds which it should not have received.

The second point is that the fund accumulated from these investments is appropriated by nobody but the elected Government. It is not appropriated by Parliament as in the view of the Opposition it should be. It is false for the Leader of the House to suggest in his second reading speech that the difficulties involved in forecasting the earnings from this money made it necessary for the fund to be kept separate. The second reading speech of the Leader of the House went on to say—

> Consequently the procedure that has been followed for many years is to pay earnings accrued during the year into Treasury receipts in suspense, and, at the end of the year, to allocate to trust and other contributing accounts their share of the earnings in proportion to the amounts contributed to the investable pool from each source.

The Hon. I. G. Medcalf: That is quite true; they were very small amounts of money.

The Hon. PETER DOWDING: The Leader of the House went on to say—

> The balance of the earnings is then available for appropriation to the services of the following year as a known amount.

The truth is, those appropriations have not taken place, and that is the objection of the Opposition.

The Hon. I. G. MEDCALF: The honourable member is talking arrant nonsense and I do not propose to answer him any further. In any event, he is entirely out of order because we are supposed to be discussing clause 4.

Clause put and passed.

Clause 5: Section 5 added—

The Hon. PETER DOWDING: The Opposition takes no exception to this clause. I must say, as I said earlier, that I have never seen the Leader of the House so much on the run. We are talking about an important public issue. If he chooses not to reply to that which I have put to him, and give some evidence to the contrary, he

will stand condemned as his Government stands condemned.

Clause put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

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

SUPPLY BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by the Hon. I. G. Medcalf (Leader of the House), read a first time.

Second Reading

THE HON. I. G. MEDCALF (Metropolitan—Leader of the House) [10.14 p.m.]: I move—

That the Bill be now read a second time.

This Bill seeks the grant of supply to Her Majesty of $1 020 million for works and services for the year ending 30 June 1982, pending the passage of the Appropriation Bills during the Budget session of the Parliament.

Of this grant, an issue of $900 million is sought from the Consolidated Revenue Fund and $75 million from moneys to the credit of the General Loan Fund.

The Bill also contains provision for an issue of $45 million to enable the Treasurer to make such temporary advances as may be necessary.

The amounts specified are based on the estimated costs of maintaining the existing level of services and works and no provision has been made for any new initiatives which must await the introduction of the Budget.

The attention of members is drawn to the new format of the Bill in that the wording has been updated and the presentation amended in accordance with current drafting styles. It allows for much easier reference to the provisions of the Bill.

The 1980-81 Budget, which was presented to the Parliament on 30 September last forecast a balanced budget for the sixth consecutive year with both revenue and expenditure estimated at $1 857 million.

In a fairly comprehensive summary of progress results in this year's Budget, the Treasurer announced on 14 March last that there have been slight revisions in the prospective levels of revenue and expenditure for the year as a result of a review of the Budget outlook based on an analysis of transactions for the first seven months of the year. At that time, it was predicted that revenue was likely to be $1.7 million less than forecast in the Budget and expenditure $1.2 million under. Given the magnitude of the total figures involved those results indicated that a balanced Budget was still in prospect.

Since that review, the level of revenue has been maintained; but with the seasonal tightness of liquidity in the last quarter of the financial year and some easing in turnover on the share market, there is an element of uncertainty in revenue prospects to the end of the year.

The national wage decision and the release recently of the Consumer Price Index for the March quarter confirm the wisdom of the Government's decision to provide $5 million for further adjustments this year for indexation increases in salary and wages. It now appears that the cost of the increase, based on the Consumer Price Index rises for the December and March quarters, will be only marginally above the amount provided by that original decision.

Although there is a degree of uncertainty about the estimates for the next few months, the Government will monitor the situation closely and maintain its strict control over expenditure during this period. The Treasurer is still hopeful of achieving the Government's aim of a balanced Budget for the year.

It has been the practice for a number of years to circulate a summary of the financial transactions as soon as possible after the close of the financial year to keep members fully informed. This practice will be continued in respect of transactions for the current financial year. Naturally, at this time, the Government is examining, in a preliminary way, the budgetary position for 1981-82. There are a number of important aspects arising from the recent conference of State Premiers with the Prime Minister as well as the effects of the Sir Phillip Lynch review committee recommendations requiring consideration. The total impact of these matters in relation to the 1981-82 Budget has yet to be fully assessed and all that can be said is that it will certainly be no easier than this current year's Budget, which was the tightest there has been for many years.

I commend the Bill to the House.

THE HON. R. HETHERINGTON (East Metropolitan) [10.18 p.m.]: As always, it is the Opposition's policy that this House should not

oppose supply, but that it should grant supply to the Government. Therefore, the Opposition supports the Bill, as it always will.

I want to make a few short remarks on other matters. The Leader of the House made reference to the so-called "razor gang" and its operations in Canberra. The Federal Government is introducing cuts which seem to have very little rhyme or reason. They seem to be based primarily on an outmoded ideology. We also see the Treasurer of this State in a parlous position under the new, so-called co-operative federalism.

The Hon. Lyla Elliott: Which he supported.

The Hon. R. HETHERINGTON: When the Fraser Government was elected, I told the Government in this House what was likely to happen. My forecast has been proved right. One of the things we will experience will be the loss of 17 000 civil servants—17 000 good and efficient bureaucrats—

The Hon. D. J. Wordsworth: Good and efficient? That is a change from your last speech.

The Hon. R. HETHERINGTON: Well, the Minister did not listen to my last speech, otherwise he would not make such fatuous comments.

Another result will be that as people retire there will not be recruitment, so our bureaucrats will become less efficient as they become older with no addition of youth.

The other point I would like to discuss is the introduction, without adequate consultation, by the Minister for Education of the so-called senior colleges at Bentley and Tuart Hill. Last Thursday, for reasons which the Leader of the House will probably understand, I forebore to make any remarks on the adjournment. However, I do want to refer to a reply I received through the Minister for Lands— I am not blaming him for it; he has enough to be responsible for, without this one—which dodged the question I asked. My question was—

> Did that report suggest that Como Senior High School should have first priority for closure and/or conversion to a senior college?

Immediately I received a long, dodging reply. I will read the reply, and make a few brief comments on it. The reply was—

> The document referred to was an attempt to identify metropolitan high schools whose enrolments were dropping significantly and to suggest ways of tackling the matter. Many schools were considered and a variety of proposals, including large scale bussing of pupils, were discussed. As a very few of the schools mentioned in the paper are ever likely to experience a change of role, public release of the document would achieve nothing more than create unnecessary anxiety and unreal controversy.

It would have been a good idea if the document had been released before the decision was made. Then we could have had some real controversy, and some real discussion.

I have been reading various letters to the editor on this subject recently. I have been rather saddened to see the way that the Minister for Education has been using Mr Gerry Brennan, the Principal of Balga Technical College, as his prime whipping boy.

The Hon. P. G. Pendal: With good reason, too, for the stupid comments that he made—inaccurate comments.

The Hon. R. HETHERINGTON: I noticed that one of the people who replied to Mr Brennan was the gentleman who has just interjected in his usual temperate manner. He used one of his usual tactics in his letter to the editor. He used a fact to tell a half truth. Of course, that has always been his tactic.

The Hon. P. G. Pendal: Tell me where it is a half truth. That school is in my electorate.

The Hon. R. HETHERINGTON: I well know where the school is. It is near my electorate. It is in the electorate of the Hon. Phillip Pendal, and it is in the electorate of the member for Clontarf.

The Hon. P. G. Pendal: The truth is the opposite of what Brennan said, so why do you get up here and peddle his half truths?

The Hon. R. HETHERINGTON: The member is becoming very angry. What I am about to say might hurt him. I have watched him posturing over the business of the high schools, saying how much he deplores it, and how much he applauds it. I have listened to him peddling the line of the Education Department as he comes up as the apologist for the Minister time and time again.

I point out to the member and to the Minister that over half the students at the Bentley High School come from homes in my electorate. It becomes obvious, from the evasions of the Minister, that it was the Como High School which was on the top of the James report—No. 1 priority for closure. However, we know where that school is. It is in the electorate of the Minister for Education. Of course, that would not be a good school to close.

The real reason these schools have been chosen is that either they are in Labor electorates, or they are near Labor electorates. Another reason is that there is a high incidence of unemployment in those electorates.

The Hon. P. G. Pendal: You have got some evidence of that, no doubt?

The Hon. R. HETHERINGTON: The Government has indulged in this indecent haste because it is afraid that the Federal Government will remove unemployment relief from the 16 and 17-year-olds; and therefore the Government wants somewhere to put them. In that respect, the Minister is being sensible and realistic. He knows that if the 16 and 17-year-olds were sent back or forced back into the schools, the school system would be disrupted. Therefore, he had to have a little place to put them to one side. At the same time, he puts in some of the people from the technical colleges, in areas where it is difficult to obtain accommodation.

I would not have been so long on this question had it not been for the bellow behind me from the Hon. Phillip Pendal. Of course, it is his duty, as far as he sees it, always to protect the Minister for Education. He always trots out something.

It was interesting to check one of the speeches of the Hon. Phillip Pendal against one that the Minister made in the other place. It is interesting that certain words were used in each of them. I just wonder who wrote whose speech for whom. There was a remarkable coincidence of verbiage.

The Hon. P. G. Pendal: Strangely enough, I did not even read his speech. I did my own research.

The Hon. R. HETHERINGTON: I would not suggest that the member did not write his speech. I was suggesting that both the member and the Minister obtained some phrases from somebody else.

It is the right of the member to defend his Minister. I do not like his defence at times; and I still say that the attacks on Mr Brennan indicate that he is being used as a whipping boy to cover up the fact that there had been a report which suggested various schemes for solving the problems of the under-utilisation of high schools.

That report could well have been released. It could have been the basis of a green paper. We could have had a discussion about it. Of course, that would not have suited the Minister because, as I said earlier in this day about another Bill, the attitude of this Government is that one does not consult with the people who are likely to be concerned before one makes the decision, because "'Big Brother' always knows better".

Once more I condemn the Government for what it is doing to our education system. I would like the situation to be discussed publicly, with the decision not having been made, to ascertain whether what the Government is doing is in fact, by consensus, the best thing to do. I do not think it is. Oddly enough, I am open to conviction—

The Hon. P. G. Pendal: Huh!

The Hon. R. HETHERINGTON: The Hon. Phillip Pendal can say that, because he is never open to conviction. He has to defend what his Government does, because he is ambitious and he knows all about "Big Brother" and his dictates. I do not have to do that. I belong to a democratic party; and I am open to conviction.

I hope that the Minister might see reason. Oddly enough, I do not regard him as an unreasonable man. At times, he makes decisions too quickly; and at times he takes the wrong advice. At times he makes the wrong decisions; and at times he makes the right decisions. The right decisions, of course, are the ones with which I agree. However, I do not always expect the Minister to make the decisions with which I agree; and I would expect that usually he would take a number of decisions with which I could not agree. In relation to matters of education, there is a great deal of bipartisanship, although it is becoming less as we have the growth of elitism and the "Big Brother" attitude emanating from the Liberal Party both here and in Canberra.

I hope that sense will prevail. I hope that in this matter, as in transport and everything else, the Government would be interested in inputs from the users, from the people they are governing. If the Government does not take the Burkian view that one's elected representatives are elected—of course, there was a bigger gerrymander when Edmund Burke was writing, with the proper "rotten boroughs"—then it knows what is good for the nation. We have progressed since then; and some of us believe that people should make inputs. I agree fully with that.

Perhaps on 4 August I will be appealing still or perhaps I will be doing what I do sometimes with the Minister; that is congratulating him, because he has changed his mind and he is prepared to allow discussion.

I support the Bill.

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.

CITY OF PERTH PARKING FACILITIES AMENDMENT BILL

Second Reading

Order of the day read for the resumption of the debate from 13 May.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (the Hon. Tom Knight) in the Chair; the Hon. D. J. Wordsworth (Minister for Lands) in charge of the Bill.

Clauses 1 to 5 put and passed.

Clause 6: Section 21 amended—

The Hon. H. W. OLNEY: In the Minister's second reading speech it is pointed out that the present penalty of $200 or one month's imprisonment for unlawfully operating a car park has proved to be an inadequate deterrent; and the proposed penalties are then set out.

The matter I wish to raise is: What is the basis for the Government's assessment that the present penalty is inadequate? One assumes that, to reach such a conclusion, the Government has assessed the number of convictions and has found there is an inordinate number of them for the particular offence; therefore, it wishes to increase the penalty in order to reduce the incidence of the offence.

Can the Minister say to what extent convictions or prosecutions have taken place for the offence of conducting a car park contrary to the Act?

The Hon. D. J. WORDSWORTH: As I pointed out in the second reading speech, a person who operates a car park illegally escapes a fee of $13.50 per car bay.

The director general has drawn attention to the number of illegal car lots in the city. Admittedly they do not exist in the larger buildings, but are mainly in small, five-car to 10-car backyard lots.

The Hon. H. W. OLNEY: I appreciate what the Minister has said and I support the need to ensure the proper fees are paid by people who come within the scope of the Act. There does not seem to be any suggestion that there has been an active programme of prosecution, but, of course, the people about whom the Minister talks are those who probably in the past may not have been caught by the Act.

The point I was making was: When Parliament is asked to increase a penalty so that it will have a deterrent effect, it would be useful if Parliament could be told that the existing penalty has been tried and been found wanting. It seems to me that, in all probability, no concerted programme of prosecutions has taken place and, therefore, one wonders whether the increased penalty will in fact be a deterrent.

Clause put and passed.

Clause 7 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by the Hon. D. J. Wordsworth (Minister for Lands), and passed.

MARINE AND HARBOURS BILL

Second Reading

Debate resumed from 13 May.

THE HON D. K. DANS (South Metropolitan— Leader of the Opposition) [10.40 p.m.]: The Opposition supports the Bill, but I should like to make a few comments in relation to it. The new situation which will occur as a result of the amendments contained in the Bill is long overdue.

In order to indicate the history of this matter I point out that control passed to the Minister for Transport in 1977. That occurred because an investigation was carried out by the Public Accounts Committee—I emphasise that, it was an all-party committee—which indicated an amalgamation was necessary in this area.

That finding was supported by a study carried out by a management consultant which focussed attention on the necessity for a better approach to the matter. That may have occurred before Mr Wordsworth was Minister for Transport.

The Hon. D. J. Wordsworth: It was not during my time.

The Hon. D. K. DANS: Comments to that effect are contained in the second reading speech.

Those two recommendations—if I may call them that—were supported also by the Treasury and the Public Service Board.

The Bill proposes the formation of a department of marine and harbours. This department will amalgamate the present responsibilities of the Harbour and Light Department with an overview of the activities of port authorities, and all other matters in regard to marine activity in Western Australia.

At the same time there is provision for the continued autonomy of local port authorities, and I believe that is important.

Provisions of this nature should have been promulgated 10 or 20 years ago for a variety of reasons. However, I shall settle on one reason only and that is in the interests of economy.

As I have said already, the Opposition supports the Bill, but I should like to refer to one other matter. It is necessary for a further step to be taken in this area and I hope, in the fullness of time, the Government will see fit to legislate in this area.

Various bodies control marine activities in the States of Australia; for example, the Maritime Services Board in New South Wales. The new body which has been set up should examine carefully the need to implement the provisions contained in the Commonwealth Navigation Act in all States. When that occurs, the marine Act in this State will be repealed and the conditions of the Commonwealth Navigation Act will be applied throughout Australia. Therefore, one Act would apply throughout the Commonwealth, but the States would have jurisdiction in their own areas. That would be a logical step forward from the legislation we are debating at the present time.

At the moment a vessel travelling intrastate from Fremantle to Wyndham comes under the regulations of the Western Australian marine Act. As soon as the vessel leaves Wyndham and crosses the line to Darwin, the previous regulations go out the window and it comes under the jurisdiction of the Commonwealth Navigation Act. I will not go into the legal technicalities of that.

If a paddle steamer on the Murray River was travelling from South Australia to Victoria that would be an interstate voyage and the paddle steamer and its owner would become bound by the conditions of the Commonwealth Navigation Act.

The history of this goes back to something we borrowed from the Americans in the 1900s. I think the time is right to take what I consider to be a right step. We should be looking at this matter with a view to having one set of conditions to cover ships travelling on the seas and on the waters in and around the continent of Australia. That set of conditions should be governed by the Commonwealth and administered by the States.

We support the Bill.

THE HON. D. J. WORDSWORTH (South—Minister for Lands) [10.46 p.m.]: I thank the Opposition for its support of the legislation. We had some of this debate previously when we were discussing the State co-ordinating Act. It was pointed out by the Hon. Graham MacKinnon—and quite rightly so—that when the ports were transferred to the Minister for Transport the only person who knew anything about ports was left behind.

I found that when the authorities had to consult with State Government departments there was only one person who could be rung and that was the Minister. I received daily phone calls and had nowhere to transfer them.

The Hon. D. K. Dans: I said I believe the weaknesses in the legislation could be overcome.

The Hon. D. J. WORDWORTH: We have taken this long to get to this stage. When I was the Minister I went to Queensland to ascertain what was being carried out there. It took some time to gain the confidence of the port authorities. They did not want to lose any of their responsibility or independence but I think that the ports should be enhanced by this legislation.

The Leader of the Opposition mentioned the matter of a uniform navigation Act. This is another step which has been taken by Ministers of navigation in other States and the Federal counterpart. The Federal Government wished to bring in a uniform navigation Act under which it would control all shipping within Australia.

After considerable negotiation we managed to confine the legislation so that the ships that operated between the States were a Commonwealth responsibility and those which operated in State waters, remain a State responsibility.

I heartily agreed with Mr Dans when he said we were only half way. I thank members for their support.

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. D. J. Wordsworth (Minister for Lands), and passed.

QUESTIONS

Questions were taken at this stage.

BUSINESS FRANCHISE (TOBACCO) AMENDMENT BILL

Assembly's Message

Message from the Assembly received and read notifying that the Assembly had not considered the amendment made by the Council as the Bill was one which was beyond the power of the Legislative Council to amend.

In Committee

The Deputy Chairman of Committees (the Hon. R. Hetherington) in the Chair; the Hon. I. G. Medcalf (Leader of the House) in charge of the Bill.

The DEPUTY CHAIRMAN: Message No. 32 from the Legislative Assembly is as follows—

> The Legislative Assembly acquaints the Legislative Council that with reference to Message No. 25 from the Legislative Council dealing with the Business Franchise (Tobacco) Amendment Bill the Legislative Assembly has not considered the amendment made by the Legislative Council as the Bill is one which is beyond the power of the Legislative Council to amend. The Bill is hereby returned and the concurrence of the Legislative Council is desired therein.

The Hon. I. G. MEDCALF: I am able to explain this matter fairly easily. Although I must say at first glance one would think we have a major constitutional crisis on our doorstep, the business of the Legislative Council being able to amend Bills and send them back to the Assembly and have the amendments rejected is one hallowed by history. I do not think the matter before us will create a precedent for anything other than inadvertence.

The position is this: When we earlier considered the Business Franchise (Tobacco) Bill the Government had a request before it to move one very minor amendment to place the word "immediate" before the words "preceding period". This was because there is a schedule in this Bill which contains in the first column, the two-monthly licensing period, and in the second column, the preceding two-monthly period in which sales are affected. The amount payable for the licence depends upon the sales in the preceding two-monthly period referred to.

The phrase used in reference to the second column was "the preceding period" and it was thought by the Commissioner of Taxation in the course of his review of the Bill that it would be necessary to add the word "immediate" because this would mean the immediately preceding two months would be the sales period which related to the later licensing period.

The Parliamentary Counsel, pursuant to that request, prepared an amendment which is the amendment I moved in this Chamber earlier. It was actually intended to be moved in another place, but it was not available in time. Parliamentary Counsel does not believe the amendment is necessary with which belief, on reflection, I agree.

Unfortunately, when the matter was dealt with here, inadvertently we moved it as an amendment instead of a request for an amendment in accordance with the Constitution. As we did not make it a request for an amendment, and because that appears to be necessary, and because I have advice from Parliamentary Counsel indicating that the word "immediate" is not required anyway, I move—

> That the amendment made by the Council be not insisted on.

Question put and passed; the Council's amendment not insisted on.

Report

Resolution reported, the report adopted, and a message accordingly returned to the Assembly.

LAW REPORTING BILL

Returned

Bill returned from the Assembly without amendment.

LOCAL GOVERNMENT AMENDMENT BILL (No. 2)

Second Reading

Debate resumed from 13 May.

THE HON. J. M. BROWN (South-East) [11.19 p.m.]: This Bill is in two parts. One part proposes the inclusion in the Uniform Building By-laws of standards for buildings constructed in prescribed earthquake-prone zones and the second deals with the expenses of a councillor's partner incurred while attending municipal conferences or carrying out specific municipal duties.

Section 433 of the Act is to be amended by inserting the following proposed paragraph—

> (25a) for making any provision, restriction of prohibition that may reduce the likelihood of damage being caused, or abate any damage that may be caused, to any building or structure by earthquake activity or conduce to the safety of the building or structure or its occupants in the event of earthquake activity.

That is quite straightforward. Proposed section 433AA refers to Uniform Building By-laws which are to become mandatory if the Government wants to impose that provision. It is to be written into the Act for the awareness of people building in earthquake-prone zones. This practice was already followed by the building industry long before the Bill came to Parliament. That reflects the foresight of the State's architects in respect of safety matters.

One of the matters the architects considered for multi-storied buildings in the metropolitan area was the positioning of lift wells as a stabilising force to combat earthquakes. This has been recognised within the industry. These requirements have now been extended to country areas prone to earthquakes. There is provision for flexibility by the local councils themselves. We agree with the proposition.

The other matter of the expenses of a councillor's partner is not opposed. We believe the local authorities themselves will show good sense and so make this provision work. The matter will be under the scrutiny of the auditors and it is interesting to note the Minister indicated that the expenses would be on most occasions only modest amounts and would not impose great burdens on ratepayers. I would like to quote from *The Northern Times* of 23 April which indicated that the auditor had disallowed some items of expenditure by the Carnarvon Shire. That paper reported that those disallowed items included "$711.37, being expenses incurred by Councillor C. W. Tuckey for his own and Mrs Tuckey's air fares and hotel expenses between 4 August and 13 August 1979." Perhaps this provision will regularise this sort of thing. The article added that "Advice has been received that since balance date, the disallowed expenditure listed above, with the exception of the part of Councillor Tuckey's surcharge amounting to $176.60, has been repaid to the shire."

If one considers the expenses involved with councillors travelling from the northern areas to Perth, one realises there could be considerable amounts involved rather than modest amounts. Whilst we recognise the need for councillors to attend Local Government Week and so on, the amounts involved could be quite considerable. With travelling and accommodation expenses it could be more than a nominal figure.

It is good for spouses to be able to attend certain functions as this will enable them to gain a further understanding of what is involved in a councillor's voluntary duties. There would not be many councillors who would exploit this matter or allow a partner to claim expenses which were not in accordance with the provisions of this amendment. Nothing but good can come from the proposition to regulate the opportunities for councillors who in the past have had considerable expenses to meet in trying to promote local government matters. The proposition is fair and equitable. With those few words, we support the Bill.

THE HON. I. G. MEDCALF (Metropolitan—Leader of the House) [11.26 p.m.]: I thank the member for his indication of the Opposition's support. Like him, I hope it will not cost local authorities too much to provide for spouses or partners to accompany councillors on council business. The second reading speech indicated that on most occasions it would be only a fairly modest amount and I would hope that is so.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (the Hon. R. Hetherington) in the Chair; the Hon. I. G. Medcalf (Leader of the House) in charge of the Bill.

Clauses 1 and 2 put and passed.

Clause 3: Section 433AA inserted—

The Hon. NEIL OLIVER: Do we have this provision on the advice of the Building Industry Advisory Council or are we adopting the Uniform Building By-laws which are applicable throughout the Commonwealth of Australia?

The Hon. I. G. MEDCALF: As I understand the position, these uniform general by-laws would relate to earthquake zone areas or seismic zones and would not be related to cyclone areas. As to which particular by-laws would be adopted, I do not have the information to hand. All I can say is that this legislation simply provides the authority—I do not know whether any decision has been made as to how they will be implemented—for Uniform Building By-laws to classify the State into earthquake zones with different requirements for each zone. If the

honourable member would like me to make some inquiries in that regard, I will do so.

The Hon. NEIL OLIVER: Just to clarify my query for the Leader of the House I will phrase it another way. Part of the Uniform Building By-laws which have been gradually implemented throughout Australia over the past 10 years by a Commonwealth Government committee are not referred to in that form in this clause. They are called the uniform general by-laws. What I seek is this: Has a decision been made in the State by the building industry advisory committees or have they adopted the Uniform Building By-laws appropriate to the various seismic zones? I referred to cyclonic areas because Uniform Building By-laws are applicable to those areas also. What I have said is to clarify the matter to enable the Minister to answer the question.

The Hon. I. G. Medcalf: Thank you.

Clause put and passed.

Clause 4 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

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

MEDICAL AMENDMENT BILL

Second Reading

Debate resumed from 13 May.

THE HON. LYLA ELLIOTT (North-East Metropolitan) [11.33 p.m.]: This Bill includes four main principles. It will allow the board discretion in registering medical practitioners who hold conjoint diplomas from royal colleges of physicians and surgeons in the United Kingdom and the Republic of Ireland provided they have passed the regular five-year medical course at a reputable school of medicine in those countries. The board will have discretionary powers to grant registration to certain psychiatrists who migrated to this country with qualifications from certain countries overseas listed in clause 3 (c). The Bill will allow the registrar of the board to issue a provisional certificate of registration to applicants with the necessary credentials, and it gives the board the power of discretion to reregister practitioners whose names have been taken off the register for committing minor offences.

The Opposition has no objection to these principles, but I point out that three of the four apparently are necessary because of the 1979 amendments introduced into this House by the Minister for Lands (the Hon. D. J. Wordsworth). He assured us at that time they were necessary to bring us into line with other States and to clarify and simplify the registration requirements.

I would like to know what has happened in the last 18 months to change that situation. Have other States decided they need those amendments as well? Was the Minister factual when he told us that we needed amendments to bring us into line with other States? It makes one wonder whether some of the legislation we are asked to consider is drawn up too hastily and without proper and full consideration.

We assume that on matters such as this the Government receives expert advice. I submit it has a responsibility to ensure when it introduces amendments to Acts such as the Medical Act that the provisions will be practicable and workable. The Opposition does not have access to the same expertise, so I suggest it is the Government's responsibility. We hope that this time it has the Bill right.

The Act will still give the board the power to protect the public from unqualified medical practitioners or psychiatrists, and that is important. Therefore we support the Bill.

THE HON. H. W. OLNEY (South Metropolitan) [11.37 p.m.]: I rise briefly on this Bill— I could do this just as well during the Committee stage—to draw the Minister's attention to clause 4 which deals with the granting of a provisional certificate. It has the words "from the City of Perth" to which I ask the Minister to refer. In part the clause states that the registrar, or in his absence from the City of Perth, any member of the board, may grant a provisional certificate of registration. The draftsman used what seems to be strange wording when he included the words "from the City of Perth". If the registrar is at Subiaco he is absent from Perth, but if he is at Floreat Park he is not. We may well have the situation of a registrar taking a sickie, but not absent from the City of Perth because he lives at Floreat Park. In those circumstances another member of the board could not act in his absence. I suggest the Government consider the removal of the words to which I referred so that the clause reads "in his absence, any member of the board", etc.

THE HON. D. J. WORDSWORTH (South— Minister for Lands) [11.39 p.m.]: I thank members for their support. I was somewhat embarrassed when endeavouring to have a migrant doctor registered in Esperance. That

doctor had high qualifications indeed and had taught medicine in Great Britain. I found out I had moved in this Chamber an amendment which prevented that woman, as it happens, from working. I quickly drew the attention of the Minister to this point. He had to admit that as was said in the second reading speech some psychiatrists whom the Government had brought in from overseas were indeed prevented from working under the previous change to the legislation. If anything, I think it is a bit like the closed shop with unions.

The Hon D. K. Dans: Is that so?

The Hon. D. J. WORDSWORTH: The Bill we introduced last time was confined to people who had a degree. Perhaps it is ignorance on the part of not only members of Parliament, but also others, that in Great Britain people do not necessarily obtain a degree at a university, but nonetheless have high qualifications indeed. This Bill is designed to correct the implications of that when those people come to Australia.

I must agree with the Hon. Howard Olney's remarks in relation to the words "from the City of Perth". It seems strange terminology and perhaps it would have been more suitable to refer to the metropolitan area. Nevertheless, I think it is terminology most people would understand. If the honourable member moved an amendment in regard to those words I would not be adverse to supporting it.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (the Hon. R. Hetherington) in the Chair; the Hon. D. J. Wordsworth (Minister for Lands) in charge of the Bill.

Clauses 1 to 3 put and passed.

Clause 4: Provisional certificate may be granted—

The Hon. H. W. OLNEY: I will take up the invitation of the Minister. I move an amendment—

> Page 4, line 7—Delete the words "from the City of Perth".

I suggest that those words be deleted and no word replace them so that in the absence of the registrar any member of the board can act. That is not an uncommon provision to find in legislation. If we simply include a geographical qualification which justifies a board member acting in lieu of the registrar we do not provide for situations whereby the registrar is in the geographical area mentioned. It may be an anachronism carried over from a previous provision.

The Hon. D. J. WORDSWORTH: I wish the honourable member well with his amendment. They are very touchy in another place, and I hope we do not end up with a conference of managers.

Amendment put and passed.

Clause, as amended put and passed.

Clause 5 put and passed.

Title put and passed.

Report

Bill reported, with an amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by the Hon. D. J. Wordsworth (Minister for Lands), and returned to the Assembly with an amendment.

RURAL AND INDUSTRIES BANK AMENDMENT BILL

Second Reading

Debate resumed from 13 May.

THE HON. D. K. DANS (South Metropolitan—Leader of the Opposition) [11.46 p.m.]: The Opposition has studied this Bill very carefully and agrees with it in principle and detail.

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 5 May.

THE HON. P. H. WELLS (North Metropolitan) [11.49 p.m.]: I rise to support the Bill and make some comments about noise—the method by which we communicate. In view of various deputations I have received from the Hon. R. G. Pike, the Hon. Phillip Pendal, and others, rather than deal with the many interesting points I discovered in my study, I will refer members to

the Parliamentary Library and, in particular, to three books they will find extremely interesting. The first is *Environmental Health Criteria 12 on Noise* published by the World Health Organisation. This is very good reading, as is also R. D. Barden's *Sound Pollution.*

The Hon. R. Hetherington: We don't want you to be "noiseating".

The Hon. P. H. WELLS: The third of these books is *Reducing Noise in the OECD Countries,* Paris, 1978.

We cannot study the problem of noise in this State in isolation. Noise is referred to in a whole range of legislation, and I instance the Dog Act, the Traffic Act, the Local Government Act, the Construction Safety Act, and others.

The Bill before the House treats noise as a pollution, and it will update the parent Act. As I said, I do not want to deal with all the books I have studied, but I would like to refer members to one or two important references.

The Noise Abatement Act is concerned about the fact that noise can cause injury to people. One of the books I read referred to the tragedy of Helen Keller who suffered from deafness and blindness from birth. This lady once said—

> The problems of deafness are deeper and more complex, if not more important, than blindness. Deafness is a much worse misfortune because it means the loss of the most vital stimulant, the sound of voice, that brings language, sets thought astir and keeps us in the intellectual company of man.

As I said, we communicate by the means of noise. However, not all noise is unpleasant. Many people enjoy certain types of noise. I can remember with pleasure many years ago being on the beach at Port Phillip Bay on a stormy day and enjoying the sound of waves crashing in. Every member enjoys various musical noises.

When a new mother hears her baby crying at birth, that is a very pleasant sound to her. Certainly it is not offensive. However, although we may legislate to try to reduce noise, and attempt to encourage industry to this same end, man himself is often guilty of causing unnecessary noise. The book *Reducing Noise in the OECD Countries* quotes from a report of an *ad hoc* committee set up to determine a noise abatement policy. On page 57 the following appears—

> . . . . an ordinary member of the public who may wittingly or unwittingly be causing annoyance to others. Nuisance generated by such people is by no means trivial as can be shown by a few examples. Motor vehicles (two wheels or four) may be driven noisily or quietly with the noise output bearing no relation to the effectiveness of operation. A person may buy a noisy lawnmower because he likes other aspects of it when a quiet one would do him just as well; he did not know about the noise when he made the choice. A club may shoot rifles and guns when most people want to rest out of doors. A factory manager may leave a noisy fan in operation because nobody has told him it needs repair. In short, there is a wide variety of noise nuisance where the costs of abatement are by no means high either absolutely or in relation to the benefits achieved. This is the sector where low-cost measures can be effective.

That is really saying that although we may sit here and legislate in regard to recognised problems, a whole range of problems exist in the community and we must educate people to do something about this. Perhaps the Hon. Peter Dowding's reference to social change and education is relevant to this point also.

Although I could not agree with some of the honourable member's points, it is quite pleasing that he agreed with certain portions of the Bill. I am quite certain in due course the Minister will take the opportunity to thank him for that support.

The honourable member indicated some displeasure about certain parts of the Bill and I gather that because of business pressures in a heavy electorate he did not have the necessary time to determine the effects of the proposed legislation and to read all the available material.

The Hon. Peter Dowding said that the Government has done nothing about noise legislation since the parent Act was introduced by the Tonkin Government in 1972. His statement was quite incorrect. As well as the Bill before us now, we must have regard also for the regulations and the improvements the regulations have effected.

The Hon. Claude Stubbs did the groundwork for the original Bill which was introduced in 1972. I gather from that gentleman that after he did all the work, the legislation was taken over by the Leader of the Opposition in another place who was then the Minister for Health. After he had taken his scissors to the Bill, it was presented to and passed by this Parliament on 23 November 1972. However, I believe it was not promulgated until 5 October 1973.

It is surprising that this quite important measure was delayed for so long.

During the debate on other measures tonight, we heard it said that we ought to be able to discuss the relevant regulations also. I would like to point out that the noise abatement regulations were not available until long after the Bill was promulgated. The first regulations were published on 21 July 1974. If I have the dates correct, that was the first year of the Court Government.

The regulations have been updated on a number of occasions, and we have had at least three amendments since 1974. I do not believe we can give proper consideration to the legislation before us without dealing with the regulations also. It was the Hon. H. W. Olney who protested about the lack of regulations in connection with another measure.

The Hon. Peter Dowding did not make reference to these regulations, despite the fact that they had been widely circulated within the industry, and that his colleague in another place had a copy of them. Section 48 of the Act provides that the Governor may make regulations in a much wider field than he could under the 1972 legislation. Hence the proposed hearing conservation regulations.

This legislation will make great inroads into the problem of noise pollution in that every employer will be required to take action to eliminate or reduce noise. It has been estimated that a worker suffering prolonged exposure to noise in excess of 90 decibels is likely to suffer some hearing defect. Therefore the importance of this legislation must not be underestimated. The owner will be required to carry out a survey to locate offensive noise, and attack the problem at its source. The first step is the installation of improved equipment. However, this may not be possible. For example, it is not possible to reduce the noise level emitted by a generator in a power house. Therefore, the alternative is to try to insulate the worker from the noise source by placing him in an area isolated from the problem. In addition, employers are required to erect notices advising employees of excessive noise in the vicinity and are required to provide protective equipment. Workers will be required to undergo frequent hearing tests by trained officers. In cases of extreme noise, workers must be rotated.

If the Hon. Peter Dowding had asked the Government where in these times of financial crisis it would get the money to implement all the provisions of this legislation, and provide improved equipment, more employees, and the surveys and reports which are inherent in the legislation, his might have been a more worthwhile contribution. However, he passed over that area as if it meant nothing.

Quite a deal of effort and input has come from industry, and major strides have been made in terms of hearing conservation in industry.

The Hon. Peter Dowding said he agreed with the Government in certain areas, and I wish to consider some of them. I deal first with the problem of alarms ringing at all hours of the night. After an alarm has been ringing for 30 minutes, it is considered to be an offensive noise and the legislation empowers the police to enter the building and turn off the alarm.

It was both pleasing and interesting to hear the honourable member support this provision. It was pleasing because he agreed with the Government; this is an area to which he has been exposed, so we know it has been offensive to him and therefore the provision has his support. It is interesting, because his other comments were to the effect that provisions permitting police to enter private houses where parties and the like were taking place to "turn off" the noise emanating from that source were "draconian." It is interesting that in the case of small shopkeepers, who employ a great number of people in this State, the Hon. Peter Dowding believes it does not matter if the police bash down a door or two. However, apparently the same provisions should not apply to the rest of the community.

It may surprise the Hon. Peter Dowding to learn that I have undertaken a review of this legislation and although I agree with the general sentiments expressed in this provision I do not believe the legislation is perfect. I am certain the police would not like the idea of having to break into premises. Let us say an alarm goes off at 2.00 a.m. one Sunday. The police are called, and they must wait for 30 minutes before they are permitted to enter the premises. I would have thought if an alarm were ringing, it was an open invitation to the police immediately to check the premises to see whether someone was inside. I remember when I lived in Yokine, the local liquor store had a burglar alarm which constantly sounded in the middle of the night.

The Hon. H. W. Gayfer: If someone had been in the liquor store all weekend, he probably would not want to come out.

The Hon. P. H. WELLS: The police might need to take him out on a stretcher. After 30 minutes, the police would have authority to take action. Now, unless the Police Force has suddenly become flush with money, I am sure it does not have a locksmith or an alarm specialist on the force to be on standby for this duty. Both these experts would be needed—one to enter the

premises without damage and the other to turn off the alarm. In the absence of such experts, the police doubtless would get one of their private enterprise contacts out of bed to come and assist them. Therefore, it would be another 1½ to two hours before the building would be entered.

Having turned off the alarm, the policemen's next problem is what to do with the building. Do the police attempt to secure it again, or do they station someone outside the building for the rest of the night? Possibly, some enterprising young criminal sitting on the corner watching this whole episode might decide it would be a very simple thing then to burgle the property.

The Hon. Peter Dowding: They would simply reset the alarm.

The Hon. P. H. WELLS: Yes, if they opt for the alternative of securing the building.

The Hon. Peter Dowding: Are you opposing this clause?

The Hon. P. H. WELLS: I believe it needs attention. I am sure the police would sooner have some means of entering the building by the front door instead of breaking in. I have checked with the police and I find the owners of some small businesses have taken the sensible precaution of registering on the police key register. In addition, some alarm companies offer a 24-hour service and also are licensed to handle keys. In many cases, the police cannot find the owner of the premises and the alarm is left to ring throughout the night.

There are a number of options available to overcome this problem. One is a compulsory police key register. Obviously, this would be hard to implement in country areas, especially in the Hon. Peter Dowding's electorate; I understand the police are not on call 24 hours a day in the country.

The next possibility—to which the Minister gave some consideration, and which is the subject of an amendment on the notice paper—would be to require the owner of the premises to have his name on the door so that the police could contact him quickly. Of course, even that suggestion has problems.

Another solution is to require each alarm to be fitted with a reset button which cuts out after 15 minutes. The Minister has assured me he will give consideration to these alternatives in an endeavour to overcome the problem.

I refer members to clause 18, which seeks to amend section 48 of the Act. Proposed subsection (2a) in part, states—

> Any regulations made under this section may adopt . . . any of the standards, rules, codes or specifications of the bodies known as the Standards Association of Australia, the British Standards Institution, or other like body specified in the regulations.

The hearing conservation standards which have been accepted are readily available for study.

I am glad the Hon. Peter Dowding contributed to this debate because there is room for tremendous input by draftsmen and lawyers alike. Recently there was an article in the newspaper to the effect that it was time lawyers started using plain language. If I recall correctly, the Hon. Peter Dowding attacked the definition of "occupier" in clause 5 of the Bill. What the member said may well be true. It may be poor drafting. It might be time to change the whole system. Instead of having definitions referring to other Acts, the full definitions should be included in each piece of legislation.

I draw the attention of the Hon. Peter Dowding to the fact that that definition was introduced by his party in the 1972 Act. Apart from that, the system of describing definitions by reference to other Acts is consistent with the practice in other States.

In terms of the definition of "offensive noise" on page 7 of the Bill, perhaps the Minister or someone else might be able to enlighten me about the term "other circumstances". I gather that in this day and age we may be subject to an electronic type of noise. Perhaps we are referring to the excessive noise that comes from this place.

Another matter relates to the power of the police and authorised people to enter places where there are offensive noises. The interesting aspect of this is that the provision is identical to that contained in the Noise Control Act of New South Wales. Perhaps the member will give me the courtesy of saying why he believes that the Act should be able to operate in New South Wales under a Labor Government, and that people should have the power to enter buildings and premises where there is offensive noise when, under a Liberal Government in Western Australia, they should not be allowed to have that power. The New South Wales Act has been in force since 1975.

In relation to the inspectors under proposed new section 33A, it is my hope that consideration will be given to not appointing new inspectors, but to using those already in existence. There are factories inspectors, mines inspectors, and inspectors in various other areas. We do not want to create more positions, but rather we should use people who have been appointed already.

The mention of mines inspectors reminds me of a noise about which we might be able to do very little. Those who have been working in the mining industry would know that I am referring to drills at the face, particularly when working in hard rock. There would be difficulty in suppressing that type of noise. There is protective equipment; but one cannot turn around and say that, with some new, magic legislation, we will wipe away all this noise. People who think that are dreaming.

I liked one part of the speech by the Hon. Peter Dowding, and that related to the magical Acts from other places. One of those was the United Kingdom Control of Pollution Act of 1974. It is interesting that that Act replaced the Noise Abatement Act of 1960; and it was introduced two years after the Labor Government introduced its legislation. In those two years, the United Kingdom must have learnt a mighty lot that had not been learnt by the Labor Government.

The Hon. Peter Dowding made reference to these Acts; but I am not sure whether he read them in detail. I draw his attention to a reference in *Reducing Noise in OECD Countries* at page 57, as follows—

> An example is the United Kingdom Control of Pollution Act 1974 which extends to noise the well-tried principle in that country of Codes of Practice on how to abate pollution. The Act enables the government to issue or approve codes about the minimization of noise from any particular source. The codes will have no statutory or binding status, but they will be recommendations of best practice in the public interest. A court will be able to take them into account if it so wishes in deciding a case, but the prime purpose of the codes will be to prevent nuisance arising through thoughtless or ill-informed action.

Let us consider that with the clause in the Bill which refers to the ability to publish and make available for town planners and the like maximum noise levels applying under the proposed Act. I would say that our legislation has a lot more going for it than the United Kingdom Act. I am not certain why people refer to the United Kingdom Act. Is there something magical about it?

The Hon. Peter Dowding referred to the Noise Control Act of New South Wales. I went to that Act, and I found, strangely enough, that in that Labor Government State, the words the Hon. Peter Dowding is attacking appear within its Act. However, he is not attacking that Act; so it is nothing to do with those words.

He referred to the United Kingdom Act, the New South Wales Act, and the Victorian Act. The Victorian Act is the Environmental Protection Act of 1970. All of a sudden it fell into place. Each of those Acts has had a new name. Now we have the American approach, that if we change the name to include a reference to "pollution", that is the answer. The Government did not alter the title of the Act. In the United Kingdom, when they altered the Act, they changed the title. Instead of being the Noise Abatement Act of 1972, it became the Noise Pollution Act.

There has been a statement that we have a noise nuisance, and we are not doing anything about noise pollution. I suggest that the member would be happy if we changed the name.

Another matter raised by the member related to the term "occupier". There was a court case in relation to the Claremont Speedway, because people had not been able to handle the situation. The court took into consideration the community interest and the community acceptance of noise levels. In relation to noise, we have to make some sort of judgment. The member pointed out that the Bill does not do anything in that field.

I wondered what sort of legislation the Hon. Peter Dowding thought we should have. I thought the best place to look would be in New South Wales, where there was a Government of his own political colour. When I looked at the New South Wales Noise Control Act, I found that in section 54(11) there was a provision excluding any lawful sporting activity. If the Claremont Speedway had been in New South Wales, there would not have been any question of its being taken to court because it would have been excluded under the Act.

The Hon. Peter Dowding: Would it help if I agreed to be converted?

The Hon. P. H. WELLS: I do not know to what the member is referring. I am saying that in terms of his speech—

The Hon. Peter Dowding: The agony and the ecstasy of it!

The Hon. P. H. WELLS: In terms of hearing conservation, the member attacked the Government without even making reference to a major clause in the Bill. There has been opposition to the fact that there have been no regulations. I would have thought that on this occasion, when they were provided and circulated, there should be some acceptance of the fact that the Government was making inroads in that area. I agree there are areas that require further consideration. For instance, an authorised officer or inspector may provide a noise abatement

direction. It is necessary to have the 30-minute provision, because it could happen that someone with a motorbike could be revving it and turning it off every 20 minutes or every 30 minutes. He could probably check that, and take some action.

There needs to be some discussion with local authorities about this aspect. The officer could make a noise abatement direction. If it was after 9.00 o'clock and before 6.00 o'clock, a police officer would be able to go and give the direction, but not during the day. Twenty-four hours later that person could create the noise again requiring the return of the authorised officer to give another noise abatement direction.

On speaking to local authorities, one learns that there are people in that situation who have to go back time and time again. If it is necessary, there has to be a noise abatement order; and the fine then is $1 000. The next stage, under section 26 of the Act, is to go back to the local authority. The officer may be able to do nothing because the authority is not sitting. When the authority finally says "Yes, we will issue a noise abatement order," it is no consolation to the person who has sick children and who lives next door to a party which goes on all night.

Consideration should be given to this provision. It may be worth while taking one of the provisions under the Health Act and providing for deputy local government officers who could give noise abatement orders straightaway.

I have not had time to study that aspect in depth and I expect discussions between local government and the people who are to implement that particular provision will need to take place. A number of people have experience in implementing the Act. Many of them have difficulties interpreting it. I do not suggest there is anything wrong with a person having a party at a reasonable time.

The Hon. Peter Dowding: What is a reasonable time for a party?

The Hon. P. H. WELLS: Generally I would consider that if one was making a noise at 2.00 a.m. and keeping the neighbours awake, that would be offensive.

The Hon. Peter Dowding: How about 12.30 a.m. on 15 May?

The Hon. P. H. WELLS: If I were making this speech outside the bedroom of the Hon. Peter Dowding in the early hours of the morning, he would have every right to call the police and have me removed.

The Hon. Peter Dowding: And that is not all I would do.

The Hon. P. H. WELLS: There are different interpretations of the term "offensive" and it is necessary to make decisions in this regard. However, at certain times of the day particular noises are offensive.

Indeed, one has only to examine the recommended standards for decibel levels to see that a time gradient is listed. On Sundays the noise level must be moderate earlier in the morning than on other days, and during the week, from 7.00 a.m. onwards, the noise level increases gradually until it reaches its peak in the middle of the day. It then decreases during the afternoon.

I do not believe we should stop people enjoying normal activities—

Several members interjected.

The Hon. P. H. WELLS: The clause in the Bill which relates to town planning will ensure that buffer zones are created around churches and community halls so that noise emanating from such places does not disturb the general population.

Recently an officer of the City of Stirling put before the council a series of recommendations in this regard. It amazes me that, when we have the northern perimeter road which separates the Balcatta industrial area from the residential area, consideration should be given to the construction alongside that road of a building which will house a heavy refrigeration company from which will emanate a great deal of noise.

I support the legislation because I believe it is a major step forward.

The amendment to section 48 will enable regulations to be drafted which could not be brought forward under the 1972 legislation and, indeed, such provisions were not even considered by the Labor Government which introduced the Bill at that time.

The Government has considered tackling the problems caused by noise without foisting unnecessary and restrictive legislation on the people.

In the province represented by the Hon. Peter Dowding, pastoralists use motorbikes, some of which emit a reasonably offensive level of noise. However, such noise is not offensive in outback areas and motorbikes are very useful for mustering and other activities. I suggest that if great numbers of such motorbikes were driven along city roads, the noise they created would be offensive.

The Little Sisters of the Poor at Glendalough mentioned to me recently that at night they notice the traffic noise from the northern freeway. They

do not complain about the noise during the daytime, but at night it is a problem.

The Hon. D. K. Dans: We could stop the world and let those people get off.

The Hon. P. H. WELLS: The provisions in the Bill in regard to maximum noise levels will ensure town planners and local government authorities are more conscious of these matters.

I notice that when I speak some members refer to the volume of my voice. I should like to inform members that I lost the town criers' competition which was held originally in Perth, because I could not sustain a certain decibel level, and subsequently I lost another competition.

Frequently people who speak loudly create an offensive noise. Indeed, groups of people unintentionally inconvenience other people as a result of the level at which they converse. However, when asked politely, most people will move on or lower the level of noise.

It is necessary to legislate for some situations so that it is possible for a local government officer or police officer to be called to put a stop to offensive noise.

Many employers in industry ensure their workers are not subjected to high noise levels; but some people do not show that sort of consideration and it is for these people that we must legislate.

This Bill attacks the problem of high noise levels and provides a basis whereby the situation can be policed. Today it is possible to buy compressors with reduced noise levels. Indeed, some are even called by such names as "Whispering Air" and "Silent Air". This has occurred as a result of certain codes which indicate that noise levels must be kept to a minimum. The use of machines with reduced noise levels will have a great impact on this issue.

I support the Bill, because it will assist in reducing excessive noise levels without inconveniencing reasonable people.

THE HON. D. J. WORDSWORTH (South—Minister for Lands) [12.39 a.m.]: I thank members for their support of this legislation. It is obvious different people have different methods of offering support.

As no-one has spoken against the legislation and Mr Wells has endeavoured to answer the various points raised by members opposite—and indeed he illustrated the frustration which will be created when one has to wait 30 minutes to switch off the offending noise—I shall not prolong the debate.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (the Hon. Tom Knight) in the Chair; the Hon. D. J. Wordsworth (Minister for Lands) in charge of the Bill.

Clauses 1 to 11 put and passed.

Clause 12: Part IVA inserted—

The Hon. PETER DOWDING: I move an amendment—

> Page 7, lines 28 and 29—Delete the passage "nature, character or quality".

We are concerned about this definition of noise. We understand all the arguments which support the proposition that noise can be offensive by reason of its level and because of the time at which it is made. However, we see very grave difficulties and unreasonable infringements of people's rights because a subjective judgment may be made under the provisions in the Bill. We believe the degree of subjectivity which is allowed will cause a number of problems. The definition is quite adequate without the words "nature, character or quality".

I hoped the Minister would give us an explanation, if he intends to oppose the amendment, as to what is wrong with deleting those words.

The Hon. D. J. WORDSWORTH: I appreciate the reasons the member has advanced for moving the amendment. Undoubtedly this is a difficult field to define. Nevertheless, degrees of noise other than noise levels can be annoying. I carried out a little research into this matter and looked into the introduction of the legislation into the New South Wales Parliament because, as Mr Wells pointed out, these provisions are based on that legislation.

I notice that, in the New South Wales Parliament, Mr Day of Casino—I believe he is a Labor member who was speaking to the Bill—said "I was involved in a motor business which must be a noisy business, because it includes such activities as panel beating." He went on to say "The level of noise does not always cause as much distress as does its pitch." Here is one man pointing out this problem.

When one reads the judgment of Sir Clifford Grant in the Claremont Speedway case one sees he also draws attention to this matter; therefore, I believe the definition is necessary.

The Hon. PETER DOWDING: Firstly, I should like to say I do not understand why Mr Wells and the Minister keep telling me about

what has been said by Labor politicians in New South Wales. This is not a fight between Labor and Liberal; it is a debate on the Noise Abatement Act.

I can understand the Minister's point about this, but what is the level, nature, character, or quality of noise? Why could not the word "pitch" be used?

The Hon. D. J. WORDSWORTH: The definition we will use has been used within Australia and it is a term of English and Australian slang which has stood the test of time for five years and is readily understood in this country.

Amendment put and negatived.

The Hon. PETER DOWDING: I move an amendment—

> Page 9, lines 19 and 20—Delete the passage ", or has at any time during the preceding 30 minutes been,".

I repeat the comments I made last time about this 30-minute business. I think the definition of a noise is subjective if power is to be used to gain entry to a house. I believe this is a draconian power and Mr Wells may be interested to know that Dracone was an Athenian legislator in the year 621 BC.

The person who is to make the judgment about the entry and the quality of the noise ought to be the person who has to enforce the law. We should not be relying on the complaint of a neighbour or the little lady next door who does not like the Rolling Stones. For those reasons we urge that the words be deleted.

Amendment put and negatived.

The Hon. PETER DOWDING: I move an amendment—

> Page 11—Delete paragraph (c) and substitute the following—
>
> (c) subject to subsection (2), enter the premises from which noise has been emitted, with the aid of such other authorized persons as he considers necessary and with the use of reasonable force, at any time when he believes on reasonable grounds that an offensive noise is being emitted from those premises; and .

This amendment deals with the 30-minute provision.

Amendment put and negatived.

The Hon. D. J. WORDSWORTH: I believe that this deletion would emasculate the clause, the aim of which is to ensure one has the ability to enter if the noise has been made during the previous 30 minutes. If this provision were not made the noise could be recurring quite regularly. I think under the provisions if a policeman does appear near the premises this allows him to say the noise has occurred. I am sure that in most cases there will not be a prosecution. The remarkable experience we have had with this legislation is that most problems can be satisfactorily resolved without court action.

I move an amendment—

> Page 11—Delete paragraph (c) and substitute the following—
>
> (c) subject to subsection (2), enter the premises from which noise has been emitted, with the aid of such other authorized persons as he considers necessary and with the use of reasonable force, at any time when he believes on reasonable grounds that an offensive noise—
>
> (i) is being emitted from those premises; or
>
> (ii) has, within the preceding 30 minutes, been emitted from those premises;
>
> and

Amendment put and passed.

The Hon. D. J. WORDSWORTH: I move an amendment—

> Page 12, after line 15—Insert, after proposed new subsection (1), the following new subsection to stand as subsection (2)—
>
> (2) An authorized person shall not, if he exercises the power referred to in subsection (1)(c) between 9 p.m. on one day and 6 a.m. on the following day, use force in so doing unless he is a police officer or is accompanied by a police officer.

The Hon. PETER DOWDING: The Opposition fully supports the insertion of those words. It sees this as a measure of concession by the Government. The Minister has been able to accede to our suggestion.

Amendment put and passed.

The Hon. D. J. WORDSWORTH: I wish to advise that the Government does not wish to proceed with the further amendment on the notice paper.

The Hon. PETER DOWDING: I wonder whether I could ask the Minister why we will not proceed with this amendment because we were rather impressed with the suggestion.

The Hon. D. J. WORDSWORTH: This matter arose with regard to a request from Mr Peter Wells when he felt there should be some way in which the address of the owner of the premises, or his alternative address, could be obtained. The police did look at this and at a later stage pointed out that perhaps the address could be used for information when breaking into the premises.

In fact, a person wishing to rob a premises could ring the number stated on the card and if the owner arrived with the key to enter the premises to turn off the alarm he could easily be subject to a holdup.

Clause, as amended, put and passed.

Clauses 13 to 18 put and passed.

Title put and passed.

Report

Bill reported, with amendments, and the report adopted.

Third Reading

Bill read a third time, on motion by the Hon. D. J. Wordsworth (Minister for Lands), and returned to the Assembly with amendments.

WORKERS' COMPENSATION SUPPLEMENTATION FUND AMENDMENT BILL

Second Reading

Debate resumed from an earlier stage of the sitting.

THE HON. H. W. OLNEY (South Metropolitan) [12.58 a.m.]: In the intervening period since the Bill was introduced earlier this evening I have had the opportunity to make some inquiries directly to the Minister for Labour and Industry and I have satisfied myself as to the reasons for the major amendment that is proposed by this Bill.

Members of the House probably will recall that the Workers' Compensation Supplementation Fund Act was passed with the support of the Opposition, but with some reservations being expressed by Government members. However the Minister for Fisheries and Wildlife and I managed to pilot the measure through. It has been realised that some amendments are required. One aspect of the amending Bill is to take account of the fact that the Workers' Compensation Act of 1912 is about to be repealed.

The Bill is not as imminent as it was thought to be when this amending legislation was prepared, but because the principal Act is now being amended and makes reference to the 1912 Act, it is proposed to make certain amendments to delete reference to that Act and to refer to the 1981 Workers' Compensation Act, yet to be passed.

Provision is made that the amendments will not come into force until the new Workers' Compensation Act comes into force.

The major amendment is to limit the retrospective effect of part v of the Act in so far as it permits claims to be made by employers against whom a judgment or an award of compensation has been made, and in respect of whom the insurer has been unable to meet his liability under the workers' compensation insurance policy. The Act in its original form, as it was passed last year, applied in respect of all claims arising both before and after the appointed day—the day on which the Act will be proclaimed to come into force.

It will be remembered that in recent times a number of failures of insurance companies has occurred. I refer to major failures in particular, one involving the Northumberland insurance company some years ago, and one more recently involving the Palmdale group. It is now realised that the section as it stands would enable claims to be made by employers who had paid compensation, but were unable to collect it from their former insurer, Northumberland; and the amounts involved are quite large and go back some years.

The Government in its wisdom has decided if the claims were paid out, this would be an unreasonably heavy burden upon the fund to be set up under this Act so the amendment to limit the retrospective application of the Act to 1 January 1979 is intended to pick up claims arising from the failure of the Palmdale group, but not the Northumberland company. This having been explained to me by the Minister for Labour and Industry, the Opposition is prepared to accept it as a reasonable approach and will support the move.

However, I think the amendment is not completely satisfactory because I have just noticed that clause 6 on page 4 is designed to delete the reference to the Workers' Compensation Act 1912 and to substitute "Workers' Compensation Act 1981". It seems to me that the amendment will have the effect of entitling to claim against the fund only those who have a judgment or an award made against them in respect of liability under the new 1981 compensation Act. Perhaps this is something the Parliamentary Draftsman should look at to determine whether section 19(1) should refer to both the former Act and the new Act.

In view of the lateness of the hour we are happy to leave that to the Parliamentary Draftsman to work out. As the new Workers' Compensation Act will not be in force for some time an opportunity will be available to remedy this defect. Therefore, it will not prejudice this very worth-while piece of legislation, which has yet to be proclaimed, but which I am told will be proclaimed immediately this amending Bill is passed.

The Opposition supports the Bill.

THE HON. G. E. MASTERS (West—Minister for Fisheries and Wildlife) [1.06 a.m.]: I thank the honourable member for his comments and for his and his party's support of the Bill. I assure him I will draw his comments to the attention of the Minister and the Parliamentary Draftsman.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

Third Reading

Bill read a third time, on motion by the Hon. G. E. Masters (Minister for Fisheries and Wildlife), and passed.

ELECTORAL DISTRICTS AND PROVINCES

Distribution: Motion

Debate resumed from 30 April.

THE HON. R. HETHERINGTON (East Metropolitan) [1.10 a.m.]: I was interested to see that this motion was put to the bottom of the notice paper and left there until we had other legislation pass through the House. The fact remains that even when that legislation is proclaimed the motion before the House will remain absolutely true as it was previously, and I think that is a very serious matter.

The key aspect of the motion is that it demands that we should have a democratic system with all citizens being entitled to enjoy equal political rights, which must be the basis of reform for our electoral system. I think it is time that, if not in this session then in the next session of Parliament, we seriously considered once more having real reform of our electoral system, because it is high time we did.

The other night during the adjournment debate the Hon. Peter Wells mentioned the shooting of the Pope and the growth of violence in our western society. At the same time my leader (Mr Dans) showed a headline about violence in Ireland. I think we could learn some lessons from Ireland. I know I will be accused of being a doomsday man if I say this, but people used to think things were all right in Ireland at one stage.

The Hon. G. E. Masters: But not for a long time. They have been very serious for a long time.

The Hon. R. HETHERINGTON: They have been very serious since about the time of the Tudors, since Ireland was settled by protestants in order to keep the native Irish in check. Ever since then the Irish have been very aware their country is occupied by a foreign power and they have been fighting against it. The situation may have been all right had there not been a deliberate gerrymandering of the electorates.

The Hon. G. E. Masters: Do you think that is the reason for the trouble?

The Hon. R. HETHERINGTON: It is one of the reasons because if people can never get adequate representation then they cease to try to achieve things through democratic means. Certainly that is one of the reasons for the trouble. I happened to teach Irish politics at one stage and I read about the deliberate manipulation of the voting patterns in Northern Ireland. I am not saying this Government is as bad as that yet, but I am suggesting it is taking the first step on the way and should consider it very seriously, because at present we can judge the magnitude of the concern about the manipulation of our electoral boundaries by the number of people in the gallery. I think at a maximum it was about six. While we have that kind of apathy, while people are moderately satisfied with the way things are going, the Government can get away with it. But as the screw turns a little further and people find they are being denied their electoral rights by a system which is loaded against them, then the day may come that the people of this country will turn against democracy as they have in other countries.

Do not say it cannot happen here, because it can happen here, as it has happened everywhere. When I was a boy after World War I, I grew up in a society in which we were taught in our schools—which were propaganda places for democracy—that we had fought the war to end all wars and the war to make the world safe for democracy. Then I lived through a period when one democratic Government after another fell before the onslaught of totalitarianism. It can happen again, and we need to take this seriously. The moment any group thinks it is the custodian of all truth, we get repression and trouble.

Once people take the first fatal step to believe—as the Minister for Fisheries and Wildlife suggested the other day—that the Labor Party is talking about power and will do terrible things if it gains that power, they are in trouble. The Minister was saying that if we have a democratic system and we let the Labor Party govern, no matter what the electorate thinks, his party knows the Labor Party is wrong and he must not let it get into power, because the Labor Party is thinking about power; it wants power if the majority of the people vote for it, and it wants power to carry out the policies the Minister does not believe in. Once people take that first fatal step they are on the way to repression and totalitarianism.

People who believed they knew the truth and that it was necessary for the political good of the country that their truth prevailed, were the Spanish monarchs at the time of the Inquisition, Hitler in Germany, and Stalin in Russia. We could include all the other autocrats the world has known at various times.

We had the conservatives in Britain who, at the time when Ireland was trying to get self-Government in the 1920s, threatened to revolt if self-rule was granted. The end result was bloodshed and slaughter until part of Ireland gained its independence.

Do not tell me it cannot happen here, because it can. Do not tell me Australians are not like that, because they are. I have heard stories about some of the warders of detention barracks during the war, when they had power, and what they did to soldiers whose spirits they had to break. What they did was outrageous. Much has happened in the Australian army and even quite recently during the Vietnam War people were put into cells, stripped, and had cold water poured on them to teach them their manners and what was right.

Once people start believing they are the custodians of the truth they have put their feet on the rotten path to power. I do not believe that Acton's statement was strictly correct, but he did say that "Power corrupts and absolute power corrupts absolutely." That is one of the reasons that in a democratic representative system we try to build up a series of checks and balances against overweening power. That is one of the reasons we should not allow dedicated public servants with the best will in the world to have too much power, because they might be doing things people do not like. The person I trust least in politics is the honest, dedicated person who believes he knows the truth and that what he believes is what every other person must be forced to accept. Such men are dangerous.

The Hon. H. W. Olney: Is his first name Charles?

The Hon. R. HETHERINGTON: There was a Charles who lost his head. The corrupt Charles II did not lose his head and England was better for it. His brother wanted to force his people into his own mould. Mary I wanted to do the same thing. Elizabeth I, who was a trimmer and a politician, managed to build England into some kind of greatness. She managed to give Parliament enough rein that it took steps towards greater freedom and democracy.

As I have said before, the RSL has a motto "The price of liberty is eternal vigilance." That is very true. The moment we give way we are on the first step towards perdition. The moment we do not defend the people we do not like—the civil rights of communists—we are building a rod for our own backs. The moment people start cooking electoral boundaries they are on the road to corruption, believing they know better than anyone else. That is happening in this State with people who call conservationists and others dangerous subversives. The people who believe that are dangerous. Members opposite are the people who believe it and they are the people who are writing our electoral laws.

It is high time that members who support the Government, members of goodwill, had a look at their leadership. Whatever else they may think of the Premier and his abilities—I know they are great—they should stop to look at his attitude towards people and dissentients and begin to wonder whether they are not putting the feet along the road to perdition. If people do not watch themselves they can fall into corruption. From this we can go on to banning free speech. We have already had the Minister for Education—I do not think he is naturally dictatorial—giving us three examples in the newspapers of errors of fact and then suggesting that school teachers should not have the right of free speech. The moment he withdraws that right the Government is taking a step backwards into darkness. It is possible it would be taking a step towards autocratic or totalitarian darkness, because in terms of the economic crisis with which we are faced, there are pressures placed on the community and we can fall into the trap of following someone who is a self-appointed leader who thinks he has a divine right to rule. We must realise that we can be led astray.

As I said yesterday, electoral systems which we would say objectively are unbalanced and

malapportioned, can work in some ways like democratic systems because of the demographic distribution of population. So in fact, if not in theory, the party that gets the majority of votes can get the majority of seats. When that happens people go along and forget the possibility that things might be worse.

One of the abiding faults of the British is that they believe they have, through history, come in the end to the present system where their mother of Parliaments is showing the truth to the world. There are some people in Britain, including the Liberals and Social Democrats, who are not satisfied with the system of voting they have, where a few years ago the Wilson Government was elected to office with a majority in the House of Commons with 37 per cent of the vote against the conservatives' 38 per cent. What we do not know is who the majority of people really wanted.

Britain has a first-past-the-post system with single member constituencies, which the Hon. Vic Ferry would consider malapportioned in some ways. Therefore we do not know how the two-party preferred system would have worked had there been a different system.

It is high time the British looked at their system and brought reality into the theory they are a democratic country. When they do they will find that, quite unlike their fears, they will not get unstable government. Someone will get in—probably the Social Democrats, who will have the balance of power, making it necessary to form a coalition—and just as Tasmania has had preferential representation since 1896—which everyone said quite incorrectly would cause instability—they would find they had a very stable Government for a long time.

If members really believe in democracy, freedom, and political equality, they will vote for my motion. I suggest they look for a political system which would give them two things: the kind of representation they think is necessary and a democratic form of government which it is possible to have. I suggest one possibility. It is not the policy of my party—if we had a Royal Commission and two parties of goodwill, I have no doubt we could get a system which satisfied everyone who believed that if a majority of people vote for a particular political party, it should form a Government.

Of course, this is not what the people ruling the Liberal Party at present want. It is what people in the Western Australian branch of the Labor Party believe in right now. I do not quote the Queensland, New South Wales, or South Australian branches. One of these days I will read out the original platform of the Labor Party which, if it were still the platform of the party, would mean I could not belong to it, because it was a racist platform. But since then it has become a party interested in democracy and freedom.

I invite people who take the name "Liberal"—which comes from John Stewart Mill and the Liberales of Spain—to look at the principles of Liberalism and the principle of the right of individuals. When I was a lecturer in politics I used to be invited to go to Young Liberal meetings. I enjoyed this very much. I did not preach socialism or Labor Party policy; I preached Liberalism because I thought that if people committed themselves to the Liberal Party it would be a good thing if they followed the principles of Liberalism.

The Hon. Andrew Mensaros, the member for Floreat, attended one meeting and was obviously a little worried about what I would say. I finished up with the peroration that they should stick to the principles of Liberal democracy common to both the Liberal and Labor Parties. I invite members of the Liberal Party in this House to do just that.

If they do that we will have a better country and one day the Labor Party might obtain a majority and be in government. If the Liberals are so sure of the superiority of their policies and their Premier they have nothing to worry about—it will be fine. If the electors of Western Australia choose freely to vote for a Liberal Government, that is their democratic right. As I have pointed out before in this House, that is the difference between a democratic socialist and an authoritarian socialist. Democratic socialists believe in democracy; that socialism cannot be brought in until the people want it, and when the people want it they should have it and should not be prevented from having it by artificial manipulation of the electoral system of the kind we have now.

I will not weary the House much further. I hope I have stirred a conscience here and there.

Amendment to Motion

The Hon. R. HETHERINGTON: In order to bring the motion up to date I move an amendment—

> Paragraph (3) —Delete all words after the word "Assembly" in line 2.
>
> Paragraph (4) —Delete subparagraphs (b) and (c).

I refer to the motion as it would read if my amendment is accepted. It will read—

(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.

That statment is correct now and it will be correct when the new legislation is proclaimed. To continue—

(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;

That will still be true when the legislation is proclaimed. Then we suggest that all Legislative Assembly seats should be as near as practicable equal and elections for the Legislative Council should be based on a fair and equitable method of redistribution. If any honourable member wants to amend that paragraph so that it will read that the Legislative Council seats will be based on a system which gives equal political rights to all electors, I would be happy—I can speak for my friend on my right—to accept that amendment. If anyone from the other side rose to move such an amendment I would be overjoyed because I would be seeing the dawnings of democracy in this country.

I still hope I will die in Western Australia when it is a democracy. I expect to live for another 36 years. So far as I am concerned time is running out.

I suggest to honourable members opposite they go away and read some liberal principles and become true liberals; then I would rejoice because I can live with such people. I would still not approve of their policies, but their policies would not be all bad.

I commend the amendment and the motion in its proposed form.

Amendment put and negatived.

Question put and negatived.

Motion defeated.

Sitting suspended from 1.35 to 1.54 a.m.

LOCAL GOVERNMENT AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by the Hon. I. G. Medcalf (Leader of the House), read a first time.

Second Reading

THE HON. I. G. MEDCALF (Metropolitan—Leader of the House) [1.56 a.m.]: I move—

That the Bill be now read a second time.

Opposition members: Have your speech incorporated in *Hansard*.

The Hon. I. G. MEDCALF: If the House wishes to have the speech incorporated in *Hansard* I am quite prepared to do so.

The following speech was incorporated by leave of the House—

This Bill seeks to repeal and re-enact part IV of the Local Government Act which deals with municipal elections, polls and referenda. It is the result of a great deal of thought and effort on the part of many people and was prepared after extensive consultation with local government.

Many significant changes have been incorporated in the Bill. The franchise for enrolment has been extended and the system of voting widened to permit greater participation by electors. The principle of one-man-one-vote has been incorporated and numerous improvements have been made to the machinery provisions for the conduct of municipal elections and polls.

Development of this legislation has been a very extensive process which commenced some years ago. Initially a committee of representatives of local government was appointed to review the existing provisions of the Act relating to elections.

Following completion of that far-reaching review a further committee of local government and departmental officers was appointed to examine the practical application of the reforms recommended by that first committee.

In 1978 a document outlining the changes which had been recommended by the review committee was circulated to all municipalities and the associations of local government for comment.

Some 87 submissions were received from councils, the associations and other interested parties. All of these submissions were given careful consideration and a draft Bill prepared incorporating many of the comments and proposals which had been made.

This draft Bill was then circulated, for further consideration and comment. About 75 responses

were received and, where appropriate, suggested alterations have been incorporated in the Bill.

This process of consultation with local government has enabled the Government to bring forward legislation which is very much in tune with the views of local government, generally.

The main features of this new legislation are as follows—

First and foremost is the change to the electoral franchise. The franchise has been extended to permit the enrolment of the spouse of an occupier of ratable property thus overcoming the problem where tenancy agreements are often in the name of one partner only and that person's spouse has not been entitled to enrolment.

Non-British subjects, who own or occupy ratable property and are ordinarily resident in Western Australia, also will now be entitled to enrolment for municipal elections.

Although the property-based franchise is to be retained, those who have a vital interest in the activities of their local council, the owners and occupiers of ratable property and their spouses, irrespective of their nationalities, will have the right to elect their representatives to Council.

Qualifications for election to council will remain substantially as they are at present. To be a candidate for a council election a person will still have to have attained the age of 18 years, be the owner or occupier of ratable property, be registered on the electoral roll of the municipality and be a natural born or naturalised British subject.

The one change is that owners will have to be enrolled on the electoral roll in order to be qualified as candidates.

Annual elections will continue with one-third of all councillors retiring each year. The date for the annual election has been brought forward to the first Saturday in May. The multiple voting provisions that presently exist in the Act and give an elector between one and four votes in a mayoral election and one or two votes in a councillor election, depending on the value of his property, will be abandoned.

The Bill provides that an elector will be entitled in a personal capacity to one vote only in respect of each ward in which he is entitled to vote. Where an elector is registered in both a personal capacity and as the nominee of a corporate owner, he will be entitled to a maximum of two votes being one vote for each enrolment.

Polling hours of 8.00 a.m. till 8.00 p.m. on polling day will be retained. However, major changes have been made to the system for the casting of a vote prior to polling day. An elector will have an opportunity to cast his vote prior to polling day by either of the following three methods—

Early voting—which will allow an elector who is unable to attend a polling place on election day to cast his vote at the office of the council in which the election is to be held, during normal office hours, for a period of 19 days prior to the election day.

Absent voting—for an annual election only, an elector who is unable to attend on polling day and also is unable to cast an early vote, will be able to lodge his vote at the office of any other council in Western Australia.

The period during which absent votes may be cast will be normal office hours, from the 19th day through to the third day, prior to the annual election day.

Postal voting—which will allow an elector who is unable to attend on polling day to apply to the returning officer for postal voting papers in much the same way as he is able to do under the existing provisions of the Act.

Under the Act at present, the dates prescribed for a variety of procedures preliminary to an election, including advertising the election and receipt of nominations, differ between councils in the southern parts of the State and those in the northern areas. This difference has been removed and all councils in the State will now operate under the one timetable.

The period during which nominations may be made will now be 14 days for all councils; previously it was 35 days in the northern districts and 14 days in southern districts.

The amount of the deposit which must accompany a candidate's nomination for election has been increased from $10 to $40.

The procedures involved in the preparation of municipal electoral rolls have been changed considerably. However, the requirement for the annual preparation of an electoral roll has been retained. Owners of ratable property automatically will be included on this roll, whereas occupiers will be included only on application.

Once an elector is enrolled for the first time he will automatically be included on the new annual roll each year provided he retains his eligibility.

An important new feature of the electoral roll procedure is the inclusion of a requirement for each council to prepare a supplementary roll prior

to every election, including extraordinary elections, to ensure that the electoral roll is as up-to-date as possible.

There will be one addition to the circumstances under which a member of a council is disqualified from holding office. The Bill provides that a councillor who is convicted of committing a misdemeanour, which is defined to include all the more serious electoral offences under the Bill, in relation to his own election, will be disqualified from holding that office.

There have been several occasions in the past where a councillor or councillors who have committed very serious breaches of electoral provisions of the Act in relation to their own election, have been prosecuted and found guilty of those offences, but have continued to hold office as a councillor.

The disqualification from office will apply only in relation to his particular election and he will not be prohibited from nominating again. This change will ensure that candidates are unable to unlawfully manipulate the electoral procedures to gain election to office.

There have been difficulties encountered in situations where councillors have apparently disqualified themselves from office but have not been willing to acknowledge that disqualification. In these cases, the returning officer has been left in the position of not knowing whether he should proceed to fill the vacancy that would result from that disqualification.

To overcome these difficulties a procedure for testing the qualification of a councillor through the courts has been incorporated.

The preferential system of voting will continue. However, the method of counting votes where there is more than one vacancy to be filled at a particular election has been changed.

The present method for determining the results of a multiple vacancy election is known as the universal system under which the numeral recorded against a candidate's name on the ballot paper is counted as that number of votes against him and the candidates receiving the least number of votes are declared elected.

This system is to be replaced by the exhaustive preferential system which is presently used in New South Wales and Victorian local government elections. In essence, the exhaustive preferential system involves the application of the standard preferential system of counting votes to elect the first successful candidate.

Subsequent candidates are elected by the application of the same system, but with the votes recorded in favour of any elected candidate being brought back into the count as votes in favour of the candidate next highest in the elector's order of preference.

The present three-year term of office for a councillor is to continue, with one-third of the council retiring each year. However, the term of office for a mayor or president elected by the electors of a municipality has been increased from two years to three years. The term of office for a mayor or president elected by the council will continue to be one year.

It is believed that this Bill offers important and significant improvements to the system of local government in this State. I commend the Bill to the House.

THE HON. PETER DOWDING (North) [1.57 a.m.]: I have a few words to say!

The Hon. P. H. Wells: Have your speech incorporated as well.

The Hon. PETER DOWDING: The Opposition does not oppose this Bill. It has many aspects which we regard as being an important step towards a fair and equitable local government electoral system. The Opposition expresses some regret that the franchise is not a universal franchise which we feel should apply today in view of the fact that we are dealing with the third tier of government.

The Opposition has made a study of the Bill and its views have been well expressed in another place. I am not in a position to refer to that debate, otherwise I would have it incorporated in *Hansard*.

THE HON. I. G. MEDCALF (Metropolitan—Leader of the House) [1.58 a.m.]: I thank the Opposition for its support of the Bill.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (the Hon. R. Hetherington) in the Chair; the Hon. I. G. Medcalf (Leader of the House) in charge of the Bill.

Clauses 1 to 3 put and passed.

Clause 4: Section 6 amended—

The Hon. PETER DOWDING: On behalf of the Opposition, I wish to say that we regard it as inappropriate to be called upon to discuss this Bill at 2.00 a.m.

Having said that, I have no more to say.

Clause put and passed.

Clauses 5 to 27 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

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

ADJOURNMENT OF THE HOUSE: SPECIAL

THE HON. I. G. MEDCALF (Metropolitan—Leader of the House) [2.02 a.m.]: I move—

> That the House at its rising adjourn until a date to be fixed by the President.

The DEPUTY PRESIDENT (the Hon. V. J. Ferry): It would be appropriate for me to leave the Chair until the ringing of the bells.

Sitting Suspended from 2.04 a.m. to 2.07 a.m.

Chief Hansard Reporter: Retirement

THE DEPUTY PRESIDENT (the Hon. V. J. Ferry): Honourable members, I wish to announce that I have extended the courtesy of the House to the Chief Hansard Reporter (Mr J. A. Cox). I have invited him to the floor of the Legislative Council on the occasion of the last sitting day before Mr Cox retires after a long and distinguished service with the Parliament of Western Australia.

THE HON. I. G. MEDCALF (Metropolitan—Leader of the House) [2.08 a.m.]: Mr Deputy President, in moving the special adjournment of this House, I am sure members will join me in expressing their sadness to learn that it is the intention of our Chief Hansard Reporter (Mr Jim Cox) to retire in July. In view of this, it would be remiss of us if we did not include in the official record of our proceedings a record of our gratitude to Mr Jim Cox for the services that he has rendered to this State, and in particular to the Parliament of the State, over the past 45 years. I might add that six of those 45 years were not spent in the Parliament of Western Australia, but were spent in service to Australia as a member of the Royal Australian Air Force, which Mr Cox joined in 1940.

Following his six years' service overseas, Mr Cox finally left the service with the rank of Squadron Leader. He commenced his career with Parliament House in 1936, in the Controller's Office. Following his service in the Air Force, he became secretary to the Hon. Frank Wise MLA, a former Premier of the State, in 1946. He then joined *Hansard* in 1947 as a junior reporter; and he was promoted to senior reporter two years later.

Mr Cox became Deputy Chief Reporter in 1966, and Chief Reporter in 1971. Members will no doubt appreciate that the work of a *Hansard* reporter is far from easy. In fact, I would imagine that a *Hansard* reporter at times may say it is most difficult, uninteresting, and possibly even unnecessary, especially at two or three o'clock in the morning.

Be that as it may, I have always found the *Hansard* staff to be a cheerful and obliging group, no matter what the situation. This attitude, I am sure, stems from the top—from Jim Cox, whose very nature reflects those attributes displayed by his staff.

There are many members, past and present, who would have cause to be thankful that we have had such an obliging Chief Hansard Reporter; and I refer to the reporting staff provided to assist on the various committees, conferences, or commissions from time to time, but not always at the most convenient time as far as the *Hansard* staff are concerned.

Mr Cox can look back on his career with the knowledge that he has done his job well. If he has any doubts, he can always come back and look at the rows and rows of volumes bearing his trademark, "*Hansard*", and be reassured, even if he does not spend very much time turning over the pages.

It would be an understatement to say that Jim Cox will be missed; but time catches up with us all. I am sure that Mr Cox is looking forward to a well-earned and deserved retirement. I understand he has plenty of interests to keep him occupied, such as golf, fishing, and five grandchildren.

In expressing the gratitude of this House for the service given by Mr Cox, I also convey best wishes to him and Mrs Cox for many future years of health and happiness.

I would like to add my own personal tribute for the work that Jim Cox has done. He has been most conscientious in his attention to his task. He has been absolutely apolitical, as we would expect of someone in his position. He has helped many members in many ways; and he is, I know, someone whom we will all miss around the place.

On behalf of myself and all other members of the House, I would like to say that we do sincerely appreciate what you have done, Jim. We do wish you and your wife well in the next few years.

Members: Hear, hear!

THE HON. D. K. DANS (South Metropolitan—Leader of the Opposition) [2.12 a.m.]: It gives me very great pleasure to support the remarks of the Leader of the House. The leader (the Hon. Ian Medcalf) has mentioned the career of Jim Cox. I do not know what age Jim is at present; but I could take a punt. It seems that he would have started in this place at about the age of 15, or a little older. The fact that he has been here for 45 years would seem to be some kind of record, because it would be some years longer than the Hon. John Tonkin was here.

I do not know whether Jim ever intends to put pen to paper and writes his memoirs; but no doubt, if he did, he could tell a story or two. However, I would like to talk about Jim Cox, the man, as I knew him, and I am sure as others knew him.

When I first entered the Parliament some 10 or 11 years ago, I was fortunate enough, somehow or other—and I suppose it has happened with other members—to strike up a good relationship with Jim Cox. I was very happy in his company on many occasions, particularly on some Friday evenings at about 5 o'clock when *Hansard* knocked off. Over a few quiet beers—not too many—I came to know the real personality of Jim Cox, and the type of person that he really is.

I have been very happy in your company, Jim. I have enjoyed your company greatly. I have enjoyed swapping yarns with you.

When looking at your war record today, it occurred to me, as the Hon. Ian Medcalf was reciting it to the House that you had been six years in the Air Force, and reached the rank of Squadron Leader—I cannot recall your ever discussing your service in terms of the war.

I am happy to have been associated with you, as I am sure all my colleagues have been. I hope you have a happy and useful retirement. I note that you like fishing and golf. I leave golf to my wife, so perhaps she may play a game or two with you. However, I hope that one day we may be able to go fishing together when the occasion arises.

On behalf of the Opposition in the upper House I wish Mr Jim Cox all the best for his future.

Members: Hear, hear!

THE HON. H. W. GAYFER (Central) [2.16 a.m.]: It would be wrong on this occasion if I did not have something to say about Jim Cox—not too much, because I would not dare do that—but I shall say a little, because he has been a very close friend over many years. As the longest-serving member of Parliament in this House, perhaps that makes me the father of the House in the absence of the Hon. Norman Baxter and the Hon. Graham MacKinnon, both of whom I am sure would like to be associated with these remarks. I look back with pleasure over the many days during the last 20 years or so during which I have been associated with Jim Cox.

When the House was not sitting, frequently at five o'clock Jim and I would have a noggin. The Hon. Des Dans referred to the fact that Jim Cox seldom talked about the war days. I have heard him talk about the war days and I used to find it extremely interesting when Bill Young and the late Teddy House, who were both Air Force men, and Jim Cox got together and, after a couple of drinks, began talking about those days. They were frightfully interesting to listen to.

Jim Cox was a foundation member of the famous 77 Squadron and Commanding Officer of 84 Squadron RAAF. He saw many years of service in Singapore and New Guinea. Be that as it may, all these boys who served in those isolated areas had their lighter moments and it used to be terrific to listen to them.

I think Jim has a special niche in the hearts of many of us here, because not only did he do his work in the House, but he also joined us in fellowship in the bar and other places and he was an active member of the CPA. He used to play on golfing days and joined in with everyone as one of the boys. That is one of the greatest things we can ever remember about him.

Of course, I have served on the Printing Committee with Jim Cox, as have other members. When he has come to us with real problems, we have seen the other side of him. He is a genuine person who wants to do the right thing.

I, like other members, wish you, Jim, and your wife the very best. I hope the trip you plan to take in July will be to your liking. Perhaps it will be similar to the last one, but you had better watch out up there in Sweden if you get there again! I look forward to seeing you when you return at the end of July and retire officially. All I can say is, enjoy the golf and I want to be around to hear you talk about the "big ones that got away", as you always did.

It is sad to see stalwarts like Jim Cox leaving this place. As a matter of fact, Sir, I was impressed by your time-honoured words that "I have extended the courtesy of the House to Mr Cox." They are lovely words. It is the *coup de grace*.

The Hon. D. K. Dans: I hope not!

The Hon. H. W. GAYFER: We thank you very much for many years of happy association.

THE DEPUTY PRESIDENT (the Hon. V. J. Ferry): I wish to be associated with the remarks made by the Leader of the House, the Leader of the Opposition, and the Hon. H. W. Gayfer. I feel that Jim, as I have come to know him so well, has always displayed goodwill and is most kindly thought of by all members of this Parliament. I am very aware of just how much Jim Cox has contributed to the Parliament, not only in the area of reporting, but also by his kindly advice and assistance to all members and staff.

I guess it is the nature of the man. He has come through all the years he has spent in this place with a great deal of good humour and with a great sense of responsibility and dedication to his work at all times. I suppose that has been the way Jim Cox has operated throughout his life. His record speaks for itself and, when one is built that way, one continues to do the right thing.

Jim, I want to convey my very best wishes to you and also those of the President (the Hon. Clive Griffiths) who is unable to be with us tonight. I am sure he would be the first to wish you well and extend the courtesy of the House to you. I am very happy to have that privilege tonight in the unavoidable absence of the President.

The Hon. H. W. Gayfer referred to your involvement in CPA matters and in the sporting arena associated with lighter parliamentary activities. I want to endorse all his remarks, because it is not all work; sometimes there is play, and whenever something needed to be done, Jim Cox has always been only too willing to assist in these activities. That has always been the spirit which has been evident in this gentleman.

I have very much pleasure in conveying the best wishes of the President and myself to Jim Cox and his wife for a very happy retirement.

Question put and passed.

BILLS (3): ASSEMBLY'S MESSAGES

Messages from the Assembly received and read notifying that it had agreed to the amendments made by the Council to the following Bills—

1. Medical Amendment Bill.
2. Noise Abatement Amendment Bill.
3. Settlement Agents Bill.

BILLS (3): RETURNED

1. Companies (Acquisition of Shares) (Application of Laws) Bill.
2. Securities Industry (Application of Laws) Bill.
3. Companies and Securities (Interpretation and Miscellaneous Provisions) (Application of Laws) Bill.

Bills returned from the Assembly without amendment.

House adjourned at 2.23 a.m. (Friday)

QUESTIONS ON NOTICE

ABORIGINES

Aboriginal Self Help

269. The Hon. LYLA ELLIOTT, to the Minister representing the Minister for Community Welfare:

Will the Minister advise—

(1) Whether there is an organisation known as Aboriginal Self Help operating in Perth?

(2) What type of business is it engaged in?

(3) Is it run by Aborigines?

(4) Are the proceeds from any business conducted paid to Aborigines or used for the welfare of Aborigines?

(5) If the answers to (3) and (4) are "No", will he have the organisation investigated to ascertain whether the public are being defrauded in any way?

The Hon. G. E. MASTERS replied:

(1) The Minister for Community Welfare advises that an organisation of that name is operating in Perth, but that it is not an Aboriginal incorporated body.

(2) Rag collection and sorting.

(3) No, it is run in conjunction with Peter Kennedy and Company.

(4) Aboriginal employees are paid wages.

(5) If the member has any information that suggests that any fraud is being committed she should provide details to the Minister or to the police.

COMMUNITY WELFARE

Child Welfare Laws

277. The Hon. PETER DOWDING, to the Minister representing the Minister for Community Welfare:

With reference to the letter from the Minister appearing in *The West Australian* on Monday, 11 May, and headed "Review of Child Welfare Laws", I ask—

(1) Who is conducting the current review of child welfare legislation in Western Australia?

(2) What are the issues to be included in this review?

(3) Have the views of many experts in the welfare field been sought and considered?

(4) If so, who are the experts, and when were their views sought?

(5) When were their views received?

(6) Have various responsible organisations been invited to make submissions?

(7) If so, what organisations, when were they invited to make submissions, and when were the submissions received?

(8) Has the Minister's department been asked to make submissions, and if so, upon what date was the request made, and by what date were the submissions to be received?

(9) Has the Minister announced his intention to complete the review by a future date, and if so, by what date?

The Hon. G. E. MASTERS replied:

(1) The legislation is being reviewed by the Government under common administrative arrangements whereby the Minister is advised by departmental officers and where necessary the Crown Law Department. In addition, particular aspects in the review of the Child Welfare Act are the subject of special consideration.

(2) All aspects of the Child Welfare Act and its operations are under review.

(3) and (6) Yes.

(4), (5), and (7) Experts within the department have the continuing opportunity of putting forward their views in the normal way. Three specific invitations have been issued to non-Government organisations and interdepartmental consultations have been initiated. The review of the legislation has been publicised to enable interested persons to put forward their views, and correspondence has been received, the response to which in each case has been to invite the person or body concerned to put forward their views. A number of submissions have been received and all of them will be fully considered.

(8) It is the responsibility of the department to advise the Minister through the head of the department. That does not mean that individual departmental officers with particular personal social theories are entitled to put forward their ideas as an expression of departmental opinion.

(9) No official date for completion of the review has been set, although a timetable of action necessary to complete the preparation of legislation has been established.

WATER RESOURCES

Underground: Cundeelee

278. The Hon. PETER DOWDING, to the Minister representing the Minister for Community Welfare:

(1) Is the Minister aware of the drilling programme for water at Cundeelee?

(2) If so, under whose portfolio is the drilling being conducted, and by whom?

(3) Is the Minister aware of a hydrologist report on the area being drilled?

(4) By whom is the report?

(5) On what date was it submitted?

(6) What is the data contained in the report?

(7) What is the estimated cost of the drilling programme?

The Hon. G. E. MASTERS replied:

(1) The Minister for Community Welfare is aware of the drilling programme.

(2) The Minister for Works. The actual drilling arrangements have still to be finalised.

(3) A hydrogeologist has visited the area and identified the sites to be drilled.

(4) A hydrogeologist of the State Mines Department.

(5) The report is dated 3 September 1980.

(6) The essence of the report is that most prospective sites have already been drilled. Four further sites have been identified, but the prognosis for success is very slight both as to quantity and quality.

(7) $30 000 to $50 000, which is to be covered by a Commonwealth grant recently made available as a result of the Minister for Community Welfare's representations to the Minister for Aboriginal Affairs.

TRANSPORT

Fremantle-Perth Corridor

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

(1) Referring to the Minister's answer to question 236 on Tuesday, 5 May 1981, wherein he says "the member seems not to understand the meaning of the words 'independent consultants'. The feasibility of mass public transit options is something which the independent consultants will decide and therefore the Minister cannot provide the requested comprehensive list.", could the Minister explain to me how the Minister for Police and Traffic can list a number of options as exampled by the following quotation from a report in the *Claremont Nedlands Post*, page 16 of 22 April 1981—

> "Mr. Hassell listed some of the options that will be studied by R. Travers Morgan Pty. Ltd. which specialises in the evaluation of public transport technologies:
>
> Light rail technology.
>
> Busways.
>
> Buses on a fixed track with or without the option to leave it at various points for ordinary road travel.
>
> Using ordinary buses but converting the wheels to run on a track.
>
> Trams.
>
> Reinstating the old rail service.
>
> "After examining all these options the consultants will recommend to the Government the most appropriate form of public transport for the Fremantle corridor including a suggested timetable for its introduction," Mr. Hassell said."?

(2) Does this mean that a Cabinet Minister has access to privileged information?

The Hon. D. J. WORDSWORTH replied:

(1) The Minister for Police and Traffic, who was reported in this matter as the member for Cottesloe—apparently unlike some members opposite—is a serious student of the many public transport options which are available for the Perth-Fremantle corridor. In actively encouraging people to participate in the Travers Morgan review of the public transport options for the corridor the Minister for Police and Traffic and the member for Cottesloe stated what these options might include—the word he used was "include".

On 5 May the Hon. F. E. McKenzie asked for a comprehensive list of options. There could be no possible point in attempting to prejudge the independent consultant's full list of options, except perhaps to remind some members that electrified heavy rail transit is not the only conceivable way of providing public transport.

(2) No.

EDUCATION

Country High School Hostel: Katanning

292. The Hon. A. A. LEWIS, to the Minister representing the Minister for Education:

When will construction start on the permanent new dormitories at St. Andrew's Country High School Hostel at Katanning to bring permanent accommodation up to 110?

The Hon. D. J. WORDSWORTH replied:

The provision of new dormitories at the Katanning hostel is being investigated by an architect who will submit a design for consideration by the authority. No firm date can be given for the start of construction.

ABORIGINES

Gordon Downs Community

293. The Hon. PETER DOWDING, to the Minister representing the Minister for Community Welfare:

(1) Is a study being conducted of long term issues concerning the Gordon Downs Aboriginal community?

(2) If so, who is conducting the study, and what is the nature of it?

(3) If there is no study, are any matters being considered about the future of the Aboriginal community from Gordon Downs, and if so, what matters?

The Hon. G. E. MASTERS replied:

(1) and (2) The Minister for Community Welfare advises that no structured study of the Gordon Downs situation is being undertaken, but the matter is being kept under close review by both local and head office personnel of the Department for Community Welfare and the Department of Aboriginal Affairs.

(3) The initial problem is to provide essential services. Arrangements for water supply and provision of essential services are in hand, after which a more detailed evaluation of long term needs, including services, accommodation, and land tenure will be undertaken.

HOSPITALS

Dampier and Karratha

294. The Hon. PETER DOWDING, to the Minister representing the Minister for Health:

(1) Is it a fact that the present Dampier Hospital has 40 beds?

(2) Is it a fact that the proposed Karratha Hospital has 60 beds?

(3) Is it a fact that when Karratha Hospital is completed, the Dampier Hospital will be phased out?

(4) Is it proposed that the Karratha Hospital will cost $6.5 million?

(5) What are the facilities that will be available at the Karratha Hospital that are not available at the Dampier Hospital other than an extra 20 beds?

The Hon. D. J. WORDWORTH replied:

(1) No. Dampier Hospital has 39 beds.

(2) Yes.

(3) Inpatient accommodation will be phased out and changes made to outpatients facilities.

(4) Approximately $7.4 million.

(5) All facilities at the Karratha Hospital will be increased in size and level of sophistication of equipment to cope with the larger population, including the extensive and fluctuating construction population, and to also provide a regional hospital service to the surrounding district hospitals. Increased facilities will be available for visiting and/or permanent specialists and for community health officers, including physiotherapy and chiropody. Accident and emergency, radiology, theatres, and laboratories will be substantially larger to cope with a population of double the 1979-80 figure. The core facilities will be sufficient to support a 120-bed regional hospital when the population rises to require such a facility.

(3) to (6) Pre-service training institutions are giving increased attention to the preparation of teachers for service in areas with a significant Aboriginal enrolment. Teachers appointed to these schools are usually volunteers who have a special interest in Aboriginal education. The Education Department offers orientation and briefing for teachers appointed to Aboriginal schools for the first time. In areas where the vernacular is likely to be the first language of Aboriginal children the Education Department provides Aboriginal aides to bridge the gap between home and school. Extensive specialised study would be necessary for teachers to become fluent in Aboriginal languages. A crash course would be quite inappropriate.

EDUCATION: TEACHERS

Aborigines

295. The Hon. PETER DOWDING, to the Minister representing the Minister for Education:

(1) Is the Minister aware of an article in *The Western Teacher* of 1 May 1981, drawing attention to the lack of training for teachers going to teach Aborigines in schools which are predominantly or have a large population of Aboriginal students?

(2) Does the Minister accept that the complaints raised in the article are justified?

(3) If not, why not?

(4) What steps will the Minister ensure his department takes, if any, to improve the training given to teachers going into Aboriginal areas?

(5) Will the Minister ensure that there is a crash course in the local Aboriginal language for teachers going to teach in schools where Aboriginal languages are the first language of the children of the particular community?

(6) If not, why not?

The Hon. D. J. WORDSWORTH replied:

(1) Yes.

(2) No.

FUEL AND ENERGY

Polychlorinated Biphenyls

296. The Hon. PETER DOWDING, to the Minister representing the Minister for Fuel and Energy:

(1) Is the Minister aware that there is a total of 36 400 litres of polychlorinated biphenyls on the Cliffs-Robe River-Cape Lambert site?

(2) Is he aware that ETU members at Cape Lambert requested the company to remove this toxic substance from site as far back as 1979?

(3) Is he aware that Cliffs-Robe River company has not removed all PCBs and that transformers in use are leaking the substance?

(4) Is he aware that there is no adequate storage facility at Cape Lambert for PCBs?

(5) Is he aware that Electrical Trades Union members have recently been forced into industrial action over this issue?

(6) Will the Minister intervene to ensure that all PCBs are removed from use at Cape Lambert and taken to the maximum security storage depot at Wattleup?

The Hon. I. G. MEDCALF replied:

(1) to (6) In the absence of the Minister for Fuel and Energy, the answer will be provided by letter direct to the member.

FUEL AND ENERGY: STREET LIGHTING

Wittenoom

297. The Hon. PETER DOWDING, to the Minister representing the Minister for Fuel and Energy:

(1) Is the State Energy Commission intending to upgrade the present standard of street lighting in Wittenoom?

(2) If not, is the Minister satisfied that the present standard is safe and adequate?

The Hon. I. G. MEDCALF replied:

(1) and (2) In the absence of the Minister for Fuel and Energy, the answer will be provided by letter direct to the member.

HOUSING

Aborigines: Commonwealth Funds

298. The Hon. PETER DOWDING, to the Minister representing the Minister for Housing:

(1) Has the State Housing Commission used Commonwealth Aboriginal money to acquire or build houses?

(2) If so, how many houses in the years 1979 and 1980 were built, and in which areas?

(3) Have any of these houses been acquired with Commonwealth money from existing stocks of State Housing Commission homes already constructed, and if so, which houses, upon what dates, and what was the purchase price?

The Hon. G. E. MASTERS replied:

(1) to (3) As this information will take some time to prepare I will reply to the member by letter.

WATER RESOURCES

Wittenoom

299. The Hon. PETER DOWDING, to the Minister representing the Minister for Water Resources:

When is the Public Works Department going to finish upgrading the pipeline supplying the town of Wittenoom with water so that residents may have the benefit of a consistent supply of water?

The Hon. G. E. MASTERS replied:

1 500 metres of the supply main was replaced in 1979 and no further work is programmed or considered necessary.

HOUSING

Aborigines: Allocations

300. The Hon. PETER DOWDING, to the Minister representing the Minister for Housing:

I refer to the practice of the State Housing Commission in keeping lists of persons eligible for Commonwealth/State housing, and a separate list for people eligible for Aboriginal housing funded by the Commonwealth Government through the Department of Aboriginal Affairs, and ask, when an Aboriginal grant house becomes available in a town where two lists are kept, is the house allocated to the person in the Aboriginal housing list whose application was first made, or is it granted to the Aboriginal in either list whose application was first made?

The Hon. G. E. MASTERS replied:

Generally the lists are separate although an Aboriginal applicant may request to be dual listed for housing under the Commonwealth-State housing agreement and the Aboriginal grant funds providing he/she meets the eligibility criteria of the former.

An Aboriginal grants funded house normally is allocated to the next applicant on the list for that particular type of housing or to any Aboriginal applicant who may have been given emergency status. An Aboriginal applicant listed for housing under the Commonwealth-State housing agreement may request to be housed under the Aboriginal grants funded scheme if his position on the Commonwealth-State housing scheme, because of non-availability of housing, would not provide the applicant with housing within a reasonable period of time.

ABORIGINES

Reserves: Entry Permits

301. The Hon. PETER DOWDING, to the Minister representing the Minister for Community Welfare:

Since the Aboriginal Lands Trust has expressed the view that it approves of the suggestion that Aboriginal communities should be delegated the power to permit entry permits on to their reserves, particularly for "routine" visits by persons requiring permits, and since the Aboriginal Lands Trust has no authority to delegate its powers under the Aboriginal Affairs Planning Authority Act 1972, will the Minister amend the Act to give the trust this power?

The Hon. G. E. MASTERS replied:

The Minister is aware of the views of the Aboriginal Lands Trust in regard to delegation of its functions under regulation 8 of the Aboriginal Affairs Planning Authority Act Regulations, to which the attention of the member is referred.

The matter is currently under consideration in regard to permits for "routine" visits.

HOUSING

One Arm Point

302. The Hon. PETER DOWDING, to the Minister representing the Minister for Housing:

(1) Is it a fact that corroding copper pipes have been installed in the housing units at One Arm Point?

(2) Was the State Housing Commission responsible for providing housing to that community, and did it install copper pipes in each of the housing units?

(3) Is the Minister aware that the water supply at One Arm Point has had the effect of causing severe corrosion to all the copper reticulation system?

(4) Is the Minister aware that the copper corrosion has badly affected the taste of the water and the colour?

(5) Are there any plans to replace the copper reticulation system to the houses at One Arm Point?

(6) If so, when will it be done?

(7) If not, will the Minister take steps to stop the problem, and if so, what steps?

The Hon. G. E. MASTERS replied:

(1) to (7) As this information will take some time to prepare I will reply to the member by letter.

JUSTICES OF THE PEACE

Aborigines

303. The Hon. PETER DOWDING, to the Attorney General:

I refer to the Aboriginal Communities Act 1979 and ask—

(1) Why did the Government not introduce a statutory requirement that Aborigines act as justices of the peace and court officials in the administration of this Act?

(2) Will the Attorney General give consideration to amending the Act to make that a statutory obligation?

(3) Will the Attorney General further legislate to ensure that the obligation is to appoint Aborigines from the community to which the Act in each case is gazetted?

(4) Will the Attorney General ensure that in each case in which Aborigines are appointed JPs and court officials, that a sufficient number of JPs and court officials are appointed to ensure that—

(a) there is no conflict in kinship rules which might prevent or embarrass an official from being involved in a particular case and avoids bias or favouritism; and

(b) conflicts between different groups within an Aboriginal community are avoided?

The Hon. I. G. MEDCALF replied:

(1) Because the Government wishes to avoid discriminatory practices in its legislation. To do as suggested would deny Aboriginal justices of the peace concerned with the Aboriginal Communities Act the right of other justices, before taking a plea, to refer a complaint to a stipendiary magistrate.

The exclusion of a stipendiary magistrate from dealing with prosecutions under the Act would deny Aboriginal justices practical training in their own community courts, a facility available to all other justices.

An intolerable situation would arise if complaints made under the Act could not be heard by Aboriginal justices due to their absence, inexperience, or conflict of interest and a stipendiary magistrate was excluded from hearing the charges.

In practice it has been found, on occasions, necessary to use permanent court officials to assist, train, and stand in for Aboriginal court officials.

(2) No, for the reasons indicated.

(3) All appointments have been made from within each community. To do otherwise would be in direct conflict with the spirit of the legislation. Legislation as suggested is not deemed necessary.

(4) (a) and (b) All appointments have resulted from nominations from communities having had regard to kinship and avoidance of conflict within the community.

ABORIGINES

Outstation or Homelands Movement

304. The Hon. PETER DOWDING, to the Minister for Lands:

(1) Is the Minister aware of the outstation or homelands movement amongst Aboriginal people living in the remote areas of Western Australia?

(2) Is the Minister aware that this is a movement in which small groups of Aboriginal people seek to leave central settlements and move into isolated traditional areas?

(3) Will the Minister accept that this is a movement beneficial to the community at large and take steps to encourage it?

(4) Will the Minister consider seeking Government release of land in isolated areas to facilitate this movement where requested by Aboriginal groups?

The Hon. D. J. WORDSWORTH replied:

(1) Yes.

(2) I am aware of desires of some Aboriginal groups to leave central settlements.

(3) No.

(4) I am prepared to consider each case on its merits.

COURTS

Magistrates: Aboriginal Assessors

305. The Hon. PETER DOWDING, to the Attorney General:

(1) Does any magistrate sitting in traditional Aboriginal areas sit with Aboriginal assessors?

(2) Will the Attorney General give consideration to requiring magistrates to sit with Aboriginal assessors?

(3) If not, why not?

(4) If so, what steps will the Attorney General take to ensure that this procedure is adopted?

(5) Will the Attorney General ensure that those dealing with traditional Aborigines are in fact traditional Aborigines themselves?

The Hon. I. G. MEDCALF replied:

(1) Yes.

(2) to (4) The matter of requiring magistrates to sit with Aboriginal assessors will be considered if necessary. Magistrates and justices of the peace have been encouraged to have assessors sit with them.

(5) No. Many traditional Aborigines are dealt with by stipendiary magistrates and this should continue.

CULTURAL AFFAIRS

Aborigines: Culture

306. The Hon. PETER DOWDING, to the Minister representing the Minister for Cultural Affairs:

I refer to the Minister's answer to question 279 of Wednesday, 13 May 1981, and ask—

What proportion of the Arts Council expenditure was spent or will be spent on—

(a) Aboriginal culture;

(b) Hungarian, Polish, and Ukranian culture; and

(c) Ballet;

in—

(i) 1979-80; and

(ii) 1980-81?

The Hon. D. J. WORDSWORTH replied:

I am advised—

(a) Aboriginal Culture 1979-80

$1 000 grant towards the travel expenses of Aboriginal artists from the Kimberley and desert areas for the opening of the Aboriginal Educational and Recreational Centre at Gnangara on 17 November 1979.

1980-81 (to date)
Grant of $3 000 to the Aboriginal Cultural Foundation, Darwin, to assist with the travel costs of 26 dancers from the Kimberley region to take part in the Aboriginal dance gathering at Groote Eylandt. The South Australian Film Corporation produced a 50-minute TV documentary of the gathering.

$5 980 grant to the Aboriginal Boomerang Council of Geraldton towards a 12-month programme of traditional Aboriginal art for Aboriginal children and others from ethnic backgrounds.

Grant of $350 to Aboriginal writer, Jack Davis, to assist with travel costs for a tour of schools in the south-west to perform poetry readings, story and legend-telling presentations.

Grant of $860 to the Tjitji Club towards the cost of two tutors to undertake a three week programme of arts and crafts activities for Aboriginal children at Wiluna.

(b) Hungarian, Polish & Ukranian Culture

1979-80
Grant of $300 to Polonia Inc.—(Polish Folk Dance Group)—to assist with two folk song and dance workshops.

Grant of $500 to Polish Folk Theatre "Mazowse" towards drama tutors' fees.

Grant of $500 to Ukranian Youth Association Folk Dance Group toward dance tutors' fees.

Grant of $290 to the International Folk Dance Group towards costs of a weekend workshop in ethnic folk dance.

Grant of $1 518 to Keszkeno Hungarian Dance Group, to enable a delegate to attend the Hungarian folk dance convention in Budapest.

1980-81 (to date)
Grant of $275 to International Folk Dance Group towards tutor's fees at a workshop in Bulgarian, Hungarian, and Macedonian folk dance.
Grant of $500 to Polish Folk Theatre "Mazowse" towards drama tutor's fees for the year.

(c) Ballet

(i) 1979-80	$
WA Ballet Company	202 223
Other groups	22 017
Country ballet schools	25 406
(ii) 1980-81—to date	$
WA Ballet Company	354 000
Other groups	25 407
Country ballet schools	18 742

POLICE

Aboriginal Trackers

307. The Hon. PETER DOWDING, to the Minister representing the Minister for Police and Traffic:

I refer to publicity surrounding the loss and tragic death of a man near Paraburdoo and the loss and lucky finding of a man near Derby in which "Aboriginal trackers" were used and I ask—

(1) Who were the Aboriginal trackers involved in each case?
(2) From what town, if any, were they recruited?
(3) What, if any, remuneration were they paid?
(4) Do the police maintain a list of people able to assist in tracking or are they simply recruited on the spot for a particular emergency?

The Hon. G. E. MASTERS replied:

I am advised by the Minister for Police and Traffic that—

(1)	Paraburdoo:	Ian Black Chubby Jones Stan Delaporte
	Derby:	Stanley Wooteoodjah Rastas Willagg
(2)	Paraburdoo:	Rooklea Station Wyloo Station
	Derby:	Mowanjum Community

(3)

Paraburdoo:	No claim for remuneration has been made. The assistance of Ian Black and Chubby Jones was arranged by the employers of the lost man, through the station manager. Stan Delaporte is a local dogger who volunteered for the search.
Derby:	No claim for remuneration has been made. Police requested the assistance of the elders of the Mowanjum community, and the two Aborigines volunteered.

(4) Police do not maintain a list of people able to assist in tracking. In cases of emergency such as these, police request assistance from all sections of the community and are usually overwhelmed with volunteers.

Many acts of voluntary assistance are undertaken by people in our community where a search for others lost or missing on land, on water, or in the air is undertaken. The people of this State have had cause to be grateful on many occasions for the tracking work undertaken by Aborigines. The fact that Aborigines have readily assisted when asked in these situations, is a fine record indeed and one of the many positive aspects of Aboriginal-European relations in this State.

Unfortunately these positives are often not emphasised. The Minister for Police and Traffic takes the opportunity presented by the member's question to record the appreciation of the Commissioner of Police and the Government for the services volunteered by the Aboriginal people named in this answer, and for the services of many others of their race in this kind of work on other occasions.

QUESTIONS WITHOUT NOTICE

SETTLEMENT AGENTS BILL

Effect on Legal Aid Commission

113. The Hon. PETER DOWDING, to the Attorney General:

(1) Was concern expressed to him prior to last week that the proposed settlement agents legislation might cause a drop in the level of funds available for legal aid from the Legal Contribution Trust Fund?

(2) If "Yes" who expressed this concern and when?

(3) Has the Attorney General acted in any way to ensure that the level of funds available for legal aid does not fall as a result of the legislation coming into operation; if so, in what manner; and, if not, why not?

The Hon. I. G. MEDCALF replied:

(1) to (3) The member informed my office today that he proposed to ask this question and I was therefore in a position to obtain some information. A submission was received from the Legal Aid Commission in July last year in which the commission expressed some concern generally about the question of settlement agents and the effect their activities might have in depressing the funds available for legal aid.

The commission said it had not sighted a copy of the Bill and would like to do so. I was unaware when the member asked the question yesterday that the commission had in fact written to me on the subject. The question he asked yesterday was whether it had expressed concern at the passing of the legislation. Had the member given me some notice of his question yesterday I most certainly would have had the opportunity of referring to the file.

Yes, the commission has been concerned about settlement agents, generally. It has raised the matter with me. I believe the position will be closely watched. I have mentioned the matter to the Minister for Community Welfare and a copy of the letter has been sent to him. Certainly if a copy was not sent to him he was advised by me and I have spoken to him about the matter. He has undertaken to give it close consideration.

SETTLEMENT AGENTS BILL

Effect on Legal Aid Commission

114. The Hon. PETER DOWDING, to the Attorney General:

Could the Attorney General give the House some indication of when the letter from the Legal Aid Commission

was received and when it was communicated to the Minister for Community Welfare?

The Hon. I. G. MEDCALF replied:

I received the first letter in July. The subsequent letter came in August, and it corrected some of the details in the first letter. I would have written to the Minister for Community Welfare in August or September.