Legislative Council

Tuesday, 17 August 1982

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

EMPLOYMENT AND UNEMPLOYMENT

State Manpower Planning Committee: Personal Explanation

THE HON. G. E. MASTERS (West—Minister for Labour and Industry) [4.32 p.m.]: I seek leave to make a personal explanation.

Leave granted.

The Hon. G. E. MASTERS: I refer to the allegation made by the Opposition spokesman on labour and industry, the Hon. D. K. Dans, on the 6WF news this morning, that I misled Parliament about the State manpower planning report. I will deal with the member's allegations in the order that they were made in the news item, as follows—

(1) I told Parliament I had not seen the report.

This is true as the report was not endorsed finally by the Industrial Training Advisory Council until its last meeting on 11 August 1982.

I have been informed that the Department of Labour and Industry sent the report to my office today with the comments of the council from its meeting of 11 August 1982.

(2) I told Parliament that it was only an interim report.

It is an interim report which will be readily understood by members shortly when I explain the processes of the State manpower planning committee in preparing and submitting reports.

(3) It still had to be checked and circulated to various sections of the department.

The report was still subject to consideration by the Industrial Training Advisory Council and that council may well have requested the department to check and clarify some figures.

(4) The report was confidential.

The copy of the draft report of the working group which I have seen today, has a front page marked as follows—

DRAFT
CONFIDENTIAL
STATE MANPOWER
PLANNING STUDY

STATE MANPOWER
PLANNING COMMITTEE

The Hon. D. K. Dans: Didn't you read the one I gave you?

The Hon. G. E. MASTERS: I will come to that later.

The second page has typed on it the following—

DRAFT
CONFIDENTIAL
STATE MANPOWER PLANNING
STUDY
MARCH 1982

PREPARED BY
THE WORKING GROUP
FOR
THE STATE MANPOWER PLANNING
COMMITTEE

All reports which require the final approval of a Minister of the Crown have a degree of confidentiality.

When the State manpower planning committee sent the report to the Industrial Training Advisory Council for initial consideration at its meeting on 14 July 1982, it was expected that an important report of this nature would still be treated with confidence until it had been submitted to me by the council and given my approval.

It is important that I bring to the attention of members the following processes in the preparation and submission of reports of the State manpower planning committee—

(1) A working party consisting of committee representatives of the Commonwealth Department of Employment and Industrial Relations and the State Departments of Resources Development and Labour and Industry prepare a draft paper for consideration by the committee. (This was done and presented to the committee at its meeting on 25 May 1982.)

(2) The committee considers the draft and seeks clarification from the working party on any points.

(3) A final draft report is prepared for consideration by the committee.

(The final draft report of the working party was considered and accepted by the committee at its meeting on 6 July 1982.)

(4) If the committee accepts the draft report it is transmitted to the Industrial Training Advisory Council for consideration, particularly in respect of the need for a review of industrial training programmes. (The council considered the report at its meetings on 14 July and 11 August 1982.)

(5) There is an expectation that matters under consideration by council will be given some degree of confidentiality.

(6) When the council approves the report, it is sent to the Minister for Labour and Industry for his final endorsement. The Minister may refer the report back to the council and the committee for further comment to be provided.

It is clear that the report is interim in the sense that it is subject to final ministerial approval. I also understand that the report sent to me today from the department has an accompanying recommendation that the observations made in it be further reviewed in December 1982 in the light of the actual market situation existing then.

I note with interest that the copy of the report which the Hon. D. K. Dans gave to me in Parliament last week was not the report accepted by the State manpower planning committee at its meeting on 6 July 1982. Seven pages central and essential to an understanding of the report were missing from the copy given to me by the member.

I am advised the missing seven pages consist of graphs which significantly expand on, and provide a greater understanding of, the written body of the report. For example, the graph on page 7 shows the construction work force forecast, and this is not referred to in the written part of the report. The written part of the report emphasises peak shortages only, whereas the graphs indicate forecasts of likely short-term surpluses and longer-term shortages on a yearly basis from December 1982 to December 1989.

It will be of benefit to members to have placed on record how this Government has developed initiatives in manpower planning, and this I shall do at an appropriate time.

QUESTIONS

Questions were taken at this stage.

CONSTITUTION

Review: Urgency Motion

THE PRESIDENT (the Hon. Clive Griffiths): Honourable members, I have received the following letter from the Hon. Joe Berinson—

Dear Mr. President,

Standing Order No. 63 provides for the moving of an adjournment motion for the purpose of debating some matter of urgency.

In accordance with the provisions of Standing Order No. 63 I wish to advise you of my desire to move for the adjournment of the House for the purpose of discussing the need to review and completely re-write the State Constitution so as to:

1. Remove its inoperative and out-dated provisions;
2. Ensure that its meaning is clear;
3. Provide constitutional guarantees of basic rights and a fair and democratic electoral system.

Yours sincerely,
JOE BERINSON, M.L.C.,
North East Metropolitan Province.

It is necessary for four members to rise in their places to signify their support of the motion.

Four members having risen in their places,

THE HON. J. M. BERINSON (North-East Metropolitan) [5.06 p.m.]: I move—

That the House at its rising adjourn to Friday, 20 August, at 11.00 a.m.

Unlike the Commonwealth Constitution, the Constitution of this State has led to very limited legal action. In contrast to that traditional pattern, however, three cases involving the State Constitution have been finally decided in the last four months alone. These were the Wilsmore case, which went to the High Court; the challenge to the Act creating two additional State ministers; and the challenge to the Government's most recent gerrymander of the State's electoral boundaries.

All three actions were dismissed. I do not propose now to canvass the respective decisions. What I do suggest, however, is that the examination of the Statutes which the cases involved confirms the shambles to which the Constitution documents are now reduced. We have reached the stage where the Constitution of this State is riddled with absurd and irrelevant provisions and is simply out of date.

Section five of the Constitution Act, for example, still requires that the Parliament shall be called together for the first time within six

months of the commencement of the Act. That was in 1890.

The Hon. H. W. Gayfer: Is that a new paper you are reading or is it the old one?

The Hon. Robert Hetherington: He makes new notes every time; you should know that.

The PRESIDENT: Order!

The Hon. J. M. BERINSON: If the member feels himself capable of analysing 10 or 12 separate sections of the Constitution Act without reference to notes, he has my admiration, but I do not intend to emulate him.

Section 7 says that every original member of the Legislative Council shall hold his seat until the population of the State reaches 60 000. That happened in 1893.

Section 54 provides that Supreme Court judges shall hold their appointments for life, which has not been the case since 1937. Section 59 authorises the Parliament to levy customs duties, which it has not been entitled to do since 1901. Section 71 provides for the payment of specified pensions to four named persons, all of whom are long since dead.

Not the least objectionable feature of the Constitution Act is that—in an Act of 78 sections—Western Australia is only in two sections referred to as a State. At innumerable other points it is still referred to as a colony. Again, great slabs of the Act provide solely for the election of the First Parliament and events immediately thereafter. These of course have no remaining area of operation and have in fact been moribund for over 90 years.

Though it may seem hard to believe, there is still worse to come. The Constitution Act was proclaimed in 1890, and whatever its faults, it did at least have the important virtue of a simple means of amendment. All that was required for that purpose was a majority in each House, or in limited specified cases an absolute majority in each House. By these means the Act was amended in 1893, 1894, 1896, and May 1900.

In September 1900, for reasons now totally obscure, a different procedure was introduced. Instead of amending the Constitution Act directly in the traditional way, the device was adopted of passing a Constitution Acts Amendment Act which amended or elaborated the Constitution Act without affecting its terminology.

Over the years the amendment Act has developed absurdities of its own, and these are analogous to those in the Constitution Act itself. To give just one example: Section 39B still devotes two whole pages of print to members of Parliament who are absent on service in World War II. Constitutionally, the happy advent of peace almost 40 years ago seems to have passed unnoticed.

Since 1900 the Parliament has sometimes amended the Constitution Act and sometimes the Constitution Acts Amendment Act. The end result is that these fundamental constitutional documents are obscure and confusing when, more than most Statutes, they ought to be readily comprehensible to the ordinary citizen.

In proposing a complete restructure of this constitutional mess I am fortified by the thought that I am on the side of the angels this time, or at least those of the angels who are represented in this House by the Attorney General.

In reply to a question on the subject the Attorney General had this to say—

> It has been a cause of concern to me for some time that the Constitution of the State comprises the Constitution Act and the Constitution Acts Amendment Act. These Acts, one dated 1889 and the other 1899, raise some complex problems for members of the public and members of Parliament who have occasion to study them. I have had in mind for some time that we ought to try to do something about this matter, but I have unfortunately met with a certain amount of what might be called extremely old fashioned opposition which indicates that the Constitution is inviolable and should be touched by no-one. The matter is of concern to me and it is still a matter of current consideration.

That was on 4 September 1980, and without wishing to rush the Attorney General unduly, I do suggest that two years of concern is enough and that now it is time for some positive action.

Mr President, the consolidation of the Constitution Act with the Constitution Acts Amendment Act, and the removal of the extensive deadwood from both should be only part of the process of constitutional reform.

The Constitution is the appropriate vehicle to express and confirm the basic standards of our society, and that is the next step to which we now ought to proceed. If the office of Governor is important enough to entrench, as is done in section 73 of the Constitution Act, how much more important is it to emphasise our commitment to concepts like democracy, freedom, and equality?

How important is it in particular that the Constitution not only provides—as it does now—for a parliamentary system, but that it

requires that system to be democratic? That will require some very substantial changes because what we have today is so patently undemocratic and such a disgraceful blot on the democracy of the State that only a most profound reform will do.

The hallmark of the present system is inequality, with grossly different values to the votes of electors who are supposed to be equal. As things stand this electoral system, rotten and corrupt as it is, is legal. That has always been assumed, and the correctness of the assumption has now been confirmed by the full Supreme Court. We should not allow this position to continue and we should not allow it to re-emerge at any future time.

The Constitution is an appropriate vehicle to achieve that end and an entrenched constitutional provision for votes as near as practicable equal in value should have a high priority in any updating of the Constitution Act. As I believe I have earlier demonstrated, and as the Attorney General obviously concedes, that general updating is already long overdue.

I commend the motion to the House.

THE HON. I. G. MEDCALF (Metropolitan—Attorney General) [5.20 p.m.]: It is nice to know I am on the side of the angels.

The Hon. Robert Hetherington: I hope you still are when you sit down.

The Hon. I. G. MEDCALF: I received some recent warning that this urgency motion was to be presented to the House and I had some difficulty, because of my conservative background, in appreciating why it was so urgent. I see now that because I have been giving consideration to the matter for the last two years it has suddenly become urgent!

Perhaps it was of the member's opinion that it was urgent then. I have never said the matter was urgent and I am rather surprised that it has been made the subject of an urgency motion. However, it is quite within the rights of honourable members to rise to move a motion in the terms that have been addressed to the House. Therefore, I want to make a few comments on the terms of the letter to the President of which I received notification this afternoon.

Firstly, the reference to the removal of inoperative and outdated provisions is of course one with which we could all agree. It is true that there are certain references which are largely historical and probably have no further function except as a reference to some period in our history.

I would not dispute the comments the honourable member has made, particularly referring to World War II. That is a comparatively recent memory to me because I participated in it, but that is no reason for keeping the reference in the Constitution. I agree that there are other items which could well be removed.

For all practical purposes, none of those items to which the honourable member referred does the slightest amount of harm; they are completely irrelevant to matters of practical concern. The most practical of the outdated provisions, I venture to suggest, is probably the provision which states that a member shall not hold an office of profit under the Crown in any circumstances whatsoever, with a few exceptions; some of which are, as the member indicated, outdated. That is probably the most outdated provision in our Constitution which is still of practical concern. It is associated with the provision which refers to a member's inability to contract with the Crown—another outdated provision.

Those are two provisions which ought to be drastically amended or removed from our Constitution. As the member would know, having no doubt studied the history of this Parliament before he became a member of it—

The Hon. J. M. Berinson: That is what prompted me to come here.

The Hon I. G. MEDCALF: —the Government did make an attempt to remove those provisions from the Constitution. Indeed, I proposed to remove entirely the provision that a member could not contract with the Crown. The provision about members holding offices of profit was to be drastically amended so as to protect all those legitimate situations in which members could hold an office of profit with public benefit.

The history of this provision—it occurred before the honourable member became a member of this Parliament—shows that the very practical measures which the Government put forward in 1979 were opposed by the ALP. I could not understand that. I remonstrated with the then shadow Attorney General, and I discussed the matter with him and I also discussed it *ad nauseam* with Mr Hetherington. Mr Hetherington conducted the defence of the Opposition and conducted it very well in a very spirited way; bearing in mind that he was—and I hope I am not saying anything out of place—following faithfully the dictates of Caucus with which he probably did not agree.

Nevertheless, this was an honest attempt made by this Government, during my period as Attorney General, to try to remedy two of the provisions which were of practical concern. The Opposition opposed the amendments but we managed to get them through this House; goodness knows how.

When the Bill went to the other place there was another spirited defence by Mr Bertram who argued most forcefully and with great effect. Because the Bill included an amendment to the Constitution Act, a constitutional majority was necessary, which the Government did not have. Therefore, it did not proceed with the Bill. That Bill contained amendments to the Constitution Act and the Constitution Acts Amendment Act.

This very progressive measure, which was an attempt to bring the Constitution up to date in respect of matters of great practical concern to members, was thrown out. In spite of all my blandishments, it was thrown out.

The Hon. J. M. Berinson: That discouraged you?

The Hon. I. G. MEDCALF: Thank you, Mr Berinson. It did not discourage me, because the very next year I moved an amendment for another very practical matter which was to allow people who made religious qualifications to make an affirmation. Indeed, I did that at the express request of Mr Hetherington who desired that situation, and it has been availed of since by some other members of Parliament. I have certainly not stopped putting forward proposals. What I did do was concentrate on all the practical matters and not the other matters to which the honourable member has referred and which do not matter a fig.

The Hon. D. J. Wordsworth: Perhaps he did not notice those two.

The Hon. I. G. MEDCALF: I do not believe he was aware of them. He implied that I did not seek to amend the Consitution further. I hope Mr Hetherington will come to my defence if necessary and vouch for what happened on that occasion when we accommodated the genuine religious or non-religious views of some members when they were allowed to sign the form of affirmation. We would have done more, but we were stopped.

That I think indicates that the Government has had a mind to bring the Constitution up to date. It is true I made the comments, which the member has quoted, about the provisions which needed to be brought up to date. I referred to the Constitution Act of 1889 and the Constitution Acts Amendment Act of 1899 and said I thought something ought be done about them. I was correctly quoted.

It is perhaps necessary for me to explain to the House why there are two Acts which deal with the Constitution. The first Act was the 1889 Act. The State was permitted to have a Constitution under the Colonial Laws (Validity) Act and the other Acts of the United Kingdom Parliament. We as a colony were permitted to have a Constitution.

It is well known that this State became a self-governing colony in 1890 and we used the 1889 Constitution Act. As the honourable member has said, the Act was amended on two or three occasions over the next decade.

In 1899 a Constitution Acts Amendment Act was passed which incorporated the amendments which had been made during that period; they were consolidated into the Constitution Acts Amendment Act. Since that date, we have progressively amended the original Constitution Act if necessary or the Consitution Acts Amendment Act.

The honourable member has suggested some action should have been taken since I made that statement, in 1980, in answer to a question. I know I can be accused of being slow to act and often slow to react. Sometimes, I wish I were a little slower.

However, I must say that events have proved it was a very wise decision to take no action; I will explain why in a moment. Since that statement, we have had a number of constitutional cases, including the Wilsmore case to which the honourable member referred.

[Resolved: That motions be continued.]

The Hon. I. G. MEDCALF: It was made quite clear by the High Court in the Wilsmore case that an absolute majority is not required to amend the Constitution Acts Amendment Act but it is required to amend the Constitution Act. What a significant difference that makes to the situation. If we were to combine the Constitution Act and the Constitution Acts Amendment Act into one Constitution Act, we could well end up with a situation in which we needed an absolute majority to amend everything in that Act. At the present stage, we need an absolute majority to amend only the Constitution Act of 1889. Since the Wilsmore case, we do not need an absolute majority to amend the Constitution Acts Amendment Act.

The Hon. J. M. Berinson: My understanding is that an absolute majority is not required for all amendments to the Constitution Act; it is

required for only those sections of the Act which specify that an absolute majority is required.

The Hon. I. G. MEDCALF: Yes, for certain sections. However we do not need it for the Constitution Acts Amendment Act.

The Hon. J. M. Berinson: Am I not also correct in saying we do not need an absolute majority except for, I think, two sections of the Constitution Act which specify it?

The Hon. I. G. MEDCALF: That is right. The point is that we need an absolute majority only when we are amending certain sections of the Constitution Act, but we do not need one when we are amending any section of the Constitution Acts Amendment Act.

Therefore, it is very desirable at this stage that we should not confuse the issue further by embarking on a simple consolidation programme, deleting some of the sections which are outdated or inoperative. That is one good reason.

Another reason is that we must also take into account the changes which have occurred in the last three years. Over a long period, Western Australia has not had full sovereign rights; as a Parliament, we have not had full sovereign status. Indeed, under the Colonial Laws (Validity) Act we could not pass legislation—nor can we still—which was repugnant to any Act of the Imperial Parliament. In addition, there were grave doubts about our power to legislate beyond the boundaries of the State—that is, extraterritorially—and there were various other impediments to our rights of sovereignty.

In the last three years, a great deal of work has been done in order to bring the Commonwealth and the States into agreement on the question of the abandonment of the remaining imperial and colonial residual links. This "residual links" exercise has been working up to a climax over the last three years and, at the Premiers' Conference this year, it was agreed a combined approach would be made by the Commonwealth and State Parliaments to the United Kingdom Parliament in order finally to discharge these residual links. In order to do that, we will need to amend our Constitution quite considerably because we will have to implant into our Constitution some of the matters presently covered by United Kingdom or Imperial Orders-in-Council, or by legislation.

I refer particularly to the instructions to the Governor, some of which will need to be put into our Constitution; to letters patent issued by the Queen to the Governor which, in future, will have to appear in our State Constitution; and to matters such as the reservation of certain Acts, as passed by the Parliament, for Royal assent. A number of other quite complex constitutional provisions are contained in State, Federal, and United Kingdom legislation which still are being examined and which may themselves entail further amendments to our State Constitution. For those reasons, it is as well that we have decided to hasten slowly in this area. If we were to embark on a quick consolidation, taking out certain matters which could be regarded as outdated, we would possibly imperil our situation in regard to the final rearrangement of our Constitution.

A third matter to which I must advert, because it concerns this House, is that at present we have under the chairmanship of the Hon. Neil McNeill a Select Committee of both Houses of the Parliament which is examining two of these very vital areas to which I have already referred; namely, the questions of offices of profit under the Crown, and contracts with the Crown. That committee has been charged by both Houses to examine those matters and make a report with recommendations as to what amendments, if any, should be made to the Constitution Act, or the Constitution Acts Amendment Act.

That is a third good reason, and one which we could not overlook if we were suddenly to decide to rewrite the Constitution: We have a Joint Select Committee engaged in reviewing perhaps the two most practical matters affecting members of Parliament. When I say "members of Parliament" I refer also to members of the public, because members of Parliament can be drawn only from members of the public. People who stand for Parliament can imperil their positions if these things are overlooked. A person might suddenly think, "My goodness, I might be held to be taking an office of profit under the Crown; I may already have forfeited my seat in Parliament without knowing it." So, it is a matter of great concern to members of the public, and to the men and women who are elected to this place to represent them.

Those are some very good reasons that we should not accept the suggestion the honourable member has made and embark on a review and rewrite of our Constitution at this stage in our history. I do not doubt it will come; it must come, for the reasons I have given—but not just yet. I put forward those reasons in case the honourable member persists with the thought the delay may be due to my usual tardiness.

The honourable member also referred to the matter of clarity of language; he said we should ensure the meaning of words was clear. We all agree 100 per cent with that sentiment; I believe that argument would endear itself to every

member. We want every Bill coming before the House to be in clear language. Unfortunately, from time to time, we have all complained that the language used in legislation is not clear.

However, the terms of a Constitution are hammered out; in the history of our Parliament, they were hammered out within the Parliament. As a result, our Constitution represented the agreement of the people who were members of Parliament at that time. That is why we have these words in our Constitution. To suddenly take them and put them into clearer langauge would be rather like the exercise we had recently with the Bible. Indeed, last Sunday I had to read the lesson at the Trinity Church. Some members, including the Hon. D. K. Dans and the Hon. Lyla Elliott, were present to listen to me.

The Hon. D. K. Dans: You lost your place.

The Hon. I. G. MEDCALF: I will deal with that in a moment. I was given the reference by the clergyman: Mark, chapter 4, verses 25 to 31. I took the precaution of reading the lesson before I went to the church. I took out the King James version of the Bible and read it, and I was somewhat befuddled as to what it was all about. I agree I should have been far more familiar with it. Then, I took down a copy of the new English bible and found it was very clear. It was all about Jesus crossing the lake. It was one of the miracles, when he quietened the storm. It was expressed very clearly in the Oxford and Cambridge edition.

When I went along to the church, as the Hon. Des Dans knows, I went up to read the second lesson and, lo and behold, the Bible was not there. It was not that I had lost my place; there was no Bible. So, I had to be rescued by the clergyman, who found a Bible and handed it to me. The point I make—and I would not have mentioned it but for that churlish interjection—is that when I read the Bible handed to me by the clergyman, I found I was reading the authorised version of the Bible and that it gave a different account again. So, there were three different versions—the King James version, the authorised version which is the one used in most churches, and the new English Bible version which I found to be very clear.

The Hon. D. K. Dans: I do not know how the Governor got on.

The Hon. I. G. MEDCALF: The Governor brought his copy in his pocket; I do not know which version he used.

I will now return to the point of my comment, which related to the clarity of language: I agree with the honourable member that language should be clear, but clarity depends upon the time at which something is written and it cannot always be clear; we cannot always clear it up. It is not like indexing the basic wage; we cannot change it every year, or look at it every now and again and bring it up to date. Do not forget that a Constitution is like an Act of Parliament which has been hammered out by legislators representing different interests, different parties, and so on. Often, they do not have very much choice in the final product. We cannot all choose the final words we would like used.

Quite frankly, although the new English version of the story of that miracle was quite clear, I thought I could have done better.

The Hon. J. M. Berinson: Now you are becoming blasphemous.

The Hon. D. K. Dans: Next, you will be thinking that you do not need to catch the ferry to go home to South Perth.

The Hon. I. G. MEDCALF: Of course, I would have been sitting in my study writing the story in the way I thought fit, and in clear language. However, unfortunately, the person writing it was constrained by what had gone before him; he had to bring in all the thoughts contained in the previous versions, some of which could well have been left out.

Clarity of language is easy to talk about, but often difficult to achieve. Indeed, about five or six years ago we included in our own Constitution the provision that members must be chosen directly by the people. What could be clearer than that? I thought it was clear and the Solicitor General and the Parliamentary Counsel thought it was clear. However, because a couple of lawyers thought it was not clear, it provoked a case in the court. In fact, the court ended up by saying that the provision was perfectly clear. So, differences of view often occur.

Another famous provision is section 92 of the Australian Constitution which states that trade, commerce and intercourse shall be absolutely free. Now, we all know what "trade" is and what "commerce" is; we all know what "absolutely free" is. Yet the High Court has heard inumerable cases, trying to interpret what was meant by the two words "absolutely free". The court did not bother about the rest of it! The meaning of "absolutely free" is still the subject of great argument amongst lawyers; yet what could be simpler than the two words "absolutely free"? What is clear to one person is not clear to another.

I do agree that we should aim at clarity; I do not dispute that for a moment. That is one of the things we will be aiming at, I am sure, when the

Constitution is redrawn, when the time comes to do it.

On the final subject mentioned by the honourable member—the question of enshrining certain rights in the Constitution—we have heard a lot about this from time to time. Certain things should be entrenched and enshrined, for sure. We entrenched the position of the Governor because, at the time, the Opposition made a threat that the position of the Governor would be done away with. The Hon. Mr Jamieson, who was then the Leader of the Opposition, made a statement that, if he became the Premier, the Labor Party would abolish the office of the Governor. That is the reason that the office was enshrined in the Constitution. We did not want to disturb the position of the Governor as the representative of the Queen. Not only have we enshrined the position of the Governor, but we have enshrined the position of the Queen, and the instructions of the Queen.

Those matters are things we will have to attend to under the "residual links" exercise. However, if we were to enshrine all these other things, we could well run into the kind of problem that has been encountered in some other countries that have bills of rights which are entrenched in their Constitutions. Although it is fine from the point of view of a demagogue to talk about a bill of rights, when one looks at it carefully and sees what it means, one finds there are problems.

We would all subscribe to the use of words such as "freedom of expression being guaranteed", and "equality before the law being guaranteed". They sound marvellous; but when one looks at how they have been interpreted, not by the Parliaments, not by the elected representatives of the people, but by the courts, one finds they have been interpreted in the most extraordinary fashion in the United States of America, which is the home of the bill of rights. The bill of rights within the United States Constitution has been copied in an international covenant. That covenant is based largely on the United States bill of rights, with a bit thrown in from the European covenant.

I will not go into the bill or rights in great detail because I do not want to embarrass honourable members by mentioning some of the things that have been held by the courts in the United States to be perfectly legitimate because of an expression which has been ingrained inflexibly as a constitutional right. I will not go into that; but difficulties have been experienced and we have not been happy about enshrining in our Constitution words or expressions of general principle which might become, exactly as the honourable member has suggested, inoperative and outdated with the passage of time. That is his criticism in the motion; and it is one of the reasons we have not put this sort of thing into effect. We have other reasons as well.

This matter should not be treated as an urgency motion, although I admit frankly that it is within the power of the House and within the rules to do so; but I do not believe there is any urgency about this. We will be able to manage as we have managed for some years, without any immediate action on this. We will manage until the Government of the State takes action, when the "residual links" exercise is completed; and then we will have the opportunity to attend to these outmoded expressions and the odd items which appear in our Constitution.

Some of the fundamental features of the Constitution will need to be changed in that exercise. That will provide a favourable and suitable time to attend to the matters to which the honourable member has referred. We should not tinker with the Constitution in the way suggested. I believe, therefore, that the motion is superficial, out of place, and badly timed. For those reasons, the Government opposes it.

THE HON. ROBERT HETHERINGTON (East Metropolitan) [5.50 p.m.]: I would like to support the motion and state that I cannot agree with the Attorney. Now is the time when we should begin an urgent review of the whole Constitution.

I know that a Joint Select Committee has been at work on the Constitution, because I am a member of that committee. The further the committee proceeds, the more I become aware of the deficiencies in parts of the Constitution. It is time that we considered it and conducted a root-and-branch review.

I have had a different experience, when reading the Bible, from that of the Attorney General. As an undergraduate, I once had to write an essay on a question involving the New Testament, so I took out all the new English versions that were available at the time. I even read the Douay version, the Chief Secretary will be glad to know. I became terribly confused until I turned to the authorised version, and there I found the language a little archaic but simple, straightforward, and very understandable.

The Hon. R. G. Pike: Just like the Chief Secretary—except for "simple".

The Hon. ROBERT HETHERINGTON: For me, that particular document has stood the test of time. A word can be slightly archaic while still having meaning. A word can be archaic without being anachronistic. However, when we look at

the Constitution, we find it has anachronisms in it.

I believe certainly that the Constitution should not be in two parts. It ought to be a single document that says all that needs to be said, and stops. It should not have little bits here and there for historical reasons, so that one has to read this bit and then read that bit, and then read them all together.

We have now learned that the meaning of some sections of the Constitution is clear. That is unfortunate, in some respects. We should now look to see if we can write clear meaning into the whole document. When my learned friend suggested that we should consolidate the Constitution, he did not just mean that we should stick the two bits together, throwing bits out here and there, as the Attorney seemed to suggest.

We believe that the Constitution should be reviewed and turned into one document. If we are to have a written Constitution, it should be straightforward, single, simple, and clear; and the present Constitution is not.

The Hon. D. J. Wordsworth: Will this be done before or after your Select Committee reports to the House?

The Hon. ROBERT HETHERINGTON: I hope that after the Joint Select Committee reports to the House, if the report is accepted, parts of the Constitution will be made clear. I am now referring to the rest of the Constitution. I am talking about the Constitution as a whole.

I note what the Attorney said about me, and I remember what he said on the last occasion: That I was pursuing my brief on behalf of the Opposition, and he was not sure that I believed what I said.

The Hon. I. G. Medcalf: You did it very well, though.

The Hon. ROBERT HETHERINGTON: I was voicing a series of reservations, some of which were mine and some of which were not. The Attorney will be interested to know that since I have been on the Joint Select Committee, I have changed my mind about a number of things. That is one of the virtues of a Select Committee. I now support things about which I was dubious before; and perhaps I would not support things that I would have supported before.

On this issue, I believe that we will find we can reach agreement and consensus on improvements to the Constitution.

I note also, and pay tribute to the fact, that when I objected to the form of the affirmation for Quakers which was put into the original Constitution, the Attorney brought in a Bill to amend the Constitution. I hope I receive pre-selection and win the next election so I can use that affirmation myself. However, it has given me great pleasure to hear other people using the affirmation since it has been modernised. The whole Constitution should be modernised.

I make two brief points that are important. The first is that I do not agree with the Attorney that the Constitution has been hammered out by the Legislature. As far as I am concerned, it has been hammered out by the conservative parties in this State from 1890 onwards; and when the leader of the Labor Party said, "We may not appoint a Governor"—he did not say, "We will abolish the office", as I remember—suddenly the Government under Sir Charles Court had a great panic and entrenched in the Constitution the office of the Governor.

When I was opposing the legislation on that occasion, I did a little research that told me something I did not know before. I found that we do not have to appoint a Governor; we do not have to appoint a Lieutenant Governor. Under the Constitution, we can appoint a member of the Parliament as Administrator of the State if the other two offices are vacant. Therefore I have now found that we could do something that the Government would not like at all, and which we had not even thought of doing before. I have no idea whether we will think of doing it; but I note that the power exists, when the two offices are vacant, to appoint an Administrator; and under the Constitution and the Standing Orders of this House, it is possible to appoint a member of the Parliament as the Administrator. As far as I can see, we could appoint the Premier as the Administrator.

The Hon. I. G. Medcalf: Is that likely?

The Hon. ROBERT HETHERINGTON: I do not think it is likely at all.

The Hon. I. G. Medcalf: I hope not.

The Hon. ROBERT HETHERINGTON: I would not approve of that. It is not something I would agree with; but it could be done. Perhaps we should entrench a little more into the Constitution if we are worried about that.

The Hon. I. G. Medcalf: We will have to have a look at that.

The Hon. ROBERT HETHERINGTON: I am sure the Attorney will. That would not perturb me terribly, because nobody can say that we have to have a Governor. Unless we are to have an hereditary succession, we would need to make allowances so that if the Governor dropped dead—Heaven forbid that the present Governor

does, but it could happen—the Lieutenant Governor would automatically succeed to the office, which would be fatuous.

Our Constitution has all sorts of loopholes in it. It is better, of course, if we can obtain consensus, to have the terms of the Constitution agreed to by all.

One of the other things that was done in a hurry, and certainly not with consensus, was hammered out in this Parliament when the Parliament was in firm hands. At that time, the size of this House was enshrined in the Constitution. It was enacted that this House, the other House, and their powers could not be reduced or changed without a referendum. I am looking forward to the day when the Labor Party is in government and we introduce a Bill to change the Constitution. Will members opposite, when they are sitting over here, be prepared to allow that Bill to go through to the people and show that they believe in the direct will of the people? I would not be at all surprised to find that they do not. But, we will see. We will look forward to that when the time comes.

That is not the sort of thing I want to debate. I could cite how under the American Constitution slavery was allowed by the Supreme Court because it regarded slaves as property and not people. I believe that some rights should be entrenched. Certainly the principle of one-person-one-vote-one-value should be entrenched in our Constitution. Other rights such as the judges' rules are important, and they should be entrenched in the Constitution.

I do not believe we should overdo things like the Americans do, because it is very difficult and can be dangerous. However, it is worth doing because at the present time in this State the Parliament to a certain extent is sovereign and it could take away legal rights tomorrow if a majority of both Houses decided to do so. Therefore I commend my colleague's motion; a review of the Constitution is urgent. I know this takes time and I am certainly not expecting the Government to introduce a Bill to rectify this situation next week should this motion be passed.

I support the motion.

Sitting suspended from 6.01 to 7.30 p.m.

THE HON. J. M. BERINSON (North-East Metropolitan) [7.30 p.m.]: I propose to be brief in replying; in fact, as strictly an Old Testament man, I confess there are significant areas of the Attorney General's speech to which I am simply not equipped to respond.

The Attorney General has asked why the subject matter of this debate should have been put forward in the form of an urgency motion. I will deal with that briefly in two parts, referring firstly to the proposal for a complete constitutional review.

There is, I suppose, a sense in which that could be said to be not urgent. One could say that since two years have passed since the Attorney General said he was concerned, since 90 years have passed since anything substantial in this area has been done, and since nothing dramatically offensive to the welfare of the State has occurred as a result, there can be no harm in waiting another two years, or another 90 years for that matter.

To that I would only suggest that if the subject is not urgent in that limited sense, it might be accepted as timely. It is timely because of the very factors which the Attorney General brought to the attention of the House. The Wilsmore case did serve to clarify a quite fundamental issue which had been contentious for many years, the state of which was uncertain. That problem has now been authoritatively settled.

The Joint Select Committee on offices of profit and so on is certainly engaged on work relevant to the subject matter of this motion; but even starting with the greatest sense of urgency, no-one could expect the sort of constitutional review I have suggested to be finalised in a short period of time. Certainly by the time we were ready to enact relevant changes, the recommendations of the Joint Select Committee would be well known.

Much the same considerations apply, perhaps with even greater emphasis, to the significant changes to the Constitution Act which will have to be adopted in the course of severing the remaining constitutional links with the United Kingdom. What I am suggesting is that with these fundamental questions either settled or actively put in train, now is the right time at least to start the process of a comprehensive constitutional review. I fear very much that if we do not at least put our minds to that possibility we could reach the 200th anniversary of the establishment of the Legislative Council with members still talking about their concern and their good intentions for the future.

The Hon. H. W. Gayfer: That is the degree of urgency for its being considered tonight, is it?

The Hon. J. M. BERINSON: I really find the honourable member's constant emphasis on the word "urgent" misplaced and simply not sensible. How urgent does something have to be to be brought to the special attention of the House?

The Hon. D. J. Wordsworth: You have to admit though that you did no research whatsoever.

The Hon. J. M. BERINSON: I am saying it is important to institute a review of the State Constitution. I pointed out that such a review has not occurred for 90 years, and that the Constitution as a result has become a nonsense document. If the member does not think the matter is urgent today, but it might become urgent in another 10 years' time, he can raise his absurd objections in 10 years' time, preferably from the comfort of his retirement. He should not hinder members of this Council who are interested in bringing important matters to the attention of the House. After all, the alternative is to bring it forward at the adjournment, and what on earth would Mr Gayfer say about that? He should look at *Hansard* to find the opinion of this Council on the raising of important matters on the adjournment of the House. In the end, following his line of attack to its logical conclusion, the member will reach the situation that nothing important ought ever be brought to the attention of this House except in the Address-in-Reply debate and that absurd Budget debate in which we engage.

The Hon. H. W. Gayfer: You define "urgent" as nobody else can.

The Hon. G. E. Masters: It is urgent to him.

The Hon. J. M. BERINSON: There is a second leg to the argument I raised. This goes beyond the question of the need for general constitutional review to the proposal that we should look especially at entrenching in the Constitution the basis for a fair and democratic electoral system. This is not only a timely matter, but also it is urgent because constitutional reform in this State is always urgent and it must continue to be treated as urgent while it is subject to the corruption of democratic principles from which it now suffers.

I will not launch into a separate debate on the need for electoral reform. No-one can doubt that our electoral system is outrageous. There has never been an effective answer to the allegations from this side of the House on that subject. With all due respect to the views of the Attorney General, and even accepting his view that it may be unwise to entrench into a State Constitution the sort of rights which have given rise to extremes in other places, I would not hesitate to say that the electoral system in this State ought to be the exception to the general rule and that the issue of an effective equality of the value of votes of all Western Australians is serious enough and timely enough—and, yes, Mr Gayfer, urgent enough—to encourage our support for an entrenched provision in the Constitution Act to that effect.

The Hon. H. W. Gayfer: I see your colleagues behind you recognise the urgency of it!

The Hon. J. M. BERINSON: In accordance with the practice of the House, I seek leave to withdraw the motion.

Motion, by leave, withdrawn.

"HANSARD"

Printing: Delay

THE PRESIDENT (the Hon. Clive Griffiths): During the dinner suspension I received a note from the Chief Hansard Reporter advising that as a result of the SEC strike last week *Hansard* No. 10 will not be available until Wednesday, 18 August; so if any honourable member is waiting for *Hansard* No. 10, he will receive it tomorrow.

BULK HANDLING AMENDMENT BILL

Receipt and First Reading

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

Second Reading

THE HON. G. E. MASTERS (West—Minister for Labour and Industry) [7.41 p.m.]: I move—

That the Bill be now read a second time.

The purpose of this Bill is to increase the proportion of shares which Co-operative Bulk Handling Ltd., under section 13 of the Act, can purchase back from its members, to 40 per cent of the paid up capital value of the company. Currently, this facility is limited to 20 per cent of the paid up capital value of the company. Also it will ensure that any shareholding presently held by Co-operative Bulk Handling Ltd. in excess of the 20 per cent currently specified in the Act, is legally valid.

Co-operative Bulk Handling Ltd. is established under the Companies (Co-operative) Act. However, the Bulk Handling Act, which grants Co-operative Bulk Handling Ltd. sole authority to handle wheat and barley in Western Australia, imposes certain consequent obligations on the company. Section 13 of the Bulk Handling Act overrides section 174 of the Companies (Co-operative) Act, which limits the shares a co-operative company can purchase to five per cent of paid up capital.

Under the Bulk Handling Act, Co-operative Bulk Handling Ltd. is required to issue or transfer to each grower one fully paid $2 share out of the foundation toll collections from that grower. However, under the articles of association of the

company, where a grower fails to deliver for two successive seasons, except because of drought, fire, flood, or some other untoward happening to his crop, his membership lapses and the share is purchased from him by the company at its full face value.

While the share is held by the company, it becomes a non-voting share, but it can be transferred to a new grower who qualifies to become a shareholder.

The number of shares held by Co-operative Bulk Handling Ltd. has now increased to the point where the value slightly exceeds the limit of 20 per cent of paid up capital specified in the Act. This has been caused by the economic pressures for farm amalgamation and for a larger area of grain to be grown by fewer farmers. This trend is unlikely to change significantly in the foreseeable future.

The proposed increase in the proportion of shares held by Co-operative Bulk Handling Ltd. will not create any problems regarding control of the company since the shares issued by Co-operative Bulk Handling Ltd. differ from the normal concept of a company share.

The single share held by each grower enables him to vote for the election of directors, attend shareholders' meetings of the company, and vote on various matters in accordance with the memorandum and articles of association of the company. However, the share cannot be bought or sold by outside parties; it is not transferable between growers; and its monetary value is constant at $2. In addition, each shareholder has only one vote, and shares held by the company become non-voting shares.

Finally, if Co-operative Bulk Handling Ltd. is wound up, the Act specifies that any proceeds remaining after creditors have been paid and shareholders have been repaid for the capital paid on their shares, shall go to the State Government rather than to shareholders.

It is understood that the increase will not affect Co-operative Bulk Handling Ltd.'s legal standing as a co-operative.

In conclusion, the proposed increase in capacity to buy back shares from inactive farmers will enable Co-operative Bulk Handling Ltd. to continue to conform to the intent, both of the Act and the articles of association, that only active grain growers participate in the affairs of the company.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. J. M. Brown.

COAL MINE WORKERS (PENSIONS) 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.

INDUSTRY (ADVANCES) 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) [7.46 p.m.]: I move—

That the Bill be now read a second time.

This Bill provides for amendment to the Industry (Advances) Act 1947-1980 for the purpose of—

(a) removing difficulties associated with the interpretation of the Act relative to the meaning of the words "new business" under the grant scheme;
(b) providing clarification and uniformity as to the "competition" aspect of the State's financial assistance policy; and
(c) correcting an error made in the drafting of a previous amendment.

Difficulties have been encountered with the interpretation of certain provisions of the Act which govern eligibility for assistance under the guarantee scheme and the capital establishment assistance scheme.

The first of these is basically one of interpretation involving section 7A(1)(c)(i) of the Act, which stipulates that to be eligible for assistance under the capital establishment assistance scheme, an applicant's proposal must relate to a "new business" engaged in industry.

Typical of several instances in which this problem of interpretation has arisen, is the case of a recent approval of a capital establishment grant to a local establishment company marketing sensitised paper. In this case grant assistance was approved as an incentive to the company to establish facilities to manufacture the paper in this State, as opposed to importing it.

Whilst the Crown Law Department conveyancer agreed that the company's proposal related to the establishment of a new industry—that is, the manufacture of sensitised paper—he expressed doubt that the proposal related to a "new business".

To overcome this problem and to bring the provision of assistance under the scheme more into line with the Government's objectives of attracting new and non-competitive industry to this State, and that of broadening the State's existing manufacturing base, it is considered essential that the section be amended. This could be achieved by the substitution of the word "industry" for the word "business".

Difficulties have arisen also under the Act from the inconsistency which currently exists in respect of the competitive provisions of the guarantee scheme and the capital establishment assistance scheme.

Section 7A(1)(c)(i), for example, provides for assistance to industry "not likely to be in competition in the same field of activities within a region designated in the scheme", whereas section 7A(1)(a)(ii) under the guarantee scheme provides for assistance to industry "not likely to be in competition in the same field of activity in the State . . ."

The regional inference under the capital establishment assistance scheme, in contrast to the State-wide implication under the guarantee scheme, gives rise to the situation in which an applicant may be considered eligible for assistance under one scheme and not the other.

It is considered also that the use of the word "competition" in the provisions under both the above schemes is too restrictive and does not provide for situations where there may not be an actual conflict of interest between competing firms, for example, because of the capacity of the market to absorb another supplier.

In addition, it is proposed that section 3(2) of the Act be amended by indenting the words "in accordance with a direction given under this Act" at the end of the section so that the words apply only to subsection 3(2)(e) and not to section 3(2) as a whole. This was the original intention of that amendment.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. Fred McKenzie.

CHILD WELFARE AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by the Hon. R. G. Pike (Chief Secretary), read a first time.

Second Reading

THE HON. R. G. PIKE (North Metropolitan—Chief Secretary) [7.50 p.m.]: I move—

That the Bill be now read a second time.

This Bill seeks to amend the Child Welfare Act 1947-1979 in two major areas and a number of miscellaneous areas as follows—

1. The inclusion of a new section enabling Children's Courts to make community service orders requiring young offenders to carry out community work.
2. An increase in the number of sections under which authority may be delegated by the Minister to the director relating to individual cases.
3. The reintroduction of a provision giving authority for uncontrolled children to be apprehended.
4. The deletion of subsection 1(c) of section 30.
5. Provision for an appeal to a superior court against a decision on a care and protection application.
6. An amendment to prevent, without the authority of the Children's Court, the publishing in any media of the report or the proceedings concerning a child who is before the court.

Members no doubt are aware that a scheme currently is in operation whereby Children's Courts can order community work for juveniles convicted of an offence. This set trial scheme was commenced in the metropolitan area at the beginning of July 1978, and in the four years to the end of June 1982, 1 394 boys and 98 girls have participated. Of these, 1 314 boys and 82 girls have successfully completed their community service order.

Having developed the scheme and tried it out, this Bill now seeks to give it clearly defined legislative backing and to broaden its scope.

At present, the making of a community service order is an option open to the court. A special magistrate can make an order and, generally, if it is complied with the charge against the juvenile is dismissed. It can also be given as a term of probation. Proposals in the Bill provide that these arrangements continue.

In addition, however, a community service order will be able to be made where there is default on a fine and in lieu of servicing that default. It will also have application where default cannot be served because the juvenile is still receiving full-time education and has no adequate financial means.

The Bill contains the requirement that the juvenile concerned be agreeable to the order being made and seeks the co-operation of parents. It

prohibits an order being made in respect of a juvenile convicted of violent offences and provides that the hours involved in an order shall not be less than 10 or more than 70.

Steps have been taken to ensure that appropriate work is available before an order is made and, generally, all orders must be completed within three months. If a juvenile successfully completes the requirements of the order he will not have to appear again in court on the matter.

These conditions have resulted from experience associated with the practical application of the scheme. There is, however, provision for the Minister of the day to vary the limits of the age range, the minimum and maximum hours that can be ordered, and the time span for completing orders, should this be desirable in the future.

Courts will, of course, be able to extend the time given to complete an order—within the operative limits—vary it, and take into consideration partial completion of an order when further dealing with the juvenile. Under the provisions of the Bill the special magistrate will explain to the juvenile concerned the implications of the order.

It is proposed that juveniles in employment and carrying out community work will be covered by workers' compensation. Examples of the type of work they have been carrying out are: Aged persons' homes, hospitals, RSL war veterans' home, BMX and Police & Citizens Youth Clubs and the Spastic Welfare Association.

Some definitions are included and the purposes for which regulations may be made are spelt out.

The other major thrust of the Bill is the delegation of authority. It seeks to acheive two things: Firstly, it proposes that the Deputy Director of the Department for Community Welfare exersise the same powers as the director; and secondly, it proposes that certain powers exercised by the Minister in relation to individual people and individual officers, be delegated to the director.

In relation to the first proposal, members will be aware that the notion is not a new one and that this Parliament has previously sanctioned it in terms of the Community Welfare Act and the Family Court Act. It makes good sense in view of the volume of work requiring decisions on a wide range of individual matters in the welfare field. There is no conflict of interest in its practical operation and in any event the director's decision prevails if a dispute occurs.

The second proposal seeks to extend those powers which the Minister may delegate to the director, or his deputy. They all relate to individual children or officers of the department. Delegation does not prevent the Minister of the day exercising any of the powers. The Minister may revoke any delegation; all delegations will be renewed with each change of Minister and the Child Welfare Act contains ample provision for appeal to a Children's Court.

Proposed delegations are—

(a) authorisation of departmental officers to apprehend and place children in need of care and protection;

(b) discharge a term of probation, but not extend it;

(c) release from committal to or control of the department;

(d) committal to the care or control of the department where—

(i) a child is left with people without the parents providing adequate financial support;

(ii) a child is left with parent or guardian;

(iii) request is made by parent or parents; or

(iv) a child is made available for adoption by one parent but the wishes of the other are not readily ascertainable;

(e) extension of committal to or control where all parties agree, remain with the Minister where there is disagreement;

(f) transfer of wardship from one State to another—Minister to make arrangements and director deal with individual cases;

(g) authorise an officer of the department to apprehend children in danger, misbehaving or truanting from school; and

(h) authorise an officer of the department to lay complaints and conduct cases in court.

The other clauses contained in this Bill are relatively minor but nevertheless important.

The proposal to include a provision allowing a police officer or officer of the department to apprehend without a warrant, a child suspected of being uncontrolled, is necessary. This provision existed until 1978 when amendments to the Child Welfare Act required the repealing of certain sections. The section allowing the apprehension was omitted in error. Subsequent experience has shown that such a clause is necessary and desirable.

The proposal to delete subsection 1(c) of section 30 is necessary because it is that section

which allows the court, after being satisfied that a child is in need of care and protection, to release the child on unspecified conditions but subject to supervision. This section has been found in practice to be ambiguous and ineffective.

Because the child has not been committed and because the nature of the supervision is not specified, the parents may, if they wish, choose to ignore the court's decision and frustrate requests or advice that the department may make in respect of the child.

Another amendment deals with the right of appeal to a superior court about a decision made in a Children's Court or by ministerial decree in respect of a care and protection, uncontrolled applications, or other non-criminal orders of the court. Right of appeal to superior court exists in relation to criminal matters, but until now no right of appeal has existed for those matters which are of a non-criminal nature, such as committal to care.

Finally, it is proposed that a section be re-introduced that prevents the publication by way of Press, radio, or television, of reports of proceedings or a decision of a Children's Court, without the express approval of the court. A provision of this nature existed prior to 1979 but a drafting oversight occurred when a new amendment was introduced. That amendment provided for the disclosure of proceedings involving children in superior courts.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. Fred McKenzie.

BUILDING SOCIETIES AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by the Hon. R. G. Pike (Chief Secretary), read a first time.

WESTERN AUSTRALIAN MARINE BILL

Report

Report of Committee adopted.

SUPREME COURT AMENDMENT BILL (No. 2)

Second Reading

Debate resumed from 4 August.

THE HON. J. M. BERINSON (North-East Metropolitan) [8.03 p.m.]: This Bill will enable the courts to award pre-judgment interest in appropriate cases. The right to interest is already provided by sections 32 and 33 of the Supreme Court Act, but the provisions apply in limited cases only and at a rate of only eight per cent, which is unrealistic in current circumstances. Apart from that, the terminology of the sections is not the best example of the draftsman's art, and a commentator at the 1981 law summer school expressed a widely held view when he said after an outline of the problems posed by the sections—

> These disadvantages and long-existing uncertainties are eloquent of the need for legislative action to the current section 32 of the Supreme Court Act. Not only is the entitlement uncertain and arbitrary, but when it exists the maximum rate of interest permitted—8 per cent—has long since lost comparison with commercial interest rates.

This Bill repeals sections 32 and 33 of the parent Act, and the new section 32 precisely reflects the recommendation of the Law Reform Commission in its report on pre-judgment interest, project No. 70.

That recommendation in turn adopted the wording of the New South Wales Act which has been in force since 1970, and is apparently working well. The Attorney General was quite right in suggesting that the absence of pre-judgment interest is both unfair to creditors and contributes to congestion in the courts. It provides a positive incentive for defendants to procrastinate in litigation, and that incentive ought to be removed. This Bill should achieve that end and the Opposition supports it.

THE HON. J. M. BROWN (South-East) [8.05 p.m.]: I ask the Attorney General why there was a need to place a limit of $750 in relation to any pre-judgment interest called upon in the local court. The Bill is well founded, as the deputy leader of the Opposition has said, as is the purpose for which it is presented. But I wonder why there is a need for any limitation at all. I have a certain knowledge of what goes on in the small country districts, and knowing that such a provision will be available could be an incentive for people to meet their commitments, particularly to small business. However, the limit of $750 could be described as the maximum to which they will extend their credit arrangements.

I do not see any great problems in the Bill, but given my knowledge of the local community and the limitation that the Bill provides, I believe it is worth another look. There is ample scope for the courts to levy any interest rate they feel should apply, and at present that can vary from eight per cent to possibly in excess of 22 per cent, which is about the market rate. Perhaps in the local courts there would be an exercise of judgment by the

magistrates who would give consideration to the worthiness or otherwise of imposing a penalty of any figure that may be available, apart from the limitation of $750.

THE HON. I. G. MEDCALF (Metropolitan —Attorney General) [8.07 p.m.]: I thank the Opposition for its indication of support for the Bill. It is an important means of hastening litigation and preventing unnecessary litigation and delay merely for the purpose of gaining an advantage in the form of interest. It was brought on because of a comment made by the Chief Justice, as I indicated in the second reading speech, and the Law Reform Commission followed that up. The Law Reform Commission advised that amounts less than $750 should not carry interest in the local court. I believe that is fair and proper and it ties in with another section of the Supreme Court Act, section 142, which provides that interest may be payable on a judgment debt from the date of entry of judgment until the judgment is satisfied. That section contains a subsection in exactly the same terms as appears here. This is the complementary section in the Supreme Court Act and a provision in this Bill, new subsection (3) in clause 3, has identical meaning. Therefore, there is a consistency in these two sections.

Question put and passed.

Bill read a second time.

In Committee

The Chairman of Committees (the Hon. V. J. Ferry) in the Chair; the Hon. I. G. Medcalf (Attorney General) in charge of the Bill.

Clauses 1 and 2 put and passed.

Clause 3: Section 32 repealed and substituted and section 33 repealed—

The Hon. J. M. BROWN: My question relates to interest on interest. I understand the principal Act has never allowed interest on interest in any proceedings. But what happens when it is written into a contract that interest is given freely—that there is an exemption for interest?

This can happen when one is dealing with a client. As an incentive to a client to purchase an article, particularly in the machinery industry, a person may offer to carry a certain amount of the cost. He may say to the client that the article will be sold to him interest free and that may be specified in the contract. Then the buyer may not meet his obligations and the matter may go to litigation. Would it be applicable to ask for pre-judgment interest in that case?

This situation happens quite regularly in country areas where one has to take people to the local court to get judgment on the amount outstanding. In country areas, local businessmen make concessions to clients, and one of them is an interest-free arrangement written into a contract. I am not seeking a legal interpretation from the Attorney General and I will accept his advice. The point I have raised is a situation which could defeat the spirit of what we are introducing in respect of pre-judgment interest.

The Hon. I. G. MEDCALF: A person can claim interest if there is an agreement to that effect. That agreement will stand irrespective of this Bill. A person usually can claim interest if he makes a demand of some kind and makes it clear that unless the debt is paid he proposes to charge interest on it. That is commonly done by stock companies. In these cases this section would not apply because it would be taken to be covered by an agreement or some other arrangement the parties have made. This section applies only in situations where there is no agreement and where the judge or the court is of the opinion that it is proper and equitable to grant interest in the circumstances because of the various factors which are mentioned. They are not all mentioned in this section; there are a number of cases on this, particularly in New South Wales, which have laid down guidelines for the courts. Compound interest is frowned upon by the courts, and this Bill is to make sure that the court is not deluded by any device into granting compound interest.

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 (Attorney General), and transmitted to the Assembly.

WORKERS' COMPENSATION SUPPLEMENTATION FUND AMENDMENT BILL

Second Reading

Debate resumed from 4 August.

THE HON. D. K. DANS (South Metropolitan—Leader of the Opposition) [8.16 p.m.]: The Opposition agrees with this amending Bill. We agreed with the legislation when it was before

the House previously. As the Minister stated in his second reading speech, the Bill sets out to correct an anomaly; it will ensure that the supplementation fund includes cases at common law. We believe the measure is in the best interests of the community at large, and we support it.

THE HON. G. E. MASTERS (West—Minister for Labour and Industry) [8.17 p.m.]: I thank the Opposition for its support. Clearly it is important that the legislation is passed as quickly as possible for the benefit not only of the work force but also of the employers.

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. G. E. Masters (Minister for Labour and Industry), and transmitted to the Assembly.

MONEY LENDERS AMENDMENT BILL

Second Reading

Debate resumed from 4 August.

THE HON. J. M. BERINSON (North-East Metropolitan) [8.18 p.m.]: This Bill seeks to amend the Money Lenders Act in two main ways. In the first place it proposes to remedy a matter which the Attorney General describes as anomalous.

This relates to section 3A of the Act which permits corporate borrowers to contract out of the protective provisions of the Act but does not extend that capacity to personal guarantors of such corporations. This Bill provides that extension.

The second objective of the Bill is to formalise the current practice in relation to bodies corporate which apply for exemption from registration pursuant to section 3(f) of the Act.

The Money Lenders Act is such a dreadful document and it is now in such an awful mess that virtually no isolated amendment can make it either better or worse. On that limited and unenthusiastic basis I indicate to the House I do not oppose the Bill.

On the other hand, it should not be overlooked that the logic now brought to the amendment of section 3A completely turns on its head the logic applied in 1962 when the section was first enacted.

In other words, we are not here dealing with some small unanticipated anomaly but with the amendment of a provision the effect of which was deliberate and quite well understood at the time.

Section 3A was inserted in the Act in 1962 by a private member's Bill moved by the Hon. H. K. Watson. In the course of his second reading speech Mr Watson was at pains to make clear that he also was doing no more than removing an anomoly. He explained his position in this way, and I refer to page 1037 of the *Hansard* report of 18 September 1962—

> The anomalous position which this Bill seeks to remove arises primarily from the provisions of section 9 of the principal Act. That section requires that with every loan made by a moneylender he shall, before the money is lent, deliver to the borrower a memorandum containing the specified particulars of the loan, and obtain from the borrower a receipt therefor; and the moneylender who fails to do that is liable to be prosecuted and fined.

After other comments which are not relevant for the moment, Mr Watson went on to say—

> When the borrower is an individual, that obligation is only fair and reasonable; but when the borrower is a company, and particularly when the company is borrowing from the public by way of issuing debentures or registered secured notes, or registered unsecured notes, or by way of accepting deposits, the requirements of section 9, in my opinion, can only be described as absurd, or plain silly. When a company so borrows it is the borrower—the borrowing company itself—which dictates the rate of interest it will pay, what security (if any) it will offer, when the loan shall be repaid, and all the other conditions.

It will be noted that Mr Watson moved rather too quickly from a particular case to some sort of general principle. That is, having reasonably established that it would indeed be unfair for corporations to issue debentures, for example, in such a way as to put unsuspecting lenders in jeopardy, he then expanded his measure to cover all borrowings by all companies. This of course includes private companies.

The basis for Mr Watson's approach is to be found from this further comment by him in his second reading speech—

That Act—

That is the Money Lenders Act. To continue—

> —was very properly designed to protect individuals from rapacious moneylenders. It was basically enacted to protect borrowers who were individuals, and it was never really intended to apply to borrowings by a company from the general public or otherwise.

No authority was given for that explanation, but even assuming that it was in fact correct, that could be the case only because companies were still relatively little understood and used in the commercial life of this State when the Money Lenders Act was first introduced in 1912. In any event the Government in 1962—a Liberal-Country Party Government—recognised weakness in Mr Watson's argument and the Minister for Justice successfully moved an amendment to add subsection 3A (3). That is the very subsection which the Bill now before the House proposes to delete.

As the then Minister, the Hon. A. F. Griffith, explained—

> . . . it is hard to see why a guarantor who is a natural person, and who would originally receive protection under such safeguards as the Statute affords to him, should be denied those safeguards by agreement between the lender and the corporate borrower. It must be remembered that that is an agreement to which the guarantor is not necessarily a party. Furthermore, unless that individual is protected when he is in the role of guarantor, the "gate" would be open for dummying. By this is meant that an unscrupulous lender would be able to negotiate a loan, primarily intended for an individual, with a company as a dummy borrower.

Without even going to these lengths, one could say simply that the commercial reality of private companies today is often such that one can only distinguish between a loan to the company and a loan to its guarantors as being a matter of form.

What the reasoning and the history of section 3A really lead to, is a serious question as to whether corporations should have been permitted to contract out of the Money Lenders Act except in the limited case of debenture issues and the like which first excited Mr Watson's interest.

If it were possible to take the Money Lenders Act more seriously, this is the sort of consideration which surely should be pursued. Given current commercial realities and the peculiar structure of this Act, which seems as intent on creating exceptions as on establishing rules, that does not apply.

The Attorney General himself seemed to acknowledge this when, in the course of his second reading speech, he said—

> I might add for the benefit of members that the provisions of the Money Lenders Act could be said to warrant a complete review.

I note that *Hansard* does not appear to record that I said "Hear, hear" at that stage, but if I did not say it I certainly thought so very loudly.

The Attorney, unfortunately, went on to qualify that suggestion by saying—

> However, there have been discussions between the States with a view to the introduction of uniform credit laws and their introduction in Western Australia, if Parliament were so minded, could well supersede this Act.
>
> It is clearly desirable that ultimately there be uniform credit legislation throughout Australia in regard to this important commercial area but, in the meantime, the Money Lenders Act does provide some measure of protection for unwary consumers.

This qualification by the Attorney is all too reminiscent of another comment which has recently come to my attention and which is in the following terms—

> However appropriate the provisions of the Money Lenders Act may have been for conditions prevailing in 1912, or even in 1937, it is today in many respects, in my opinion, quite unsuitable and even ridiculous. The whole Act is long overdue for a complete overhaul and revision; and I understand this is receiving the attention of the Government.

That statement was made by the Hon. H. K. Watson in the same debate to which I have referred already. His comment will have its 20th anniversary on the 18th of next month. It was true at the time he made it and it is even more true today.

Nor should we ignore the comment of the Minister for Justice at the same time who, referring to the private member's Bill, said—

> The measure anticipates a draft Money Lenders Bill which has been under preparation for some time under the guidance of the Standing Committee of Attorneys-General of the States and the Commonwealth . . .

That is another exhortation to be patient, in favour of an attempt at uniform legislation.

Like the Attorney General, I would be much happier to put aside the Money Lenders Act altogether in favour of uniform credit legislation.

Unfortunately, that seems not much closer than it was in 1962, and either we should move to comprehensive credit legislation of our own or, alternatively, we should institute a thorough review of credit laws such as the Money Lenders Act and move away from this fiddling with minor and relatively useless amendments.

There really should be a limit to the extent to which we are prepared to compound absurdity and I fear very much that this Bill does not recognise that.

THE HON. I. G. MEDCALF (Metropolitan—Attorney General) [8.30 p.m.]: I am glad members opposite do not oppose the Bill. I will not thank them for their support for the Bill, because it is clear they would prefer not to have a Money Lenders Act at all. A considerable amount of pressure has been exerted to that effect and the honourable member referred to a former member of this House, Sir Keith Watson, whom I succeeded when he retired and for whom I have the greatest respect. He had very strong views on this matter and it is good to hear those views quoted with such approbation by the honourable member. It does my heart good to hear it.

The Hon. J. M. Berinson: It does your heart good to hear that an Act has been neglected for 20 years, does it?

The Hon. I. G. MEDCALF: Sir Keith Watson was perhaps one of the most conservative members of this House and it is good to hear that his wisdom has been passed on to the Hon. Mr Berinson and that he is prepared to endorse those comments. I have a very great respect for Sir Keith Watson; but I am not in that corner which proposes to do away altogether with the Money Lenders Act.

The Hon. J. M. Berinson: I really must interrupt, because that was not my proposal.

The Hon. I. G. MEDCALF: I realise that, but we hear that proposal from time to time. I did not say it was the Hon. Mr Berinson's proposal.

I do not believe the time is right to repeal the Money Lenders Act and I shall give one very short and simple reason for saying that, which is that the Act contains a deterrent to higher and higher interest rates.

This is the only State in Australia with a Money Lenders Act which restricts interest rates. The only other State in Australia, of which I am aware, which has a Money Lenders Act is Victoria and the maximum rate under that legislation is 48 per cent. Leading people in the finance industry have spoken to me privately and, regardless of what they have said publicly, have said, "Keep that ceiling on the interest rates. It acts as a deterrent and stops people pushing up interest rates a bit higher and higher. As long as we have a ceiling on interest rates, we will keep them reasonable." That is the reason for retaining the Money Lenders Act.

The Hon. J. M. Berinson: You do not think section 11 might very often be observed in the breach?

The Hon. I. G. MEDCALF: If any member of this House knows of such a case, he should report it to the appropriate authorities.

The Hon. J. M. Berinson: I do not know of it from firsthand knowledge. I only know of it from reading the newspaper each morning and seeing the current, daily rates.

The Hon. I. G. MEDCALF: Those rates do not exceed the maximum rate. That money would be offered by registered moneylenders and the maximum rate is well above what they are offering. They are certainly not breaching the provisions of the Act. Anyone who inserts an advertisement in the paper offering money at interest rates of 17.75 per cent or 18.5 per cent, is not breaching the Money Lenders Act, because he would be a registered moneylender.

If any member of this House knows of a person who is quite deliberately breaching the Money Lenders Act and getting away with it, it is obligatory for him, as a citizen, to report that to the appropriate authorities.

The Hon. J. M. Berinson: We must be a remarkably law-abiding society, because no prosecutions under this Act have occurred over the past three years when interest rates have gone through the ceiling.

The Hon. I. G. MEDCALF: I am aware of that, and I have received a report from the police to that effect.

The Hon. J. M. Berinson: You are in a very jovial mood tonight!

The Hon. I. G. MEDCALF: Why should I not be?

The Government is firm in its resolution to keep as tight a rein on interest rates as possible. However, the Government does not have much to do with this matter, because the level of interest rates is set by the market place; but if the Government retains the provision in the Act which imposes a ceiling on interest rates, this should have a dampening effect on them and that is the reason for the continued existence of the Act.

Many people still abide by the provisions of the Act and if any member knows of someone who

does not, he should report him and the appropriate action would be taken.

The Hon. H. W. Gayfer: Surely all responsible lenders will keep an eye on this.

The Hon. I. G. MEDCALF: Well, they do indeed.

The Hon. H. W. Gayfer: Otherwise it would be a slur on superannuation funds and everything else.

The Hon. I. G. MEDCALF: I agree entirely with the comments made by the honourable member. I do not know of any breaches of the Act, but I am aware of many people applying for exemptions which they do not obtain. A large number of companies apply for exemptions, because they wish to observe the Act; and the conditions on exemptions, which are dealt with in this Bill also, are quite strict.

The Hon. H. W. Gayfer: People are most responsible.

The Hon. Peter Dowding: Are interest rates lower in this State than elsewhere?

The Hon. I. G. MEDCALF: I am told constantly by responsible hire-purchase companies and finance companies that interest rates in this State are a little lower than in other States.

The Hon. Peter Dowding: From hire-purchase companies?

The Hon. I. G. MEDCALF: Interest rates charged by finance companies in this State are a little lower than in other States, largely because of the operation of the Money Lenders Act.

The Hon. Peter Dowding: How could that be so?

The Hon. I. G. MEDCALF: That is a credit to the State and it justifies the view we have taken about the Money Lenders Act. I have admitted that it is far from being a perfect Act. I have never liked it, but we are stuck with it until adequate, uniform credit legislation is drawn up in concert with the other States. Such a situation is much closer now than it was in 1962. Two States have already introduced legislation, but unfortunately they have drawn up different Acts. We may pick the eyes out of them and end up with a much better Act than either of those States has, and that is the object we have in mind.

The honourable member asked also why we are overturning something which was established in 1962. In fact we are not really overturning that provision. Under the 1962 amendment, a company which agreed to do so was allowed to acknowledge that a lender need not be bound by the provisions of the Act, except for the provision which related to maximum interest rates. That is what section 3A said and the arrangement could be made quite voluntarily. A company could agree and acknowledge that a lender need not comply with the provisions of the Act except in relation to maximum interest rates. That provision was inserted in 1962 and we do not seek to disturb it. We simply seek to delete subsection (3) which provides that, in spite of the fact that the company might have agreed that the Act shall not apply, anyone who gives a collateral security or guarantee cannot so agree, with the result that the Act will apply to him.

In spite of what Sir Keith Watson said—I greatly respect his opinion which was given 20 years ago—my experience of commercial reality is to the effect that those provisions are a hindrance and not a help. It is quite unnecessary, when a company acknowledges voluntarily that a moneylender need not be bound by the Act, to require the directors and other people who guarantee the particular loan to have applied to them all the other requirements of the Act and, in particular, the provision contained in section 9 under which all these documents, notes, memoranda, and other papers which are very technical have to be given to the half-dozen or so people who might guarantee the loan. It is all very time consuming and expensive, because they end up paying the bill, and, in most cases, it is quite unnecessary.

The Hon. J. M. Berinson: Is there really any point in separating corporations and individual borrowers in current circumstances? If we are going to allow people to contract out, why do we differentiate between corporations and individuals?

The Hon. I. G. MEDCALF: The reason for doing that is, by and large, we traditionally expect companies to be in a better financial position than individuals. The reverse would apply in many cases, but generally in commerce companies are regarded as being in a stronger financial position than individuals when it comes to borrowing, lending, making a bargain, or anything else. Only a company receives an exemption from the lending provisions in the Act. We do not give exemptions to individuals.

The Hon. J. M. Berinson: May I ask why?

The Hon. I. G. MEDCALF: Generally speaking this occurs because companies are in a stronger position than individuals.

The Hon. J. M. Berinson: Why should it relate to the lender?

The Hon. I. G. MEDCALF: I think it should relate to both. That view has proved to be quite acceptable to industry.

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 (Attorney General), and transmitted to the Assembly.

CONSUMER AFFAIRS AMENDMENT BILL (No. 2)

Receipt and First Reading

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

Second Reading

THE HON. G. E. MASTERS (West—Minister for Labour and Industry) [8.32 p.m.]: I move—

That the Bill be now read a second time.

In late 1981 the High Court of Australia delivered a judgment in a case referred to as Shaddock and Parramatta City Council which related to negligent advice concerning road widening proposals given by an officer of the council to a prospective purchaser of land.

The result of that decision is that the law in relation to negligent misstatement has been expanded. The decision made specific mention of officers of local government and other Government or statutory authorities as being exposed to liability for negligent advice given to members of the public in the course of their duties.

It had been thought in the past that section 25 of the Consumer Affairs Act would protect the Commissioner and officers of the Consumer Affairs Bureau from liability in such instances. In view of the decision referred to, it was considered desirable to review the suitability of section 25.

Legal opinion obtained indicated that the section is inadequate and unsatisfactory for the purpose of protection of officers because, although it refers to acts done, defaults made, and statements issued, it does not refer to advice, assistance, or information given.

Much of the success of the bureau's work is because it is accessible to the public and provides a relatively quick service. That success would conceivably be impaired if advice and information given with the best of intentions left officers of the bureau open to legal action in the event that this advice was shown to be wrong.

In the interests of consumers and the bureau the amendment contained in the Bill is seen as being highly desirable.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. J. M. Brown.

STAMP AMENDMENT BILL (No. 3)

Second Reading

Debate resumed from 10 August.

THE HON. PETER DOWDING (North) [8.45 p.m.]: This Bill is another example of an amendment to the Statutes that was never necessary when the Opposition suggested it; but as the day wore on it became apparent to this Government, rattling around in its nervousness, that it was absolutely necessary. As honourable members may know, it arises from a decision of the High Court in Gazzo's case. As every student in this House of the Family Law Act would know, Gazzo's case determined that the provision of the Family Law Act which provided for transactions and deeds the subject of Family Court settlements not to be dutiable, was *ultra vires*, and the States had the right to require duty to be paid on those transactions and deeds.

The interesting point is that when the High Court decision was announced the Opposition said publicly that the State legislation ought to be amended in order to ensure Family Court litigants in this State were given the certainty of knowing they could reach a settlement of their domestic disputes without attracting stamp duty on the transactions or deeds. When it was said that these litigants should be told that as soon as possible, this Government opposite simply said a change was not necessary—it pooh-poohed the idea. Gazzo's case was decided just prior to Christmas, on 24 December 1981. The case attracted a substantial amount of publicity, and *The West Australian* of 1 January 1982 had this to say—

> The State Opposition Leader, Mr Burke, announced last night that the Opposition would move in Parliament to block the levying of stamp duty on transfers of assets between spouses in the break-up of a marriage.

He said that there was no reason why such a stamp duty should be imposed other than as "a miserable revenue-raising measure."

However, the feeling among WA Government officials yesterday was that the whole issue was "a storm in a teacup."

The assistant commissioner of stamp duties Mr Jim Lightbody, said that property transfers resulting from a court order attracted only a $5 nominal duty.

He saw no reason for this to change.

On 2 January 1982 Sir Charles Court, the then Premier, had the opportunity to comment, and was reported as saying that the Opposition's statement, that it would move in Parliament to block the levying of stamp duties on transfers of assets between spouses in the break-up of a marriage, was hollow because it was not necessary. When the Attorney introduced the Bill in this House he did not tell us that his previous Premier had said on 2 January this year that no legislative change was necessary in this matter and that the Government utilised its position to pour political scorn on the Opposition when it urged the introduction of this legislation.

How utterly irresponsible was it of the Government to use its massive Press machine for what was purely a political exercise to pour scorn on a genuine piece of advice proffered by the Leader of the Opposition to the Government. It was an attempt by the Opposition to reassure people going through the rigours of family breakdown that the State would not seek to extract its pound of flesh simply because the High Court on Christmas Eve had said the constitutional power of the Commonwealth did not give it the right to legislate that there should be no State stamp duty.

The State of Western Australia, through its Premier, said it was an unnecessary piece of publicity by the Opposition and that no change was necessary; yet in August this year we were confronted suddenly with a piece of legislation to do just what we suggested in January. Indeed, by 15 March this year this State Government had changed its tune. It took the Opposition about six working days to make the public announcement of its case; yet it took the Government until 15 March to announce it would do something and would put forward legislation such as this.

I do not want to make a welter of it, but it is quite clear in this case that the Government simply either had not understood the implications or had not cared enough about the implications of the High Court decision in affecting people involved in family breakdown situations. If it understood or cared it would have made its announcement early up, not in early March. In other words, parties were litigating between 24 December 1981 and 15 March 1982 without any clear statement from this Government as to the impact the High Court decision would have on their financial positions. They were trying to settle litigation in situations where the transfer of houses was an unavoidable part of the settlement. They were involved in litigation without knowing whether they would be required to pay a stamp duty fee of between $1 000 and $2 000, a fee that the State would extract.

The Opposition makes the point that that sort of muddled response from the Government is something we see a lot of; the Government does not seem to have a clear ability to deal with situations constructively when they arise; instead it resorts to pure political polemics. It threw mud on the Opposition in the hope that some of it would stick, yet three months later completely reversed its stance to announce that legislation such as that before us would be introduced.

Nevertheless, the Opposition supports the Bill because it will do exactly that which the Opposition said should occur, a statement for which the Opposition was castigated on 2 January this year by the State's then Premier.

I voice only one concern, and voice it because the position is not entirely clear. In my view the Bill does not entirely resolve one matter, and that relates to a situation in which the matrimonial home is owned by a company or entity other than the husband or wife. In the restructuring of the financial affairs of the husband and wife the transfer of the matrimonial home owned by a company or entity will attract more than the nominal duty of $5; it will attract *ad valorem* stamp duty.

A significant proportion of the number of people involved in marital breakdown are people who for one reason or another have the sort of structure to which I have referred. They are not simply the fat cats of society; they are people in the middle-income bracket of our society who for one reason or another have this sort of structure. Small businessmen are found frequently to have that sort of structure and in a marital breakdown property settlement must pay out the *ad valorem* stamp duty.

I commend the Government's seeking to ensure the legislation is not used by people who wish to avoid stamp duty, but I suggest a need exists to cover cases where a bona fide company transaction will occur purely as a result of the need for restructuring the financial affairs of

people involved in a family breakdown. Such cases have nothing to do with evasion of stamp duty. The position of such people is not resolved by this legislation, and that position raises considerable problems for people forced to resolve their differences by way of a maintenance agreement.

The second point I make is that a maintenance agreement which involves the sale of a matrimonial home to one or other of the parties attracts *ad valorem* stamp duty. That was the case prior to the High Court decision in Gazzo's case but it is another example of a mechanism written in administratively without in my view substantial justification.

In fact, it would be true to say it matters little whether there is a sale from one spouse to another, or there is a transfer of interest with an accompanying payment of money from one spouse to another. For those who find that a little difficult to follow I will give examples. Case A would be a case in which the husband transfers his interest to the wife and in which the husband agrees to pay the wife the sum of $50 000. Case B really is not different in substance; the husband agrees to sell the property to his wife for $50 000. Why there should be a difference in the stamp duty assessed on such a transaction really is not understood by me. Admittedly it is a sale, but nevertheless a sale with the same etiology; it arises from the breakdown of a marriage and the resultant restructuring of the finances of the marriage. Perhaps we will hear at some stage why there is to be that difference. If another amendment to the Act is necessary I do not know why it was not introduced in this piece of legislation.

The Opposition supports the measure and points out that it "told you so" on 1 January this year that anyone who had any sense or feeling for people in this community would know it was necessary to make an announcement as a result of the High Court decision. Had the Government acted responsibly it would have made an announcement well before 15 March 1982.

THE HON. I. G. MEDCALF (Metropolitan—Leader of the House) [8.57 p.m.]: We heard the accusation that the Government indulged in political polemics, but people who live in glass houses should not throw stones. We heard political polemics tonight from Mr Dowding when reference was made to the statement made by Mr Brian Burke, the Leader of the Opposition, and the statement made by Sir Charles Court when he was Premier. It is true Mr Burke was the first to make a statement in regard to the High Court decision—Mr Burke certainly got in first.

The Hon. Peter Dowding: You pooh-poohed it.

The Hon. I. G. MEDCALF: I do not deny Mr Burke made the first statement and said that his party would assist the people affected, and if it were necessary to legislate, his party would do so. Sir Charles Court agreed and made a statement to the effect that at that time the judgment had not been obtained in Perth by the stamp duty authorities and that when it was, a decision would be made as to whether legislation was necessary, and if legislation were necessary it would be enacted.

The Hon. Peter Dowding: He said it appeared it was not necessary.

The Hon. I. G. MEDCALF: What I have stated was what was said on that occasion. Sir Charles Court made it quite clear that if action were necessary it would be taken. Indeed, it proved to be necessary and the action is being taken.

No hardship whatever was suffered by people in the unfortunate position of having to have transactions stamped, such as maintenance agreements, because it was made quite clear that any legislation brought in would be retrospective. It is retrospective to 24 December 1981 and that was made clear, at the time, by the Commissioner of State Taxation.

The Hon. Peter Dowding: When?

The Hon. I. G. MEDCALF: He made it clear to the lawyers who visited him and left their documents with him; and that is that!

The Hon. Peter Dowding: When was that?

The Hon. I. G. MEDCALF: The member opposite says "I told you so"; well, what of it? He told us so; that is jolly good. I am glad we are on the same wave length.

I suppose it is a matter of opinion whether or not it is proper that stamp duty should be exempted from maintenance agreements between others than the parties to the marriage. The Government is not prepared to exempt transactions between people who are not parties to the marriage. The Government has never said that it would exempt transactions between outside parties, but only between parties to the marriage, and indeed, we have also added to that by including dependent children. This legislation includes not only spouses but the dependent children. It does not include outsiders, and that was made quite clear from the beginning.

Mr Burke did not say he would exempt parties outside the marriage. He referred to spouse-to-spouse transactions, but the Government has gone a step further than spouse-to-spouse and has included dependent children.

The honourable member raised the question as to why a sale is included. I agree with him that in logic it is difficult to explain why if there is an agreement to partition a property it is exempt from duty but if a sale is involved it is charged.

The fact is that has always been the case, as the honourable member said, and one cannot really argue this on the ground of logic. It has been the case that stamp duty has been applicable on a sale and we have never said it was to be changed.

I suppose one could extend the logic a little further and ask: Why are we exempting the transaction between people whose marriages break up and not between spouses who still live together?

The Hon. Peter Dowding: It is an involuntary transfer.

The Hon. I. G. MEDCALF: The honourable member has made his speech and if I am to continue to be interrupted by this gentleman, I will sit down.

The DEPUTY PRESIDENT (the Hon. V. J. Ferry): I assure the Attorney General he has the floor.

The Hon. I. G. MEDCALF: There is no special reason that people who are parties to a marriage should have their transactions exempted, but the Government has decided to exempt spouse-to-spouse and spouse-cum-dependent-children transactions. That is the purpose of this Bill and it is pleasing the Opposition is in support of it.

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 (Attorney General) in charge of the Bill.

Clauses 1 and 2 put and passed.

Clause 3: Part IVD inserted—

The Hon. PETER DOWDING: I was amazed to hear the Attorney General say that there appears to be no logical reason for the whole purpose of this piece of legislation.

In 1974 when the Family Law Act was debated in the Commonwealth Parliament and in 1975 when it was promulgated, it was made perfectly clear that the reason the section was included in the Commonwealth Act—which members representing this State in both Federal Houses supported—was that there was an involuntary transfer of property which arose out of marriage breakdown and not out of any other circumstance.

That provision was introduced in an attempt to ameliorate the problems of marriage breakdown. The Leader of the House surely knows that is the reason he brought in this Bill.

The Hon. I. G. MEDCALF: Of course I know the reason the Bill was brought in, and I did not say there was no logical reason for it. I simply compared the situation of a sale as distinct from a partition and said whereas in logic it is difficult to say why a sale should be distinct from a partition—for the purposes of stamp duty as it has always been in the Stamp Act—in the same way it could be claimed that if it is equitable to release the parties of a broken marriage from stamp duty it may be equitable also to release the parties to a marriage.

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.

ADJOURNMENT OF THE HOUSE

THE HON. I. G. MEDCALF (Metropolitan—Leader of the House) [9.08 p.m.]: I move—

That the House do now adjourn.

Employment and Unemployment: State Manpower Planning Committee

THE HON. D. K. DANS (South Metropolitan—Leader of the Opposition) [9.09 p.m.]: I could not let the adjournment proceed without answering the explanation given by the Minister for Labour and Industry today because I found it an amazing statement and one with which I could not agree.

Last Tuesday I asked the Minister for Labour and Industry a question without notice. He told me that he had not seen the report. Subsequent to his answer last Tuesday, I issued a Press statement. The Minister then made a statement to the House.

Tonight I asked the Minister another question without notice and for the benefit of this House I will read it, as follows—

> I listened with interest to the Minister's defence tonight of the indefensible. I ask him

this: Would he care to explain precisely why he was prepared to claim in this House last Tuesday that he had not read or even sighted the recent manpower planning study when on the same day in another place details of its contents were given in answer to a question on notice, details which he provided?

The answer from Mr Masters was astounding and I will read it as follows—

> When a question is asked of a Minister and the provision of figures is required, a Minister requests his department to research the figures for him.

I have no quarrel with that. To continue—

> Quite clearly the department did its best to research the figures required and they were approved by me for presentation in another place.

I do not suppose I can quarrel with that. Then, here comes the punch line; we might refer to the first part as the commercial. To continue—

> If they were extracted from the report, well and good. All I am saying—

I want members to take note of this—

> —is that I did not read the full report.

In that answer he admitted that he had at least seen the report; yet, in answer to me in this House, he disclaimed any knowledge of ever having seen it. He went so far as to accept a copy from me.

I believe we are entitled to answers and those answers have to be honest and straightforward. I am aware that the Minister could refuse to answer, but he chose to answer.

The performance of the Minister for Labour and Industry in attempting to mislead the Parliament and his ignorance of what his department is doing is to be deplored.

The Hon. Peter Dowding: Hear, hear!

A member: Resign!

The Hon. D. K. DANS: I do not know who interjected but that is probably a very good idea. I did not ask him to resign, but it is significant that people from his own party suggest he should resign.

The Hon. P. H. Lockyer: It was in jest; let us be fair.

Several members interjected.

The Hon. D. K. DANS: When *Hansard* reports that interjection, it will not be reported "in jest".

The Hon. H. W. Gayfer: Can I say I made the interjection and it was levelled at you?

The Hon. J. M. Berinson: Too late and too weak.

The Hon. D. K. DANS: Let me say to the interjector that there is no prize for second place. The fact is that the Minister, rightly or wrongly, attempted to mislead this House.

The Hon. Peter Dowding: And it is not the first time.

Several members interjected.

The Hon. P. G. Pendal: The pot calling the kettle black!

The Hon. D. K. DANS: On three occasions when this Minister has been questioned by the Opposition, the President, either rightly or wrongly, has ruled that questions be discontinued. At the very same time that the Minister was claiming he had not read the 1982 State manpower report and had not even seen it, a reply concerning the report was being given to the member for Swan in the lower House. It is no good for the Minister to say that his department prepared the figures.

The Hon. Peter Dowding: He is responsible.

The Hon. D. K. DANS: He is the Minister responsible and he was replying on the very day that he disclaimed any knowledge of the report.

Several members interjected.

The Hon. D. K. DANS: This is a very serious business.

The Hon. Peter Dowding: We take it seriously even if Government members in this place do not.

The DEPUTY PRESIDENT (the Hon. V. J. Ferry): Order! There are too many interjections and I am having difficulty understanding the member who is on his feet.

The Hon. D. K. DANS: If I am not making myself clear, I will endeavour to do better.

On Tuesday, 10 August, Mr Gordon Hill asked question 992 of the Minister representing the Minister for Labour and Industry. Under the heading, "Employment and Unemployment—Skilled Labour: Shortage" the following appears—

> (1) Is it a fact that the 1982 State manpower planning study predicts a shortage of skilled labour in Western Australia, peaking in 1985?
>
> (2) Is it also a fact that a considerable number of apprentices have been suspended during 1982 due to the inability of their employers to continue to meet the cost of their trade training?

(3) If "Yes" to (2), what assistance has the Government given to those employers to maintain the apprentices in training to help overcome any possible shortage of skilled labour in the future?

It is significant that to question (1) Mr Young replied, "Yes." He then went on to quote from the report.

The Hon. Peter Dowding: On behalf of this Minister.

The Hon. D. K. DANS: I thank the Hon. Peter Dowding; it is the same as this Minister answering the question personally.

Let me relate to members what actually happened: The controversial 1982 report was accepted by the State manpower planning committee on 6 July, and Mr Masters was still claiming on 10 August that the report had not reached his office and he had not seen it, let alone read it. Yet tonight Mr Masters told the House he had not read the "full report". Somewhere along the line, Mr Masters must tell the House whether he has actually received the report and read it. I believe the answer he gave the House tonight; I must believe Mr Masters when he said, "I did not read the full report."

However, that statement is in conflict with what he has said previously. On 11 August he claimed he had not seen the report because it was an interim report. That sounds very similar to claims earlier this year by Mr Masters in relation to his—if I may use the word—"doctoring" of the Waterways Commission report.

The Hon. P. G. Pendal: You may use the word if you wish, but it is rubbish!

The Hon. D. K. DANS: I am glad Mr Pendal has given me his undying support. On 11 August 1982, the report of the State manpower planning committee became available. However, Mr Masters said it was an interim report and hence, by implication, there was no reason that he should have sighted it because it was still to go to other bodies and there was a possibility of its being altered before it came to him. I put it to the House that that statement was nothing more than patent rubbish. I believe the Minister was fully aware the report had been extensively distributed prior to its appearance before the committee meeting of 25 May. Mr Masters knows that to be correct. The minutes of the committee meeting of 25 May indicate that the Chamber of Mines, the Master Builders' Association, the Confederation of Western Australian Industry, the Technical Education Division, and the Trades and Labor Council all had access to the report prior to that date. The minutes of the committee state as follows—

> It was agreed that a meeting be arranged between the Working Party, the Master Builders' Association, Technical Education Division, the Confederation of Western Australian Industry and the Chamber of Mines to discuss any points relating to the methodology and findings of the report. The State Manpower Planning Committee would then reconvene towards the end of June to consider the Working Party report again.

From that point on, apparently the word "draft" was removed from the study title, negating the Minister's claim that it was merely an interim report and contained the word "confidential".

On the same day—11 August—as the Minister claimed in Parliament that the report was merely an interim one and still had to be distributed widely, the report was noted by the Industrial Training Advisory Council and referred to him. The Minister's statements were rubbish. There is a strong case in my mind and, I have no doubt, in the minds of many members, that the Minister was intent on misleading the House into believing there was no reason that he should have seen this important and controversial report.

To further emphasise that he has not the slightest idea of what his department is doing, on the very day that he incompetently attempted to exonorate himself for not having seen the report, he supplied information about its content to Mr Gordon Hill, MLA with no suggestion that it was only an interim report.

Until today, the Minister maintained that he had not even seen the report, let alone read it. Yet, in answer to question without notice 98 today he concluded with the words, "All I am saying is that I did not read the full report." I am asking the Minister at some stage to simply tell the truth.

The Hon. Peter Dowding: That is too much to ask.

The Hon. D. K. DANS: It is the easiest thing in the world to tell the truth, because once a person starts to tell untruths, he finds himself telling a few more; that is exactly the exercise in which this Minister has been engaged.

The Hon. A. A. Lewis: You should know.

The DEPUTY PRESIDENT (the Hon. V. J. Ferry): Order! The Leader of the Opposition is reflecting upon the integrity of a member of this House, and I ask that he desist from that line of debate.

The Hon. D. K. DANS: Mr Deputy President, I think I have correctly documented and chronicled the events surrounding this matter, and I believe they speak for themselves. I am not reflecting on any member's integrity. Let members judge for themselves whether I am attempting to intimidate the Minister or to reflect upon his integrity. All I am saying is that I wish to goodness the Minister would tell me what he really means.

We are discussing matters of high unemployment and job creation. They are not laughing matters; they are not something we can throw over our shoulders, and forget about. This is an extremely serious business. The matter arose when I asked the Minister a very simple question seeking to find out why the figures he used were outdated. There would have been nothing wrong in the Minister's saying, "We made a bit of a blunder." That would have been accepted. I must concede that I do not know where we stand when asking the Minister for Labour and Industry questions on notice; I am even less sure of our position when we ask him questions without notice. The Minister has convicted himself out of his own mouth, and I ask members to take note of that fact.

THE HON. G. E. MASTERS (West—Minister for Labour and Industry) [9.25 p.m.]: I listened with interest to the Hon. D. K. Dans and chose not to ask him to withdraw certain remarks. I believe he made rather a fool of himself. Quite obviously, he is out to blacken my name, and perhaps that of other members. He suggested I lied to the House—

The Hon. D. K. Dans: Misled the House.

The Hon. G. E. MASTERS: Let Mr Dans call it what he will; it is quite clear that was what he was suggesting. I made a carefully worded statement tonight in order to place on record the fact that I had not misled the House, nor had I attempted to do so at any time. I repeat that I have not read the report. I have not seen the report, nor have I read part of the report.

The Hon. Peter Dowding: That is not what you said.

The Hon. G. E. MASTERS: I said that I had not read the full report; if the honourable member wishes to place on that statement the interpretation that I have read some of it, that is up to him. I repeat: I have not read the report at any time.

When a question seeking statistical information is directed to my portfolio by a member in another place, it is referred to the department. Because the department had been involved in compiling the report—although it did not complete the full report—it had some knowledge of the statistics requested and considered they adequately answered the question. I asked for those figures, and I endorsed the department's action.

The Hon. Peter Dowding: Some ministerial responsibility that is!

The Hon. G. E. MASTERS: I make no secret of that.

Obviously, the Leader of the Opposition is trying to get himself off the hook. He has come along with a grubby piece of paper which looks as though it has fallen off the back of a truck and from which seven important pages are missing. It is not a complete report; parts of it have been deleted.

The Hon. D. K. Dans: How would you know if you did not read it?

The DEPUTY PRESIDENT (the Hon. V. J. Ferry): Order! Generally, members are heard with the respect they deserve. The member on his feet has the right to make a contribution to the House without being subjected to constant interjections from both sides of the House.

The Hon. G. E. MASTERS: Of course I referred this report to the department and to those people who would give me some advice. Mr Dans put forward the report as if it were the full and complete version and I said, "I will check to see whether it is the correct report." What happened? Mr Dans has accused me of misleading the House on the basis of an incomplete report which he has treated as gospel. Obviously, this report has come the way of many such documents which find their way into the hands of the Opposition. It has come out at a convenient time and has been used by a Leader of the Opposition who is a specialist in handling grubby pieces of paper. I repeat that the report handed to me was not a complete document. I did not read it but simply passed it to my department.

The Hon. D. K. Dans: You said you would read it carefully. You are fibbing again.

The Hon. G. E. MASTERS: I said I would read it, and I intend to. However, I will wait until I receive a complete and proper report, not this grubby document which has been deleted, altered, and twisted and then photocopied to suit the case of the Leader of the Opposition.

I did not mislead the House and I have no intention of misleading the House. The statement I made at the beginning was—

The Hon. Peter Dowding: Untrue.

The Hon. G. E. MASTERS: —a correct and proper statement of the facts.

The Hon. Peter Dowding: I said that it was untrue.

Withdrawal of Remark

The DEPUTY PRESIDENT (the Hon. V. J. Ferry): Order! I request the Hon. Peter Dowding to withdraw that remark.

The Hon. PETER DOWDING: Which remark?

The DEPUTY PRESIDENT: That it was untrue.

The Hon. PETER DOWDING: I withdraw.

Debate Resumed

The Hon. G. E. MASTERS: The statement I read to the House tonight was a full and correct statement of the facts, providing all the necessary details for recording in *Hansard*. It was not like the grubby little pieces of paper we have seen thrown around.

I say again: Mine was a correct statement of fact. If the honourable member wants to say that it was not, let him say so. If he is able to say I am misleading the House, let him say so.

The Hon. Peter Dowding: Yes, you are.

The Hon. G. E. MASTERS: If the honourable member is saying I am telling lies to the House, let him say so now.

The Hon. Peter Dowding: Are you?

The Hon. G. E. MASTERS: Certainly not.

The Hon. Peter Dowding: Well, why didn't you tell the whole truth and nothing but the truth, instead of trying to tell the House what occurred by way of a ministerial statement?

The Hon. G. E. MASTERS: For some reason or another, the Opposition, and particularly its spokesman for Labour and Industry, do not like me.

The Hon. Peter Dowding: Come on!

The Hon. G. E. MASTERS: I am distressed about that.

The Hon. Peter Dowding: What has that got to do with ministerial responsibility?

The Hon. G. E. MASTERS: In order to put a smear about and to try to put the brush over a person, he concocts these ridiculous, stupid stories. That is the reason I presented a statement to the House tonight, for the record. That statement is correct, it is true, and it will stand in *Hansard* as the record.

THE HON. PETER DOWDING (North) [9.31 p.m.]: What a pathetic response for the Minister who is being challenged on the issue of ministerial responsibility to tell the House that he thinks the Leader of the Opposition does not love him! What would members of the public think if they were here on an issue of great importance and found we were worrying about whether the Leader of the Opposition liked the Minister? That would have to be one of the most ludicrously idiotic suggestions I have ever heard in this House or outside of it. The way a lot of people without a great deal of intellect carry on, one would have hoped that even the Minister would have stacked on a better turn tonight.

The Minister has not been frank with this House. If he does not like that as a statement, I will not withdraw it, because he has not been frank with this House. He was given the opportunity to say whether he had read the report, and he told the House that he had not read it. When he was asked whether he had read the report, the question was not whether he had read all 14 pages of it, or all 17 pages of it. He was asked whether he, as the Minister, had put his eyes on the report. Now, he says he had, and he admits that he had. He admits further that he said—

The Hon. G. E. Masters: Read *Hansard*, Mr Dowding.

The Hon. PETER DOWDING: —that he was responsible for an answer to a question on that particular issue in the other House at the same time. Either this is gross incompetence or it is misleading. The Minister cannot have it both ways.

Industrial Dispute: Redbank Power Station

The Hon. PETER DOWDING: As to gross incompetence, I wish to raise another matter about the Minister. I believe this is an appropriate time to refer to it. This State was nearly shut down because of a strike by State Energy Commission workers, which caused massive disruption. No-one on any side of the industrial or political fence can argue about that. The Minister holds one of the most responsible portfolios in the Cabinet, but did he do anything to bring that situation to an end? Did he do anything to avert it? He simply sat back and did nothing.

The Hon. G. E. Masters: I let the arbitrator do it. Why don't you criticise the union for not going along with the arbitrator?

The Hon. PETER DOWDING: We had to rely on the Premier of the State to prevent the people of Western Australia from being grossly

inconvenienced because this Minister was completely unable to deal with an industrial problem.

The Hon. P. H. Lockyer: What did you do as the local member?

The Hon. PETER DOWDING: If I had been the Minister for Labour and Industry, the Hon. Phil Lockyer would have seen some action. His avoirdupois does not add anything to this debate.

The DEPUTY PRESIDENT (the Hon. V. J. Ferry): Order! It would help the work of the House if the member who has the floor when I resume my seat addresses the Chair, ignores interjections, and makes his contribution properly.

Point of Order

The Hon. A. A. LEWIS: On a point of order, could he talk in English, too?

The DEPUTY PRESIDENT: There is no point of order.

Debate Resumed

The Hon. PETER DOWDING: I know that some members like to treat this place as some sort of club to which they come and have a little chat about their local electorates, have dinner, and go home; but we on this side of the House refuse to treat some of these issues in that way.

The Hon. P. H. Lockyer: You are going on long enough, you know.

The Hon. PETER DOWDING: We choose to take these issues seriously. Members opposite have grown slack after 150 years of their dominance of this House, through no fault of the electorate but because of a gerrymander. That has resulted in the sort of incompetent responses that we receive from the present Minister for Labour and Industry.

The history of this matter is that on 30 July the SEC took what might be described as most provocative action against the shop steward for the metal workers in Port Hedland over a relatively minor issue: That is, whether the worker who had taken an SEC vehicle to Marble Bar—to which, incidentally, there is no regular public transport except an occasional aircraft—should return, safeguarding the SEC vehicle, or bring it back to Port Hedland in order to join the workers who had gone on strike. The SEC took the provocative action, firstly, of suspending a shop steward—

The Hon. G. E. Masters: He disobeyed a management order.

The Hon. PETER DOWDING: Obviously the Minister does not know the facts.

The Hon. G. E. Masters: I know them.

The Hon. PETER DOWDING: The Minister would not tell the Parliament he knew them.

The Hon. G. E. Masters: I didn't know then.

The Hon. PETER DOWDING: The SEC suspended the shop steward—a most provocative industrial act—on the very day before the North Province by-election on 31 July.

The Hon. G. E. Masters: What absolute rot. Do you think that that was organised?

The Hon. PETER DOWDING: One would have to be thicker than the proverbial member for Lower North not to understand that the Government deliberately set about engineering a situation in which, on the day of the by-election in Port Hedland, the electors found that they went to vote without having adequate power.

The Hon. G. E. Masters: What rot!

The Hon. PETER DOWDING: I put it that that is what occurred. Now there is the question of whether the SEC consulted with the Minister before it took that very serious and provocative action in relation to the shop steward in the Port Hedland power house. Members cannot tell me that the SEC did not check with both its own Minister, Mr Jones, and the Minister in this Chamber, Mr Masters.

However, Mr Masters chose deliberately either to mislead this House or to avoid answering the question by an artifice; and his artifice was just to rub a few words together and hope that it would all go away. When it would not go away, he simply would not answer the question; and the President had to leap in and ask the Minister whether he conceded that the issue was within his own portfolio. The Minister would not give a straight answer to that question. *Hansard* will bear me out. When the Minister was asked by the President if the matter was within his portfolio, in which case it would have been his responsibility to answer, he simply refused to answer the President. The reason for that is simply that he knew perfectly well that he and the other members of the Cabinet tried to engineer a purely political stunt by telling the SEC to "heavy" a union shop steward on the eve of a by-election.

The Hon. G. E. Masters: Rot and rubbish!

Government members interjected.

The Hon. PETER DOWDING: If the Minister wants to deny it, he has the opportunity to do so. He can table the minutes of his discussions with the SEC on or about 30 July, about the Redbank power station. The Minister has the opportunity; he can table the documents to show whether he is telling the truth, and let the public of Western

Australia, as well as the members of this House, determine whether or not he is a truthful Minister. He can do that. Anybody with any political eye or with any sense knows that one does not sack or suspend a union shop steward for acting in accordance with the directions of his members.

The Hon. G. E. Masters: Say that again.

The Hon. P. H. Lockyer: Do you know what the shop steward did?

The Hon. PETER DOWDING: Not only is the Minister incompetent, but also he appears to be deaf. The union shop steward was acting at the direction of his membership. There was a legitimate industrial issue—

The Hon. G. E. Masters: What about management? Don't you think he should listen to them?

The Hon. PETER DOWDING: There was a legitimate industrial issue which should then have been referred to a conference and which indeed was referred to a conference. During the term of that conference, and before it was actually called and reached a determination, the shop steward was sacked. In other words, there was a *lis pendens*. I am sure even Mr Lewis will know what that means! An issue was to be decided, but during the pendency of that issue, the SEC sacked the shop steward. What could be more provocative? What could be more set up to produce a significant industrial action?

The Hon. G. E. Masters: You are talking utter rubbish.

The Hon. PETER DOWDING: I would like the Minister to come forward and take the opportunity to deny these allegations. He has the minutes in his office. All he has to do is produce the pieces of paper about his discussions in relation to the SEC dispute on or about 30 July. I challenge him to do that, because I am prepared to say unequivocally that he discussed the matter, that he gave his approval to the action, and that he knew the consequences that would follow. What were the consequences that would follow from that industrial provocation?

The Hon. G. E. Masters: If I prove you wrong, will you apologise?

The Hon. PETER DOWDING: If the Minister produces the documents and proves me wrong, I would be more than happy to apologise. It would reinforce my view that industrial relations really are not his forte.

The Hon. G. E. Masters: You would not apologise.

The Hon. PETER DOWDING: I would certainly apologise for any suggestion that the Minister had conspired, on the eve of a by-election, to create a situation which was designed to assist the Government's ailing candidate in the area; and he was very ailing.

The Hon. P. G. Pendal: Paranoia!

The Hon. G. E. Masters: He is mad—absolutely mad!

The Hon. PETER DOWDING: What would a responsible, intelligent Minister have in mind as the likely result of that sort of action in an industrial situation? We were told that the likely cost in lost production and wages could be as high as $50 million a day. Did not the Minister think about that when he authorised the man's sacking?

The Hon. G. E. Masters: Of course we thought about it; and we didn't organise it. It was a managment decision. Why didn't you criticise those who caused the strike? Why didn't you support the arbitration system?

The Hon. PETER DOWDING: Was the Minister such a little lackey boy that no-one told him what was happening?

The Hon. D. K. Dans: The Premier had to take it over.

The Hon. PETER DOWDING: I am getting to that.

The Hon. P. H. Lockyer: What about the local member?

The Hon. PETER DOWDING: The local member, Mr Sodeman, who has the ear of the Government, did nothing about it. "*Avoirdupois*" would have no idea what I did about it, either. I ask members: What could one do in the face of a determination by this Government to bring this State to its knees on the eve of a by-election?

The Hon. G. E. Masters: You do not have any regard for the system of government or the arbitration system in this State.

The Hon. PETER DOWDING: One would have to be in power, in Government, or in Cabinet to do anything at all about it!

The Hon. G. E. Masters: You knew exactly what was happening.

The Hon. PETER DOWDING: If the Minister was kept in doubt as he likes to suggest—

The Hon. G. E. Masters: Totally disregarded a management decision!

Several members interjected.

The DEPUTY PRESIDENT (the Hon. V. J. Ferry): Order! I ask the honourable member to continue with his speech and ignore the

interjections. I remind the members it is not their privilege to interject and I ask them to remain silent.

The Hon. PETER DOWDING: The Minister had his chance to allay the sorts of fears I have expressed when he was asked a direct question in this House. It was a simple question and one that he could encompass intellectually. The question related to whether the Minister had been consulted; it was a simple question which called for a simple answer.

What does the learned author of *Australian Senate Practice* say about questions seeking information? I quote from page 214 as follows—

> ...the most obvious manifestation of responsible Government i.e. the direct accountability of the Executive to Parliament, is question time.

Not only is it a gross lack of courtesy to this House for a Minister not to answer a question, but also, in terms of ministerial responsibility and the Westminster system, it is essential that the Executive should hold itself accountable to the people represented by the members of this House and, as Odgers said, the most obvious manifestation of that accountability is question time.

Therefore, if Ministers refuse to answer questions on sensitive issues fundamental to the analysis of their performance, they are acting in the face of responsible Government and that arises either out of incompetence or out of a desire to hide information.

I did not say anything then and I have not said anything since, because I have been waiting for the Minister to make a statement about the matter. One would have thought that if he really was the Minister responsible for industrial relations matters we would have seen him launch in and settle the dispute in the first place, and, in the second place, make a statement to the House analysing the implications of the matter. By that means, the fears which I have suggested rest in people's minds about the political nature of the matter, could have been set to rest. However, the Minister has chosen not to do that.

I ask members: What was it that called off the strike? What did the Minister, who is a responsible Minister in the Cabinet and an officer of the Executive responsible for industrial relations, do? He did absolutely nothing. Apart from applauding the sacking of the union representative, he did nothing.

It was obvious the Premier had to step in and try to save the people of Western Australia from the vagaries of the Minister for Labour and Industry whose incompetence was so great that he could not do anything to rectify a situation which looked as if it would cost the people of Western Australia $50 million a day. All the Minister could do was mouth a few platitudes about whose fault the dispute was.

I do not care whose fault it was. It was the fault of the Government that it happened at all, because it should have had the good sense to step in and negotiate a suitable resolution to the problem before the dispute escalated. However, the Premier of this State made the decision—a decision which was long overdue—to step in and deal with the matter, because he had the good sense to see that it was not worth $50 million a day—if that was the cost involved—to save hurting the pride of the Minister for Labour and Industry because he was excluded from major discussions; or, alternatively, the Premier decided it was not worth putting up with the Minister's incompetence for another day.

The situation was dealt with in an editorial in *The Australian* of 13 August which reads, in part, as follows—

> It will, unless all parties realise the absurdity of bringing the State to a halt over what began as a minor matter and has been expanded to crisis proportions by heavy-handedness on both sides.

The people outside this Chamber are not the elected representatives of the people of Western Australia, so they are not charged with the duties, obligations, and responsibilities of a member of the Executive; but the Minister is! Therefore, the Minister should be accountable for his failure in this area.

THE HON. A. A. LEWIS (Lower Central) [9.50 p.m.]: It was extremely interesting to listen to the performance of the Hon. Peter Dowding and to hear his and the Leader of the Opposition's treatment of the facts, which saw them condemn themselves out of their own mouths. They changed their stories as they went along to suit their own arguments. That may well work in the divorce courts or courts where people can browbeat other people, call them names, and probably throw sticks at them, but it certainly does not affect this Chamber one iota.

The Hon. Peter Dowding, who sometimes spends a while with us—very little, admittedly—likes to make a noise when he is here. I will deal with what he and the Hon. Des Dans said when accusing the Minister for Labour and Industry of certain things. Firstly, let us consider the SEC strike up north.

Mr Dowding said that the Minister had sat back and done nothing. I guess that means that

before any threatened strike occurs, the Minister should jump in, before management or the union concerned, and make comments for them. However, I wonder whether the shop steward consulted his union before he took his action. We have deathly silence from Opposition members because they know perfectly well that that does not happen, yet they expect it to happen on the other side of the fence. The even-handed approach called for by Mr Dowding involves one side being weighed down with all the rules and regulations to obey while the other side—the unions—does whatever it wishes, when it wishes and how it wishes.

The Hon. G. E. Masters: A gun at the head.

The Hon. A. A. LEWIS: It is typical of the Leader of the Opposition in this House that he should leave his seat when it looks as though he will take a hammering. He is not frightened to bully anyone when he thinks he can get away with it, but he wanders away when he thinks some truths will be directed at him and his arguments. Mr Dowding does the same thing. I am not saying that they leave the Chamber, but they put themselves in a position where they are not answerable to the House. They are not prepared to stand up like men; they crawl away like mice.

The DEPUTY PRESIDENT (the Hon. V. J. Ferry): Order! I would like the member to be more temperate with his comments towards other members.

The Hon. A. A. LEWIS: Certainly, Sir; I will say "rabbits".

The DEPUTY PRESIDENT: Order! Far too many such accusations have been made tonight and I give the warning now that they must cease. Members can express themselves without resorting to the denigration of members in that way.

The Hon. A. A. LEWIS: Certainly, Sir.

The matter was discussed between snide remarks about members' clubs and conversations between tea and going home. How the honourable member made such comments I do not know because he was not here to hear the conversation. We hear about questions in this House and in the other place. If members are aware of exactly what the question in the other place asked for they would realise it concerned a specific point that came out of a report that the Minister has not yet seen: he told us he has not seen it. It completely staggers me to think that a Minister should waste his time studying a piece of paper thrown over the Table of the House by the Leader of the Opposition when that Minister has a portfolio to administer. I wonder whether an ALP Minister would do that. It always seemed to me that their answers took a long time coming. I do not know if the answers given in the other place were provided any sooner than the answers given here.

Mr Dowding asserted that on 30 July the SEC took provocative action and later he said that Cabinet "heavied" the SEC into this action. What is his proof? He gives us none. He provided plenty of rhetoric but no proof of a connection with the Cabinet meeting and the "heavying" of the SEC. Let us consider this further.

The Hon. Peter Dowding obviously was involved in the whole thing; he knows so much about it. How many times did he ring the Minister for Labour and Industry, the Premier or anyone else? We have no answer to that. Maybe that would be interesting to find out. How many times did this man who is doing so much good for the people of Port Hedland and the people of the State, this member who is everyone's conscience, ring the Minister?

The Hon. P. H. Lockyer: I think he provoked them.

The Hon. A. A. LEWIS: I would hate to say that about the honourable member; he is a man of undoubted ability but a man who sometimes does not like to look at the other side of the story and at what are his responsibilities.

I would like to know whether the North Province by-election was so much more important to him, and whether he was there and knew what was going on. Was that by-election so much more important to him then as it was during the weeks before the incident, when he spent all his time with his Labor Party colleagues in the electorate instead of in this House?

The Hon. G. E. Masters: He was probably picketing the Roebourne bakery to see that people didn't get flour and bread.

The Hon. A. A. LEWIS: Was the by-election so important to him that he thought $50 million would not be a great deal for the State to pay and that maybe it would serve his cause while managing a by-election in North Province? Perhaps the strike was serving the cause of the Hon. Peter Dowding and the ALP; that is just as logical a conclusion as Mr Dowding's conclusion that the Government "heavied" the SEC.

Following Mr Dowding's tack, would it not have been wiser had the shop steward talked to his union bosses in Perth before taking action in the same way as Mr Dowding says that the SEC officers in the north should have talked to their bosses in Perth?

Mr Dowding accused people of rubbing words together to make answers. I thought he grated his words together. Certainly he does not seem to have a great deal of evidence to back the case that he and the Leader of the Opposition made when accusing the Minister of incompetence. Perhaps the problem lies with the English language and a communication gap.

I took exception to Mr Dowding calling the Minister a lackey boy and saying the Premier had to take charge of the business. I would have thought that the Premier, like all responsible Ministers such as the Minister for Labour and Industry, would be extremely concerned. But whom did Mr Dowding approach? What cooling methods did he use? We have not heard of any; we have not heard of one step that he tried. Not one effort did he make, because he wanted to see to it that the incident was stirred up.

The Hon. G. E. Masters: Probably he threw a bucket of kero on it; that is what he would do.

Questions without Notice: Answers

The Hon. A. A. LEWIS: He spoke about the direct responsibility of the Executive to Parliament. That responsibility has been carried out with intense loyalty by the Minister for Labour and Industry. He has endeavoured, sometimes beyond the realm of his own portfolio, to answer the Opposition as fully and frankly as possible.

It may be he has been too honest and frank with the House. Obviously members of the Opposition do not appreciate people who are straight, and straight-forward; they would prefer to read devious thoughts into what people say instead of accepting straightforward answers. Members of the Opposition have shown their preference tonight by attacking the Minister and by twisting the position to what they see as the Minister's not being fair, straightforward, or truthful to this Parliament. They twisted every word.

We may reach the stage of their not receiving answers at all; they may not have the privilege of questions without notice because Ministers will say, "No". They will have questions without answers because Ministers will not put themselves in positions whereby they can be sniped at or have their words twisted, as happened in this case. We could well go back to an era the Hon. Joe Berinson would remember well when virtually no questions were asked. Questions on notice went on for so long that people who had questions to ask without notice forgot about them.

No Parliament in this country has questions without notice answered as fully and as well as those in this Parliament. If this Opposition seeks to break down our excellent system and the trust that has existed between Oppositions and Governments, it is well on the road to doing so. It is all very well for the Leader of the Opposition to pontificate about what he believes he would do; I do not think he would honour what he says he would do in the glib statements he makes. Nothing can be gained by dealing with the Hon. Peter Dowding. He did not understand any part of what he spoke about and could not explain his position to this House in any logical sequence.

The Executive in this State has shown in the past and will show in the future how it acts responsibly in its duties to this State and this Parliament. The same sort of responsibility should be shown by this Opposition. As was shown earlier tonight it is easy to criticise the Government for being slow or not doing something in quite the way the Opposition would like it to be done. It happens that in responsible Government, matters must be checked, checked again, and rechecked; Ministers cannot shout off their mouths like Opposition members do. They have a responsibility to the public, a responsibility which Opposition members obviously feel they do not have.

Referring to the $50 million a day lost, the Hon. Peter Dowding said he did not care whose fault it was and would not lay blame at anybody's feet. That is not the man I know; usually he is very ready to lay blame at the feet of everybody else but his own. Why in this case did he back off and say he did not care whose fault it was, he cared only that the loss was $50 million a day?

When this dispute commenced why did he not try to do something? I contend that the Hon. Peter Dowding, with just about as much evidence as he used to condemn the Minister, was too busy playing politics in North Province to do something about the strike. He wanted it to go on to show his personal power over people. He laughs. He loves to have a confrontation; but he has never loved logic. That is something which will always beat him. He is prepared to make the most outlandish statements about this Minister, who to the best of his ability has given honest and frank answers to questions asked in this House, but he is not prepared to follow logic.

His leader and he are quite prepared to damn this Minister and request that all sorts of things happen to him, but do not consider their responsibilities to this State. If it is not a responsibility of the Hon. Peter Dowding to try to quell problems such as those which existed and about which he said he knew more than anyone

else, I would like to know what responsibilities a member of Parliament has in this place.

THE HON. R. G. PIKE (North Metropolitan—Chief Secretary) [10.07 p.m.]: The House ought not to adjourn until it deals with some of the points relating to the Westminster system, points which were made incompletely by the Hon. Peter Dowding in his excessively didactic speech punctuated by Latin phrases. He attempted to impose upon the House an attitude that needed to be taken *cum grano salis*; that is, with a grain of salt. He embarked upon a tirade of abuse and criticism, and at the moment other members sought to answer his questions—unfortunately I must say this—he absented himself from the House in order not to hear the replies to his statement.

The DEPUTY PRESIDENT (the Hon. V. J. Ferry): It would be well for members to take heed of the requirement not to refer to other members' activities.

The Hon. R. G. PIKE: It is proper for me to refer to the fifth edition of Odgers' *Australian Senate Practice* at page 214. The Hon. Peter Dowding made the point that under the Westminster system there is an absolute requirement that Ministers answer questions. Contrary to his usual capacity he did not provide the whole story. At page 214 it is stated—

> The Senate practice, as stated by President Sir Alister McMullin, is the same as in the House of Representatives, as shown by the following extracts from *Hansard:*
>
> > Mr Speaker . . . It is entirely within the province of a Minister to refrain from answering questions. The right honourable the Prime Minister having intimated that it is his desire that no further questions should be asked at this stage, I must, therefore, call on the next business.

At page 215 it is stated—

> The President, Sir Magnus Cormack, thereupon made a statement relating to Senate practice in which he reaffirmed earlier rulings that Ministers cannot be compelled to answer questions: in other words, it is entirely discretionary with Ministers as to whether or not they answer questions.

It is proper and apt that I say *ab uno disce omnes*, which means, "From one specimen judge all the rest"; but we should not use the criteria of the Hon. Peter Dowding when judging other Labor members of this House.

Question put and passed.

House adjourned at 10.10 p.m.

QUESTIONS ON NOTICE

FUEL AND ENERGY: ELECTRICITY

Cost of Production

373. The Hon. FRED McKENZIE, to the Minister representing the Minister for Fuel and Energy:

> Referring to Legislative Assembly question 489 of 8 April 1982 wherein the reply stated that—
>
> > When using coal, the fuel component of total generating cost is presently 1.9c per unit of electricity generated, and when using oil the fuel component of total generating cost is presently 5.6c per unit
>
> will the Minister advise—
>
> (1) What were the total generating costs used in each case per unit of electricity generated?
>
> (2) The size of the generating capacity in each plant considered?
>
> (3) In view of the commitment to be able to burn coal and the associated cost of modification where still required—
>
> > (a) is there any added cost above this commitment to burn coal in present generating systems; and
> >
> > (b) if so, what is the added cost per unit generated?
>
> (4) On the basis that there is unlikely to be a balance in favour of gas or oil versus coal—
>
> > (a) will the excess cost to the consumer be in the order of 3.5c per unit when burning gas or coal; and
> >
> > (b) what percentage increase in cost to the consumer will this mean?

The Hon. I. G. MEDCALF replied:

(1) to (4) The information sought by the member cannot be addressed in the form of the question, as the subject of the total relative cost of gas and coal use at Kwinana power station is a complex matter, involving evaluation of the relative capital, fuel, and operating costs using the alternative fuels, taking into account committed capital works and the prospective capital works programmes for varying levels of use of each fuel in the commission's generating system. Use of gas provides the opportunity for reduced capital expenditure by deferring new power plant works, as the full capacity of the existing power plant at Kwinana can be used without the present penalty of high cost for fuel oil. Taken overall, the temporary use of some gas at Kwinana will effect savings in power generation cost during the second half of this decade.

APPRENTICES

Number

374. The Hon. D. K. DANS, to the Minister for Labour and Industry:

(1) What was the total number of apprentices in training at 30 June 1982?

(2) What number is currently in training?

The Hon. G. E. MASTERS replied:

(1) Total apprentices in training at 30 June 1982—

Registered—13 573
On Probation—725
Total—14 298

(2) Total apprentices currently in training:

Registered—13 458
On Probation—579
Total—14 037

MTT AND WESTRAIL

Cash Loans

375. The Hon. R. T. LEESON, to the Minister representing the Minister for Transport:

With reference to *The West Australian* of 7 July 1982, page 35, wherein the underwriters for Westrail cash loan No. 9 are listed as joint underwriters and are—

The Rural & Industries Bank of Western Australia,
BT Australia Limited (Merchant Bankers),
Bain and Company (members of the Sydney Stock Exchange),
Bank of New South Wales;

will the Minister advise—

(1) What are the total annual committed leasing payments to be made to Bain and Company, or their subsidiaries, in relation to Westrail and the Metropolitan Transport Trust?

(2) Will these leasing payments, after being used for tax deductibility purposes, be circulated back into Westrail loans, earning further money for the company in the form of about 17 per cent interest?

(3) Has the Government, or any of its associated authorities, any association with R & I Nominees Ltd., Perth?

(4) What interest rate, if any, is received from R & I Nominees?

(5) In each of the loans concerned with Westrail or the MTT—

(a) how much has been subscribed by the public;

(b) how much has been subscribed by each of the underwriters; and

(c) how much in total has been subscribed—

(i) by the public;

(ii) by the underwriters?

The Hon. G. E. MASTERS replied:

(1) Westrail is committed to pay about $1.1 million per year for 20 years to Bain Leasing Pty. Ltd. in the company's capacity as lessor.

Leasing payments to Bain Leasing Pty. Ltd. in relation to the MTT are as follows—

Financial Years Ending	
30-6-83 to 30-6-85	$1 187 585
30-6-86	$1 120 640
30-6-87	$1 053 696
30-6-88 to 30-6-90	$950 070
30-6-91	$891 087
30-6-92	$623 304
30-6-93	$171 000

(2) Westrail has no knowledge of this.

(3) Yes. R & I Nominees Ltd. provide registry facilities for Westrail's inscribed stock.

(4) Westrail has no loan or investment transations with R & I Nominees Ltd.

(5) (a) Assuming the member is referring to Westrail loan No. 9, the loan is not yet finalised;

(b) this is a commercial transaction and the information is confidential to the parties involved;

(c) Westrail loans No's 1 to 8 inclusive—

(i) public (including financial institutions) $65.6 million;

(ii) underwriters—$12.9 million.

TRANSPORT: TAXIS

Licences

376. The Hon. P. G. PENDAL, to the Minister representing the Minister for Transport:

I refer the Minister to section 16 (3) of the Taxi-cars (Co-ordination and Control) Act which deals with the board's powers in respect of the issue or refusal to renew a taxi car licence, and ask—

(1) Does the facility of an appeal to the Local Court also extend to cases where the board revokes a taxi car licence?

(2) If not, why is no right of appeal extended in cases of revocation of a licence?

The Hon. G. E. MASTERS replied:

(1) Yes. Section 23E(4) of the Taxi-cars (Co-ordination and Control) Act provides for this right of an appeal.

(2) Answered by (1) above.

CULTURAL AFFAIRS

National Estate Programme

377. The Hon. H. W. GAYFER, to the Minister for Cultural Affairs:

(1) When does he expect to receive from the Western Australian Heritage Committee the 1982-1983 national estate programme for the allocation of funds?

(2) Is it possible that some allocation will be made for restoration works associated with the old York police station and gaol?

(3) If "Yes" to (2), will he endeavour to make sure that any money so allocated will be towards the total restoration and not a partial or patch-up operation?

The Hon. R. G. PIKE replied:

(1) The Western Australian Heritage Committee expects to be in a position to hand the report to me about the end of September 1982.

(2) Yes it is possible. I am personally in support of a programme to restore the old York police station, and thank the member for his initiative in regard to this project.

(3) I have written to the Chairman of the Western Australian Heritage Committee asking that any money that may be allocated to this project be towards total restoration.

APPRENTICES

Out of Trade

378. The Hon. D. K. DANS, to the Minister for Labour and Industry:

(1) How many special trade training programme apprentices are currently out of trade because of employer work shortage or financial difficulties?

(2) Is the figure in answer to (1) additional to the 247 apprentices currently under suspension (question 332, 4 August 1982)?

The Hon. G. E. MASTERS replied:

(1) Currently there are 19 apprentices under the special trade training programme whose indentures have been suspended and who are out of trade due to employer work shortage or financial difficulties.

(2) The figure of 247 apprentices under suspension is inclusive of those apprentices in (1) above.

FUEL AND ENERGY: GAS

North-West Shelf: Dampier-Perth Pipeline

379. The Hon. FRED McKENZIE, to the Minister representing the Minister for Fuel and Energy:

Referring to question 263 of Thursday, 6 May 1982, and Legislative Assembly question 518 of Tuesday, 20 April 1982, and the statement in the answer to question 263 "The contract price of gas to Alcoa will reflect its share of the cost of constructing the Dampier-Perth pipeline,"—will the Minister advise—

(1) What is the current cost estimate of the pipeline, including capitalised interest in 1982 dollars—

(a) from the north-west to Perth; and

(b) from Perth southwards?

(2) What is Alcoa of Australia Ltd.'s share of these costs?

(3) What interest is Alcoa charging on the funds advanced?

(4) Can it be construed in any form that Alcoa is a joint owner of the pipeline?

(5) What is the break-even year in which cost will be balanced by income?

(6) What is the total sum to be carried by the State until this year as—

(a) capital; and

(b) interest?

The Hon. I. G. MEDCALF replied:

(1) (a) and (b) The current cost estimate for the pipeline, including capitalised interest, in July 1981 dollars, is $670 million. Due to the nature of the contractual arrangements for the provision of equipment and for the construction of the pipeline, it is not possible to accurately subdivide the cost estimate into the components for the north-west to Perth section and for Perth southwards.

(2) A significant proportion of the pipeline capacity will be reserved by Alcoa to transport its gas purchased from the State Energy Commission. Alcoa is not directly advancing funds for the pipeline, and will in no way be a joint owner.

(3) and (4) Answered by (2).

(5) and (6) The member is seeking commercial information, which is confidential and cannot be released.

APPRENTICES

Government Departments and Instrumentalities

380. The Hon. D. K. DANS, to the Minister for Labour and Industry:

(1) As at 30 June 1982 how many apprentices were employed by State Government departments and instrumentalities?

(2) Of these, how many were females?

The Hon. G. E. MASTERS replied:

(1) 1 818 apprentices.

(2) 25.

FISHERIES

Rock Lobster: "Sea Horse 2"

381. The Hon. TOM McNEIL, to the Minister representing the Minister for Fisheries and Wildlife:

(1) Was the owner of the rock lobster fishing vessel *Sea Horse 2* recently prosecuted for violation of the provisions of the Fisheries Act?

(2) What was the charge, and under what section of the Act was the charge laid?

(3) What was the result of the hearing?

(4) Will the Minister table a transcript of the court hearing?

(5) Are any further charges against the owner of *Sea Horse 2* being considered?

The Hon. G. E. MASTERS replied:

(1) Yes

(2) The owner of *Sea Horse 2* was charged under section 24(1)(a) of the Fisheries Act as a person who without lawful authority had in his possession or control on *Sea Horse 2* Western Rock Lobsters *Panulirus Cygnus* (George) of a less length than that specified in the second schedule to the Fisheries Act; namely 76 millimetres.

(3) The charges were dismissed.

(4) and (5) No.

RAILWAYS: FREIGHT

Joint Venture: Revenue

382. The Hon. FRED McKENZIE, to the Minister representing the Minister for Transport:

With reference to the joint venture known as Total West, will the Minister advise—

(a) for the month of July 1982, a close estimate of the traffic lost by Westrail to the joint venture;

(b) the associated loss of revenue;

(c) the predicted annual loss of revenue;

(d) what proportion of general goods revenue does this represent;

(e) using a 2:1 ratio for the creation or decline of employment relating to each job, will this mean the loss of about 1 500 jobs;

(f) if not, what is the—

(i) present figure; and

(ii) predicted figure?

The Hon. G. E. MASTERS replied:

(a) to (d) I am advised that information on Westrail freight volumes for July 1982 will not be available until the end of August.

However, this information will only disclose variations which may apply compared to another similar period.

Whether the variation would be due to traffic now being carried by Total West would be sheer speculation. Competitive effects of other freight forwarders, seasonal traffic variations and changed economic conditions could also apply for any two periods compared.

(e) The question is not fully understood, particularly the basis of the 2:1 ratio. However, while some job opportunities in Westrail will disappear as a result of it moving out of the smalls freight and parcels markets, other job opportunities have been created amongst other transport operators and local carriers. Obviously, the Government's new competitive land freight transport policy will lead to improved productivity, which will have an effect on some job opportunities. However, this cannot be used as an excuse to carry on with the previous inefficient regulated system.

(f) It is not possible to determine present net job opportunities or to predict what may be in the future, as the total industry is involved.

SHOPPING: RETAIL TRADING INDUSTRY

Representation

383. The Hon. TOM McNEIL, to the Minister representing the Minister for Industrial, Commercial and Regional Development:

In *The West Australian* of 11 August 1982, in an article headed "Shop lease legislation mooted", it was stated that the Government would be prepared to consider action if the retail industry failed to introduce its own controls. Would the Minister advise—

(1) How many groups purport to represent the retail trading industry?

(2) What is the relative support of each group?

(3) Have all groups approached the Minister outlining retailers' problems?

(4) Does the Government recognise one particular group, and if "Yes", which one?

The Hon. I. G. MEDCALF replied:

(1) The organisations which represent retailing interests generally are—

Federated Chambers of Commerce (FCC)
Independent Retailers Association (IRA)
Perth Chamber of Commerce (PCC)
Retail Traders Association (RTA)
Western Australian Consultative Council of Retail Associations (WACCRA)

The latter body represents a number of specialist retailing organisations.

(2) There is no information as to the relative support of each organisation.

(3) Yes.

(4) The Government recognises all representative organisations.

However, with regard to the problems associated with shop leases, the Government has been communicating with a working committee chaired by the Small Business Services Pty. Ltd.

Organisations represented on the committee are—

Independent Retailers Association
Retail Traders Association
Federated Chambers of Commerce
Building Owners and Managers' Association
Law Society of Western Australia

This committee was responsible for the publication of the booklet "Shop Leases—What the tenant should know".

These organisations, together with the Institute of Chartered Accountants and the Real Estate Institute of WA, totally funded the printing and distribution of 12 000 copies of the booklet, which is available free.

The committee has an ongoing task of looking at the problems associated with shop leases. It welcomes input from other interested parties.

RAILWAYS

Cleaning Shed

384. The Hon. FRED McKENZIE, to the Minister representing the Minister for Transport:

With reference to the Westrail car cleaning shed being erected at Claisebrook, East Perth, will the Minister advise—

(1) How long has the structural framework been erected?
(2) What did it cost at that stage?
(3) When was the work re-started?
(4) When will it be completed?
(5) What will be the approximate cost of—
  (a) completing the building;
  (b) completing floor and pits (if any);
  (c) completing rail alteration required; and
  (d) the total project?
(6) From what source was it funded?
(7) What interest and depreciation charges are payable on the project?

The Hon. G. E. MASTERS replied:

(1) The frame was removed from the city station parcels area, to make way for city station redevelopment, and re-erected at Claisebrook in April 1978.
(2) $42 000.
(3) February 1982.
(4) The facility will be officially opened in September 1982.
(5) (a) $400 000;
  (b) $150 000;
  (c) $230 000;
  (d) $1 042 000.
(6) Capital Expenditure—$1 009 000
  Operating Expenditure—$33 000.
(7) Depreciation on the various components will be raised in Westrail's accounts based on an asset life ranging between 20 and 40 years. The figure will be approximately $30 000 per annum.
  The current interest rate for borrowings from the General Loan Fund is 16 per cent.

TRANSPORT

Reports

385. The Hon. FRED McKENZIE, to the Minister representing the Minister for Transport:

With reference to the "Transport 2000—A Perth Study" and the "Perth-Fremantle Corridor Review of Public Transport" report submitted to the Minister for Transport, will the Minister advise—

(1) Is it considered that both these documents are reliable?
(2) What was the total cost of the "Transport 2000—A Perth Study"?
(3) How much of this cost was—
  (a) paid to R. Travers Morgan Pty. Ltd.; and
  (b) attributed in total to R. Travers Morgan Pty. Ltd.?
(4) What was the total cost of the R. Travers Morgan Pty. Ltd. "The Perth-Fremantle Corridor Review of Public Transport" report—
  (a) paid to R. Travers Morgan Pty. Ltd.; and
  (b) incurred additionally by the provision of information or related sources?

The Hon. G. E. MASTERS replied:

(1) Yes, both "Transport 2000" and the Perth-Fremantle corridor review are highly professional documents providing the best available forecasts of future trends.
(2) Nearly all work for "Transport 2000" was carried out in-house by professional officers within the office of the Director General of Transport, and no full separate costing of work specific to this project was kept.
(3) (a) $57 467;
  (b) the meaning of the question is not clear.
(4) (a) $99 989;
  (b) no separate costings are available.

HEALTH

Cancer Register

386. The Hon. W. M. PIESSE, to the Minister representing the Minister for Health:

(1) On what date was the cancer register commenced?
(2) When is it anticipated that the first relevant figures will be available?
(3) Could the Minister please advise what preparation and planning has been done for follow-on research?

The Hon. R. G. PIKE replied:

(1) The health (notification of cancer) regulations making cancer a notifiable disease came into effect on 1 August, 1981.

(2) It is anticipated that incidence rates and other statistics will be available in early 1983, subject to the completion by the Health Computing Services of the appropriate programmes.

(3) The purpose of the cancer registry is to accumulate a data bank which will yield a unique fund of material concerning the natural history of cancer in Western Australia. This will be available to medical and other researchers, subject to confidentiality guidelines, for studies in many areas of cancer research. It is anticipated that cancer registry data will provide a major stimulus for epidemiological research in Western Australia.

Plans are in hand to—

(a) maintain a surveillance to detect the presence of environmental carcinogens;

(b) assess the size of the cancer problem in Western Australia;

(c) provide information at a national and international level;

(d) assess preventive measures in cancer control; and

(e) provide data for health care planning.

TRANSPORT

"Transport 2000—A Perth Study": Submissions

387. The Hon. FRED McKENZIE, to the Minister representing the Minister for Transport:

(1) What Government departments or statutory bodies submitted information to the R. Travers Morgan Pty. Ltd. study?

(2) Who placed the request on each department or body?

(3) Did any Government Minister intimate what should or should not be submitted?

The Hon. G. E. MASTERS replied:

(1) Westrail, the Metropolitan Transport Trust, the Director General of Transport, the Fremantle Port Authority, the Western Australian Fire Brigades Board, the State Energy Commission, and the Town Planning Department.

(2) The consultants.

(3) No.

GOVERNMENT DEPARTMENTS AND INSTRUMENTALITIES

R. Travers Morgan Pty. Ltd.: Payments

388. The Hon. FRED McKENZIE, to the Minister representing the Minister for Transport:

(1) How much has been paid to R. Travers Morgan Pty. Ltd. for the period 1972 until the present date, for work done for the Government, semi-Government or statutory bodies?

(2) Will the Minister supply specific details?

(3) Have there been any other payments made to other persons or bodies for work associated with tasks performed by R. Travers Morgan Pty. Ltd. for the Government, semi-Government or statutory bodies?

(4) If so, what are the details?

The Hon. G. E. MASTERS replied:

(1) and (2) This question is similar to question 263 asked by the member on 12 May 1981. In addition to the answer provided to him on that occasion it is advised that R. Travers Morgan Pty. Ltd. has completed its "Perth-Fremantle Corridor Review of Public Transport" at a cost of $99 989.

(3) and (4) If the member would care to be more specific I shall endeavour to provide an answer.

TRAFFIC: MOTOR VEHICLES

Importation

389. The Hon. LYLA ELLIOTT, to the Minister representing the Minister for Police:

Further to my question 356 concerning registration of vehicles privately imported from overseas, what requirements are now imposed on a person who purchases a vehicle overseas for private use and wishes to register the vehicle in this State?

The Hon. G. E. MASTERS replied:

The vehicle must comply with the requirements of the vehicle standards regulations.

The Traffic Board may, by regulation 106(2) of the vehicle standards regulations, exempt a vehicle from compliance with Australian design rules,

and further exempt a vehicle under regulation 125(2) of the vehicle standards regulations from the necessity of having a compliance plate fitted.

Exemption is not granted to any vehicle which is not roadworthy.

QUESTION WITHOUT NOTICE

EMPLOYMENT AND UNEMPLOYMENT

State Manpower Planning Committee

98. The Hon. D. K. DANS, to the Minister for Labour and Industry:

I listened with interest this evening to the Minister's defence of the indefensible. I ask him this: Would he care to explain precisely why he was prepared to claim last Tuesday in this House that he had not read or even sighted the recent manpower planning study report when on the same day in another place details of its contents were given in answer to a question on notice, details which he provided?

The Hon. G. E. MASTERS replied:

When a question is asked of a Minister and the provision of figures is required, a Minister requests his department to research the figures for him. Quite clearly the department did its best to research the figures required, and I approved them for presentation in another place. If they were extracted from the report, well and good. All I am saying is that I did not read the full report.