Legislative Council

Wednesday, the 21st November, 1979

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

BILLS (6): ASSENT

Message from the Governor received and read notifying assent to the following Bills—

1. Plant Diseases Act Amendment Bill.
2. Government School Teachers Arbitration and Appeal Bill.
3. Legal Practitioners Act Amendment Bill.
4. Acts Amendment (Master, Supreme Court) Bill.
5. Criminal Code Amendment Bill.
6. Solicitor-General Act Amendment Bill.

QUESTIONS

Questions were taken at this stage.

ADJOURNMENT OF THE HOUSE: SPECIAL

THE HON. G. C. MacKINNON (South-West —Leader of the House) [2.44 p.m.]: I move—

> That the House at its rising adjourn until 11.00 a.m. tomorrow (Thursday).

Question put and passed.

BILLS (2): THIRD READING

1. Health Act Amendment Bill.
2. Esperance Port Authority Lands Bill.

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

INDUSTRIAL ARBITRATION BILL

Second Reading

Debate resumed from the 20th November.

THE HON. R. F. CLAUGHTON (North Metropolitan) [2.46 p.m.]: This Bill can be described in a number of ways, and perhaps the most apt would be that it is a prescription for disaster. It is quite obvious from remarks made by Mr Masters—so far the only member on the Government side, other than the Minister, who has spoken to the Bill—and from interjections by other members on the Government side that they have a very poor understanding of industrial relations and the demands of the profession, as it could be termed. It is little wonder we are presented with a Bill which contains the matters of which the Hon. Don Cooley complained in his speech last night.

I state without fear of contradiction that no-one is more expert in the matter of industrial affairs than is the Hon. Don Cooley, who has a lifetime of experience behind him and whose views I would have thought would be listened to with a great deal of respect by the Government. If the Government were sincere in its assertion that the Bill is designed to create better relationships in the industrial field, it would make a considerable number of amendments to the Bill in the Committee stage. Regretfully, I believe, that is not what it will do.

Too many members on the Government side are in a position to influence the Government in its decisions in this matter, and I think the situation is perhaps comparable with one which prevailed in the United Kingdom a few years back. I would like to quote an extract from an article entitled "The Historical Development of Labour Law" by Roy Lewis which appeared on page 12 of the *British Journal of Industrial Relations* March, 1976. In that article the Industrial Relations Act passed by the Conservative Government in the United Kingdom in 1971 was described as follows—

> . . . not the product of pressure group activity by employers, rather it originated from within the Conservative Party, particularly from the ambitions of a politically significant group of lawyers to assert their own notions of industrial equity and justice.

That is an apt description of the genesis of many of the provisions within this Bill, except that fewer lawyers would be involved in the Western Australian Liberal Party group. This Bill would represent the notions of people such as the Hon. Gordon Masters, the Hon. Bob Pike, and the Hon. Tom Knight, to name a few; at least that is what we gather from the remarks they make in this place. We assume they would be influential in deciding what should be contained in the Bill.

I believe the Hon. Gordon Masters showed an abysmal ignorance of industrial matters and a complete misunderstanding of the processes that take place in the workers' environment. It seems he has absorbed—somebody expressed it as a mythology—the ideas which are passed round amongst Liberal Party and other conservative groups of people who talk only to each other and feed upon each other's ideas, and whose minds

become closed to the realities of the world about them.

The Hon. W. R. Withers: Absolute rubbish! He is experienced in that field.

The Hon. R. F. CLAUGHTON: If anybody has demonstrated a closed mind in relation to these matters, it is Mr Withers who has some fixation about the fact that certain well-known members of the Communist Party who are also leading officers of unions in Australia happened to be in the Pilbara at the time that the serious disturbance took place.

Several members interjected.

The DEPUTY PRESIDENT: Order! I think it would be helpful to the debate if members observed Standing Orders and ceased interjecting. They should allow Mr Claughton to make his speech. I would encourage the honourable member to deal with the provisions of the Bill without inciting further interjections.

The Hon. R. F. CLAUGHTON: Thank you for those remarks, Sir, and for the caution to members of the Chamber. I am referring to remarks already made in this debate. Mr Withers would have us believe that those members of the Communist Party are of such influence in the nation that they could force the police to take the action they took. That is sheer nonsense.

The Hon. G. C. MacKinnon: Mr Hawke agrees with Mr Withers.

The Hon. R. F. CLAUGHTON: Those persons do not have such power. Had the police and the Government of this State acted reasonably, that affair would not have proceeded in the manner that it did.

The Hon. G. C. MacKinnon: Your leader agrees with Mr Withers.

The Hon. R. F. CLAUGHTON: The Pilbara would not have been upset and the industry disrupted for such a long period had the police and the Government acted reasonably. There is plenty of evidence to support what Mr Cooley said—that the strike was extended unreasonably as a result of the attitude of people in this Government and in some sections of the Police Force. Such attitudes are embodied in the Bill before us; they are embodied in provisions to which we object most strongly, and that is the reason we oppose the Bill.

We already know that the proposals put forward by Commissioner Kelly were in the main supported by the Labor movement. Remarks about that are on record. The Labor movement certainly did not support all Commissioner Kelly's recommendations; that would be an unrealistic situation. Certainly we would not expect the Government to agree with all his recommendations. However, the point is that an overall proposal for industrial relations was embodied in his report which, if put into effect, would have done a good deal to ensure industrial peace and harmony within this State.

However, that is not what we find in this Bill. We find mouthings have been made about so-called principles of democracy and the rights of individuals, but when we examine the provisions of the Bill we find those statements certainly are not justified. We have the instance of the Hon. John Williams, by interjection, disputing claims made by the Hon. Don Cooley—a man with more knowledge about industrial matters than any other person in this Parliament.

The Hon. G. W. Berry: Like Caesar's wife: above suspicion.

The Hon. R. F. CLAUGHTON: We would expect a facetious remark from Mr Berry, who makes no real contribution. That is his habit; however, I do not think there is any harm in his interjections.

We all recognise Mr Cooley is a person with very great expertise and exact knowledge of industrial matters.

The Hon. G. C. MacKinnon: At least he has worked in industry.

The Hon. R. F. CLAUGHTON: Mr Cooley referred to ILO conventions, and Mr Williams had the audacity to contest what he had to say. Mr Williams said he would produce documents to back his claim.

The Hon. G. C. MacKinnon: Mr Cooley was so obviously incorrect.

The Hon. R. F. CLAUGHTON: The Minister is so obviously wrong, and his interjection demonstrates his inability to learn and to take note of what is said in the Chamber.

The Hon. W. R. Withers: Mr Cooley left out section 2.

The Hon. D. W. Cooley: The ILO convention does not make what you are doing legal.

The Hon. R. F. CLAUGHTON: We have no reason to believe that good sense will be brought into this legislation in its progress through this Chamber, from what Mr Williams presented. Mr Masters brought to our notice a provision in the United Nations Declaration of Human Rights. If I understand correctly what Mr Masters quoted, that declaration made some reference to rights of association.

What that provision means is that people have a right to join an association. It means a

Government should not bar the formation of associations or prevent members of the work force from joining together.

The Hon. W. R. Withers: And to allow them to make a free choice.

The Hon. R. F. CLAUGHTON: It is time Mr Withers cleared the cobwebs from his mind and got down to study precisely what this means.

The Hon. D. W. Cooley: He was brainwashed while he was in Moscow.

The Hon. R. F. CLAUGHTON: That is possible. Let me read a few words from the ILO convention. I am referring to Treaty Series 74, No. 3, which refers to a convention concerning freedom of association and protection of the right to organise—ILO Convention No. 87. I will read the convention in part. I do not want to read the lot, but I do not want to be accused of quoting selectively. The preamble says—

> Having decided to adopt, in the form of a Convention, certain proposals concerning freedom of association and protection of the right to organise, which is the seventh item on the agenda of the session;

It refers to freedom of the right to organise, not to choose; it has nothing to do with choosing to which organisation one wishes to belong; that is a different matter altogether. The convention Mr Masters was talking about concerns the right to organise, the right to association, and the right to form together with one's colleagues collectively to protect one's interests in the community. There should not be a harking back to the last century when workers were prevented forcibly from associating to form unions.

The Hon. W. R. Withers: That is not being denied by this Bill.

The Hon. R. F. CLAUGHTON: That is not what the articles were referring to. This convention is the one that Mr Cooley was talking about. I do not want to read the whole of it, but I will read some of it. Article 2 reads as follows—

> Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation.

In other words, they do not need permission from a Government or some other body to join an organisation. Article 3 reads—

> 1. Workers' and employers' organisations shall have the right to draw up their constitutions and rules, to elect their representatives in full freedom, to organise their administration and activities and to formulate their programmes.

That is a right which is being interfered with in this legislation.

The Hon. N. F. Moore: Rubbish!

The Hon. D. W. Cooley: Spot on, Mr Claughton!

The Hon. R. F. CLAUGHTON: It does not matter that this Government is a party to this convention. It simply ignores that matter because some elements in the Liberal Party are in control. Some extreme right wing elements in the Liberal Party are in control, and these conventions are thrown by the board so that their interests and perceived interests can be effective.

Part 2 of that convention reads—

> 2. The public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof.

Those are the ILO conventions, and they are what the United Nations is talking about, not the sort of jargon we have heard from Mr Masters, and the sort of remarks we hear occasionally from Mr Tom Knight, who sits on the back bench.

If ever there was a person who voiced his dislike of unions, it would be Mr Tom Knight. I am not sure what his reasons are, because he has never really expressed them.

The Hon. W. R. Withers: I think he is a member of a union.

The Hon. R. F. CLAUGHTON: For a union member, he expresses very strange views. I remind Mr Withers that there are provisions in this Bill—

The Hon. G. C. MacKinnon: It is not a matter of thought; it is a matter of fact. Mr Knight is a member of a union.

The Hon. D. K. Dans: I am not so sure that he is.

The Hon. R. F. CLAUGHTON: I will accept the word of the Leader of the House.

The Hon. D. W. Cooley: An employers' union.

The Hon. G. C. MacKinnon: The Master Builders' Association.

The Hon. D. W. Cooley: It is not a trade union.

The Hon. G. C. MacKinnon: It is well known that the Bill deals with employers and employees—or have you not worked around to that, Mr Cooley? You are said to be the expert in this House.

The Hon. D. K. Dans: I have a few letters about his expertise as a builder, too.

The DEPUTY PRESIDENT: Order!

The Hon. G. C. MacKinnon: Why do you have to get personal and nasty like that?

The Hon. R. F. CLAUGHTON: It would seem there is some doubt about whether Mr Knight is a member of a trade union.

The Hon. G. C. MacKinnon: Mr Withers did not say that.

The Hon R. F. CLAUGHTON: There is some doubt about it.

The Hon. G. C. MacKinnon: You are being extremely antagonistic. The Bill deals with humans.

The Hon. R. F. CLAUGHTON: The Leader of the House is saying that the members of these associations are supporters of the Liberal Party. There is a provision in the Bill whereby, if there is industrial action taking place and the matter goes before the industrial court, if the action continues after there has been an order for it not to continue, penalties may be imposed on the union. We should remember that people like Mr Knight are supporters of the Liberal Party and members of that union. That is an incitement to them to create chaos—to set about doing things that would embarrass the Labor Party, because it is the Labor Party that is blamed when unions are on strike. What an incitement for that sort of action! What a prescription for disaster and chaos that is being written into this Bill! What an unreasonable provision!

There is a prescription for chaos to an unreasonable extent when the union officials can be penalised—perhaps fined and gaoled—and the funds and other appurtenances belonging to the union can be taken over by the court because there are individuals such as these members and supporters of the Liberal Party who take it into their heads to create difficulties for the union movement. They are people who are not involved in furthering the interests of the union movement and of particular unions.

We know full well—and we have heard it from members on the Government side—that there are elements in the union movement who are out to cause disruption. We have heard all this talk about "commies", and left-wingers, and militants—all, from their point of view, from the left. However, there are elements from the right who are equally concerned with causing disruption and chaos, and with causing embarrassment to the Labor Party.

The Hon. N. F. Moore: Who are these right-wingers?

The Hon. R. F. CLAUGHTON: The actions of these people, under this Bill, can be visited on the moderate and responsible union officials—the people who may be doing their utmost to see that there is harmony and peace in the industrial movement. Such action could escalate what could be a minor affair into a much wider situation involving not just one union and a few workmen but perhaps the whole State, through action being taken to fine or gaol union officials.

Members cannot tell me that that is what the people of this State want. That is not what the moderate people in the Liberal Party want. Members cannot convince me that the rational, sensible people in the Liberal Party are asking for that sort of legislation. If they are, that is a condemnation of them and of the condition that politics in this State have reached.

Would Mr Medcalf be a party to that sort of procedure being embodied in this legislation?

The Hon. D. K. Dans: He is not mentioned in the leaflet titled "The Right Wing in Australia".

The Hon. R. F. CLAUGHTON: He is the Minister who introduced the Bill and who gave the second reading speech. I noted his sensitivity last night during the remarks made by the Hon. Lyla Elliott when she was accusing him of inconsistency.

The Hon. W. R. Withers: He is a sensitive Minister.

The Hon. I. G. Medcalf: She was so wrong.

The Hon. R. F. CLAUGHTON: I accuse the Attorney General of the same inconsistency.

The Hon. I. G. Medcalf: She was so wrong.

The Hon. R. F. CLAUGHTON: She was so right. The honourable member, of course, would want to keep her remarks confined to the issue of long service leave. It is written in this legislation that matter will be determined by the Industrial Commission.

The Hon. I. G. Medcalf: I am glad you found that out.

The Hon. R. F. CLAUGHTON: Miss Elliott did not deny it. The Attorney General cannot say he did not hear her saying so.

The Hon. I. G. Medcalf: She did not seem to be too sure about it.

The Hon. R. F. CLAUGHTON: The Attorney General was the only one who was not sure.

The Hon. I. G. Medcalf: I was very sure. I was the one who said so.

The Hon. R. F. CLAUGHTON: Miss Elliott accused the Attorney General of saying that long service leave should not be covered by this Bill. She agreed that it was, and she kept on agreeing

with that. However, the Attorney General kept protesting—

The Hon. I. G. Medcalf: I thought she was very disagreeable.

The Hon. R. F. CLAUGHTON: Miss Elliott said the Attorney General was inconsistent, and she was quite right in that.

The Hon. I. G. Medcalf: She was so wrong.

The Hon. R. F. CLAUGHTON: It is the Attorney General who was wrong. He was saying at that stage on industrial matters that the Industrial Commission is the expert and that we in this Chamber are not. I would certainly admit that.

The Hon. A. A. Lewis: You could not include Mr Cooley in that.

The Hon. R. F. CLAUGHTON: Mr Cooley is an acknowledged expert, but he is one amongst 32.

The Hon. A. A. Lewis: What about Mr Dans?

The Hon. R. F. CLAUGHTON: I do not believe Mr Dans would claim to have the same expertise as Mr Cooley. However, we would all admit that Mr Dans is extremely competent. Apart from the former union secretaries, such as Mr Cooley, Mr Dans, and Mr McKenzie, we do not claim expertise in these matters and no member of this side of the House would claim particular expertise apart from the members I have named.

The Hon. G. C. MacKinnon: Are you saying much of your speech might be wrong?

The Hon. R. F. CLAUGHTON: I am not saying that; I expect members opposite to say that.

The Hon. G. C. MacKinnon: We would say that without the slightest doubt.

The Hon. R. F. CLAUGHTON: I was pleased to hear the Minister agree with me that Mr Medcalf was inconsistent.

The Hon. I. G. Medcalf: Talk about a broken record!

The Hon. R. F. CLAUGHTON: In 1973 the Minister said these matters were for the Industrial Commission to decide, because that was the place which had the expertise in these matters; therefore, Parliament should not be deciding them. Miss Elliott went on to say, in relation to other matters, that if the Minister wants to be consistent, he would have to say the restrictions on the commission's jurisdiction contained in the Bill should not exist. I am referring to matters such as the penalties in regard to deregistration, the fines which may be levied on unions, the redundancy provisions, and matters concerning workers' compensation. If we were consistent all these industrial matters would be decided by the court. Instead of that, we find the commission's jurisdiction has been limited in regard to the manner in which it can deal with these matters.

When this Bill is proclaimed, as undoubtedly it will be, under clause 117 provisions already contained in awards which are not consistent with the legislation will become null and void. Matters relating to redundancy provisions or workers' compensation which have been won by the actions of union members in association with employers and written into awards, will be deleted immediately when this Bill becomes law.

Not only are we saying the commission cannot make decisions in regard to these matters, but also they will be removed from awards without any sort of consultation being carried out. What will be the situation then? Do we expect the unions who have fought for these conditions to accept that? Are we going to expect them to sit back and say, "Stiff cheese! The Government has done this to us and we will have to accept it!"? Can Mr Masters imagine the unions sitting back and accepting the situation? Mr Masters claims he is concerned about individual rights and liberties; does he expect the unions to accept the removal of privileges for which they have fought?

It is possible union members may not have taken alternative action to protect themselves after an accident as far as workers' compensation is concerned, because they believed the matter was covered adequately in the legislation. They may be in the process of seeking compensation for injuries at the present time; but this Bill will remove their rights in that regard.

The Hon. G. E. Masters: They receive 100 per cent workers' compensation.

The Hon. D. W. Cooley: What do you know about it? The Act does not provide 100 per cent compensation for all workers.

The Hon. R. F. CLAUGHTON: It is difficult to argue a case for someone with a lower back injury. Such an injury has a great effect on the future life of the individual concerned, but it is very difficult to define. The future life of the individual may be ruined as a result of his injury.

The Hon. W. R. Withers: I agree with you entirely.

The Hon. R. F. CLAUGHTON: Instead of contributing to the community and working in a productive manner people who receive such injuries may become impoverished and bitter. That is not an uncommon occurrence.

What will happen to the cases being heard currently under the present legislation? They will be wiped totally when this Bill is proclaimed. I do not know whether either Mr Masters or Mr Withers is fully aware of the implications of this legislation, because they do not always study the provisions contained in the Bills which come before us. A great many of the provisions in the legislation will cause much strife in the community.

Members have remarked that the unions have been rather quiet in regard to the Bill. Union members have not been demonstrating on the streets. Is it essential that a union member demonstrate to illustrate whether or not he is in favour of legislation? Is it not acceptable for the attitude of unions to legislation to be conveyed in a rational and reasonable way?

Last week the employees at the Government Printing Office wanted somebody to explain this legislation to them. They are affiliated with the TLC through the PKIU and a representative from the TLC would be equivalent to a representative of their own union, since they are part of that association. When the request was made to the Minister (Mr O'Connor) it was refused. Members can imagine how the men felt about that.

The Hon. O. N. B. Oliver: Did not a deputation go to Mr O'Connor's office?

The Hon. R. F. CLAUGHTON: It may well have done so.

The Hon. O. N. B. Oliver: It did, actually.

The Hon. R. F. CLAUGHTON: I am talking about last week.

The Hon. O. N. B. Oliver: I am talking about last week also. They went there because they were very pleased to know they were going to have a say in their union affairs.

The Hon. D. K. Dans: That sounds good.

The Hon. O. N. B. Oliver: It is factual.

The Hon. R. F. CLAUGHTON: I do not know where Mr Oliver gets his information.

The Hon. O. N. B. Oliver: Do not let us deal in fantasies.

The Hon. D. K. Dans: Let us deal in facts.

The Hon. R. F. CLAUGHTON: That is correct; do not let us deal in fantasies. The immediate reaction of the men at the Government Printing Office was to ban the printing in *Hansard* of any speeches made by Mr O'Connor in the debate on this Bill.

The Hon. O. N. B. Oliver: Actually, you are 48 hours behind the times.

The Hon. R. F. CLAUGHTON: I said this occurred last week.

The Hon. D. K. Dans: Mr Claughton, you know that Mr Oliver is lacking in some faculties, and one of them is hearing.

The Hon. O. N. B. Oliver: I can hear perfectly well and I am well aware of what happened last week.

The Hon. R. F. CLAUGHTON: That is what I am talking about.

The Hon. O. N. B. Oliver: Then get your facts straight.

The Hon. R. F. CLAUGHTON: Mr Oliver will agree that this happened last week.

The PRESIDENT: Order! Will the member direct his comments to the Chair?

The Hon. R. F. CLAUGHTON: I will do that, Mr President, because it seems quite impossible to get through the haze which seems to surround Mr Oliver's mind.

The Hon. O. N. B. Oliver: No, I do not have a problem; it is your problem.

The Hon. R. F. CLAUGHTON: Of course, good sense prevailed and that action was not taken. However, it shows the extent to which the work force may be prepared to go when reasonable requests are refused. I thought that was a reasonable request—to have someone knowledgeable about the legislation go to the employees and explain it. That seems a completely reasonable request to make and for it to be refused was to provoke a situation which need not have happened.

The same situation is likely to occur time and time again under the provisions of this Bill. Instead of reasonable actions being allowed to take place, minor issues are likely to become inflated and inflamed if reasonable requests are refused on what appear to be quite illogical grounds.

If people such as Mr Masters sincerely believe that they are out to protect the rights of the individual, we would expect to see them supporting provisions quite different from those we have before us. If the ordinary individual wage earner is to have any sort of position for bargaining, it must be done in a collective situation. He has almost no rights as an individual in the wider work force situation. For example, when there are 1 000 applicants for one job what is the bargaining power of any one of those individuals when it comes to obtaining salary and other conditions which are reasonable and at the normal rate which applies? The bargaining power of the individual is almost nil, and unless he has

an organisation which is in a position, from the strength of the members which it has behind it, to bargain on more equal terms with the employer then, obviously, the income and the conditions of the ordinary wage earner will suffer. There is no other path it can travel.

I am surprised that people who on the surface appear to be quite rational—people such as Mr Masters—are unable to comprehend the sort of situation I have outlined. They want to create an environment where there is room for dispute and argument. If we take examples from overseas, we find there is outright thuggery in certain instances because that is the only means by which groups in wide-open situations are able to protect themselves. Where the ordinary employee is in a wide-open and highly competitive situation, in order to gain reasonable conditions he must stamp out a slice of territory in which he will hold some sway. The only way to do that in a *laissez-faire* situation is to have muscle men to enforce it. I cannot believe that is what Mr Masters wants, or what more moderate people in the Liberal Party want. Certainly, it is not what members of the Labor Party want.

The Hon. R. J. L. Williams: Is that what the painters and dockers did in the present situation in Victoria? Is that an example? Murder!

The Hon. R. F. CLAUGHTON: There are others who could give the member a far better history of what has led to the development of that situation—if that is what it is. It would not take too much to convince me that that actually happens. Perhaps Mr Williams can provide me with some literature which would outline the story a little better.

The Hon. R. J. L. Williams: You do not read the Press? Is that your answer?

The Hon. R. F. CLAUGHTON: Does the member believe everything he reads in the Press?

The Hon. R. J. L. Williams: I am not questioning the veracity of the Press.

The Hon. R. F. CLAUGHTON: Of course I read the Press.

The Hon. R. J. L. Williams: Did you read in the Press the incident to which I have referred?

The Hon. R. F. CLAUGHTON: If somebody is killed on the Victorian waterfront, that does not mean *ipso facto* that union gangs are operating to bring about that situation. I could well believe that is so but I have never read into the story any proof, and I have not seen any proof presented. But, if it is so then I do not think it is a desirable situation, and I hope Mr Williams does not think it is desirable. We do not want to have conditions which will allow that situation to develop in this State. However, this legislation will provide those conditions.

If people who are not members of a union are allowed to go onto the shop floor, instead of allowing the workers and the management to continue with what they already have—preference clauses or closed-shop conditions—then there is a very likely consequence of a serious situation being created. I thought reasonable men would have gone out of their way to see those sorts of conditions did not have a chance to make any inroads into the industrial situation in this State.

I urge those members of the Liberal Party who are so mesmerised by the provisions contained in this Bill—the particular provisions which were not in the Kelly report but which are now included in the Bill, and those provisions which Mr Cooley talked about when he mentioned the Bill was in two parts; the part which had its origin in the Kelly report and the part which had its origin in the industrial committee of the Liberal Party—to consider them more closely.

I urge members of the Liberal Party in this Chamber who are so enamoured of these particular provisions to study them more closely and to try to work out the consequences that will flow from their implementation. It is not good enough to incorporate in the legislation certain myths, lies, and propaganda, that are promulgated for public consumption to influence voting at election time. The parliamentary members of the Liberal Party should not allow themselves to be so brainwashed with their own propaganda that they cannot see the faults and the traps in this legislation. The rights of unions to organise and to enter into agreements with employers, to have included preference clauses in awards, or to have an arrangement with an employer where only union members are employed by that employer, are not matters detrimental to the Western Australian community. They have become part of the Australian tradition—the tradition that is being attacked in these provisions.

The Hon. O. N. B. Oliver: Fair go!

The Hon. R. F. CLAUGHTON: It is the Australian tradition that the Government is attacking. If the Americans tried to impose our arbitration system on the industrial scene in that country, they would not succeed. Their traditions are different from ours, but it is the Australian traditions that the Liberal Party is attacking. The rights to which I have referred are built into the thought pattern of members of the Australian

work force and the attempt to introduce these changes to our arbitration legislation will not succeed in the long term. In the short term the changes are likely to cause further industrial strife, but like so many other things that the Liberal Party Government has introduced during its term of office, in the long term they will not succeed.

The industrial conditions introduced by the State Government's Federal colleagues have not succeeded. If the Government members in this Chamber are reasonable men, I hope they will understand that point. I hope they will agree to sensible changes to the legislation. Let us revert to Commissioner Kelly's recommendation and then we may have something that will bring about peace and industrial harmony.

The objects of this legislation are set out in clause 4 as follows—

> The principal objects of this Act are—
>
> (a) to promote goodwill and harmony in the community by—
>
> (i) encouraging, and providing means for, the prevention and resolution of conflict in industry by reason rather than force;

The Government talks about preventing disputes and conflict, and yet one of the first things it will do when this Bill becomes an Act is to delete existing provisions and awards without any consultation with anyone. How then is that first objective to be achieved?

The Hon. O. N. B. Oliver: Tell me how that will happen.

The Hon. R. F. CLAUGHTON: I refer the member to page 115 of the Bill. Paragraph (f) of subclause (1) of clause 117 reads—

> subject to paragraph (h), each industrial agreement which immediately prior to the proclaimed date, was in force under the repealed Act shall, for all purposes of this Act except for the purposes of subsection (6) of section 41—
>
> (i) be deemed to be a consent award made under this Act; and
>
> (ii) continue in force until cancelled, suspended, replaced, or retired from under this Act,
>
> but not in respect of any matter which the Commission may not include in an award or order under this Act, and any such matter is deemed to have been deleted from the agreement;

Those words are very plain, and I believe that both Mr Oliver and I understand them.

The Hon. O. N. B. Oliver: So you need all parties there to ensure that consent operates?

The Hon. R. F. CLAUGHTON: No, we are talking about existing awards.

The Hon. O. N. B. Oliver: That is right.

The Hon. R. F. CLAUGHTON: Do not make me read it all again.

The Hon. O. N. B. Oliver: I would not ask you to and I would not listen.

The Hon. R. F. CLAUGHTON: We are talking about existing awards, and the provision states that they will continue in force, but it then contains the proviso that any matter which the commission may not include in an award or order under this Act will be deleted.

The Hon. O. N. B. Oliver: Such as?

The Hon. R. F. CLAUGHTON: Redundancy agreements and workers' compensation.

The Hon. O. N. B. Oliver: Workers' compensation is covered under another Act.

The Hon. R. F. CLAUGHTON: Provisions in certain awards are separate from anything contained in the Workers' Compensation Act.

The Hon. O. N. B. Oliver: What you are suggesting—

The PRESIDENT: Order!

The Hon. R. F. CLAUGHTON: For example, Mr President, we know that previously an injured worker received a 100 per cent coverage.

The Hon. O. N. B. Oliver: Under an award?

The Hon. R. F. CLAUGHTON: No, under the Workers' Compensation Act. When the Act was amended so that an injured worker received only 85 per cent, some unions—and I do not know how many—were able to have written into their awards that the 100 per cent coverage would continue.

The Hon. O. N. B. Oliver: No, you have it wrong—it is 100 per cent in the award, but not the overtime, etc.

The PRESIDENT: Order! Would the honourable member direct his comments to the Chair?

The Hon. R. F. CLAUGHTON: Quite obviously the honourable member understands the sort of thing to which I was referring. I was attempting to give an example. I will come back to the objects of the legislation. The very first object cannot be achieved, because as soon as the

legislation comes into force, the areas of disputation I have referred to will be created. None of us would expect the unions to suffer a downgrading of their conditions. The unions will try to take some action to see that the conditions they enjoy already shall continue. The Government has not explained why it should want to reduce the conditions of particular unions, or take away the privileges that certain unions have gained.

The legislation contains a provision that the commission cannot deal with the hours of work in the agricultural and pastoral industry. That is a recognition that there are certain industries where the awards must include matters not included in other awards because of the conditions prevailing.

It would be difficult in this legislation to take account of those things, because, under this legislation, areas of employment where some sort of compensatory condition is felt to be necessary—by way of example, the cover provided by redundancy and workers' compensation conditions—will be affected; that could not be done. The machinery for resolving a possible area of dispute in an industry would not be available to the court. In other words, the legislation will result in a loss of flexibility to the court in handling disputes.

Mr President, a great deal more will be said during the Committee stage. I simply wished to outline the main principles of this legislation to which I objected.

In closing, I should like to refer again to the remarks of Mr Roy Lewis in dealing with the United Kingdom situation. At the time he made his comments, there was a Conservative Government in the UK which, like this Government, believed it could win electoral support by bashing down the unions and introducing tough industrial legislation. It would be as well for this Government to be reminded that it did not turn out that way in the United Kingdom.

The Trade Union Council of the United Kingdom, in its news broadsheet of May, 1973, contained the following statement in respect of the Industrial Relations Act—

> On the occasions when the Act has been used it has for the most part been a source of disruption rather than a contribution to the improvement of industrial relations.

That is what the UK experience showed, and it is a lesson this Government should learn.

Roy Lewis, writing in the *British Journal of Industrial Relations*, had this to say—

> How far did the Act achieve its objectives? Although it is impossible to quantify any cause and effect relationship between law and strike activity, apart perhaps from the incidence of political strikes in protest against the Act, it was reasonably clear that in the vast majority of situations during the two-and-a-half years of the Act neither the State nor management showed any overt interest in using the legal resources at their disposal. In some of the highly exceptional circumstances where legal sanctions were deployed there was evidence that the effect was not only to postpone and complicate the ultimate industrial settlement, but also to threaten the 'rule of law'. The A.U.E.W., the second largest union in Britain, would neither observe legal orders nor voluntarily pay fines for contempt of court. Although other T.U.C. affiliated unions tended to make some effort to obey court orders, rank and file elements, notably a group of dockers' shop stewards in London, were imprisoned for contempt of court after deliberately flouting injunctions. The Courts were then constrained to resort to unusual devices in order to release the dockers and so avert a political and constitutional crisis.

Sitting suspended from 3.45 to 4.02 p.m.

The Hon. R. F. CLAUGHTON: Before the afternoon tea suspension I was in the process of making my closing remarks by offering a warning to Government members about the consequences of what they are doing by agreeing to this Bill. I shall continue quoting select excerpts from the document I have here. I quote the following from the article by Roy Lewis—

> Only in the sphere of disciplinary procedures did the Act encourage reform prompted by management's desire to avoid being sued for unfair dismissal.

Members may recall there are provisions in this Bill dealing with this matter. To continue—

> Unfair dismissals apart, the major effect of the measures to promote individual liberties—

This is something Mr Masters claims is his motivation for supporting the Bill. To continue—

> —was to threaten trade unionism and beyond that the very principle of joint regulation. The closed shop was in legal jeopardy, though management connivance allowed most existing arrangements to continue. Furthermore, the Act injected a new and explosive element into many difficult situations by offering registered but

> unrecognised staff and professional associations and breakaway unions and their individual members an opportunity to use legal tactics at the expense of T.U.C. affiliated bodies and established procedures. This flatly contradicted the objective of promoting orderly collective bargaining.

Those remarks could very well have been written about this Bill.

To deal with the political consequences of this Bill, I shall quote from the same journal and read the following from an article by Allan Flanders—

> ....it turned the confidently passed Industrial Relations Act into a grave and manifest political miscalculation and blunder within a year of its being on the statute book. Nothing seems able to produce such a united front of resistance in a trade union movement, normally subject to all kinds of rivalries and divisions, than an affront to its tradition of voluntarism.

That Act was repealed by a Labor Government in 1974 after the conservative Government which had introduced the legislation was defeated in the first poll subsequent to that legislation. I think that should give the Government cause to pause.

I know from my conversations with some union officials that they have experienced legislation of this sort already from this Government. They do not intend to enter into public demonstrations or other outward expressions of opposition, but they are firmly resolved to protect their interests in their traditional way. We can be assured that is what will take place.

That is not a threat or anything of that nature; but the union movement has a long tradition behind it and has experienced these sorts of things in the past. It is well aware of what is necessary to maintain its position; it will survive. We can only hope that good sense will prevail within the Liberal Party before really serious industrial problems occur in this State.

After the repeal of that UK legislation the country commenced a period of very quiet industrial relations; there was a marked drop-off of industrial disputes.

The Hon. G. E. Masters: Was that because of Mrs Thatcher?

The Hon. R. F. CLAUGHTON: It followed the defeat of the conservative Government in the UK in 1974 and the repeal of that Government's Industrial Relations Act. What Mrs Thatcher might do is very likely to follow the line of this Government. In that case no doubt a resurgence of industrial trouble will occur in the UK.

The Hon. G. E. Masters: I am quite sure you are wrong. People are waking up to the problems. People are suddenly realising where the problems lie.

The Hon. R. F. CLAUGHTON: I think it will be Mr Masters who will have to undergo a reawakening. The basic conditions necessary to maintain industrial peace do not really change. All that can happen as a consequence of this legislation are the sorts of things I outlined in my quotes.

Eventually, Governments and those with the responsibility will be forced to accept the realities of industrial life. If we are to have industrial peace we will not want the sort of situation which occurs in the United States, where a very large incidence of industrial strife exists. It is more than we have. We would hope to have more of the West German situation, where they have much less industrial strife than do we; where they have much better industrial relations than do we.

I can only reiterate my opposition to the Bill. I will listen with interest to the comments of Government members in the hope they indicate their preparedness to consider the matters to which we are objecting. It is not a matter of ideologies; it is a matter of what works best for the community. I would imagine that amongst their own supporters in business they would find many people who would instruct them on the wisdom of changing these provisions. I would hope they could disentangle themselves from the grip of the right-wing element which has enveloped them and get themselves in a position where they will be more rational in dealing with this legislation.

THE HON. O. N. B. OLIVER (West) [4.11 p.m.]: What a charade we have had from Opposition speakers to date. They have indicated we will hear more from them in the Committee stage and I will be interested to hear what they have to say. When speaking to this Industrial Arbitration Bill—it was said the title should be the "Industrial Relations Bill"—Opposition members have been like actors on a stage.

The Hon. Don Cooley has a record of never having had reason to approach the Arbitration Court while he was secretary of the brewery workers' union. I have heard him say that. He has a record of having dealt with matters on the shop floor; of discussing disputes with management and resolving them. I understand he was very successful. At no stage during his remarks did he indicate that this is the Industrial Arbitration Bill dealing with the matter of disputes which cannot

be resolved by conciliation, a situation in which Mr Cooley never found himself.

The Hon. D. W. Cooley: What did you say?

The Hon. O. N. B. OLIVER: I was saying the Hon. Don Cooley had a good record as secretary of a union in that on the shop floor level he was able to resolve disputes between management and employees. It was not necessary for him to revert to the Arbitration Court, because he was able to reach agreement with the management and settle disputes.

The Hon. D. K. Dans: The Swan Brewery had such a high opinion of the WA Employers' Federation it always used an advocate from the South Australian employers' federation.

The Hon. O. N. B. OLIVER: I am not interested in that; I am placing on record the manner in which Mr Cooley handled his union's affairs.

This Industrial Arbitration Bill is necessary to cover situations where conciliation is not possible at the micro level—the shop floor level. There must be a set of rules.

Why I say speakers from the Opposition put on a charade is because they were turning a deaf ear to the electorate of Western Australia and thereby listening purely to the union leaders to whom we know they have access.

The Hon. D. K. Dans: Is this Bill going to minimise industrial disputes?

The Hon. O. N. B. OLIVER: I would certainly hope so.

The Hon. D. K. Dans: Is it or is it not?

The Hon. O. N. B. OLIVER: I would not stand here if that were not the case.

I will quote information from the McNair Anderson report, table 8 on page 23. This concerns the role of unions. Several questions were put. The first was, "All employees should be made to join a union?" Of the work force 25 per cent agreed and 80 per cent of the union leaders agreed. The next question was, "Union leaders often seem to look for something to justify their existence?" Of the work force 78 per cent agreed and 12 per cent of the union leaders agreed. The next question is one which the Hon. Des Dans highlighted in his speech with regard to wages. It was "Pressure for wage increases by unions now is not really supported by the rank and file?" Of the work force 63 per cent agreed and 20 per cent of the union leaders agreed.

The Hon. D. W. Cooley: What are you quoting from?

The Hon. O. N. B. OLIVER: It is the McNair Anderson report which was done in association with Professor Roger Layton of the University of New South Wales. I am surprised the honourable member did not know about it because the Friends of the Railways used McNair Anderson for their survey.

The Hon. G. E. Masters: There is a similar document here which makes the Labor members shudder. It has the same thing in it. It is "Managers and Workers at the Crossroads".

The Hon. O. N. B. OLIVER: The next set of questions on page 10 is in regard to some perspectives of the arbitration system. The question was put, "This country is better off having one central body to fix wages than having each group of employees bargain with individual employers?" Of the work force 63 per cent agreed and 48 per cent of the union leaders agreed.

The Hon. D. K. Dans: I once made a speech in this House suggesting that.

The Hon. O. N. B. OLIVER: The next question is, "The arbitration system tends to favour management rather than workers?" Of the work force 47 per cent agreed and 46 per cent of the union leaders agreed. Incidentally, 49 per cent of the work force disagreed and 50 per cent of the union leaders disagreed.

This also is an example of the attitude of the electors of Western Australia towards the arbitration system. I did make the point that the Labor Party is either not listening to the electorate or, as I believe, is under pressure from left-wing union leaders.

The Hon. R. Hetherington: I wish you would stop talking nonsense.

The Hon. O. N. B. OLIVER: I will quote the nonsense of which the previous speaker (the Hon. Roy Claughton) spoke.

It is very interesting to note that any member of Parliament with a conscience must support this new legislation because the alternative is to be like the Opposition members who presented a charade. The Opposition has turned a deaf ear to the majority of Western Australians in order to retain its endorsement for future elections. We heard the Hon. Roy Claughton talking about the problems associated with the arbitration system in the United Kingdom. I believe many of the Opposition speakers are in the same situation as a member of Parliament called Reg Prentice who was a Labour MP for 20 years.

The Hon. D. K. Dans: Where?

The Hon. O. N. B. OLIVER: He progressed through the Labour ranks to become the Minister

for Overseas Development in the Wilson second Administration. He was on the anti-common market side in the dispute within the party and right up until 1974 was regularly elected. He held a post within the shadow Cabinet during Labour's period in Opposition until he began to attract the displeasure of the left when as shadow spokesman for employment he refused—and I repeat the word "refused"—to condone law-breaking simply because the people concerned were active trade unionists. He later spoke out in defence of the Home Secretary (Roy Jenkins) who refused to let pickets convicted of conspiracy out of gaol. His speeches defending the role of law, the western alliance, parliamentary sovereignty and the mixed economy provoked the small group of marxists who gained control of his local party caucus to oust him as a prospective Labour candidate. That is after 20 years in the party and that is what the left wing of the union movement does. The speakers of the Opposition are quaking in their shoes—

The Hon. D. W. Cooley: What are you quoting from?

The Hon. O. N. B. OLIVER: I am not quoting.

The Hon. D. K. Dans: You were.

The Hon. R. F. Claughton: You were referring to the United Kingdom.

The Hon. O. N. B. OLIVER: I am surprised Mr Claughton has not read it. It ties in exactly with what he said. It is *The Death of British Democracy* which was written by Stephen Haslyn, who happened to be the Press Secretary to Harold Wilson. This is only one instance of the left wing's actions, but the whole book quotes where the left wing union leaders brought about the downfall of the Labour Party because of their control and manipulation of members of Parliament who sold their souls and their consciences.

The Hon. D. K. Dans: Get back to Western Australia.

The Hon. O. N. B. OLIVER: I am saying that the Labor members here are totally out of step with the rank and file of the union movement and their electorates. It does not matter where I go, even amongst the working class of the Midland Workshops—

The Hon. D. K. Dans: You do go amongst the working class?

The Hon. O. N. B. OLIVER: Do I ever! I do so because so many of them vote Liberal. The Labor Party does not have the majority of voters because it represents the union movement.

Several members interjected.

The DEPUTY PRESIDENT: Order!

The Hon. O. N. B. OLIVER: One should not lose the common touch. That is one thing one must not do. The Hon. Don Cooley is so isolated he does not know what the rank and file understand. Also, members should not take note of the Hon. Roy Claughton's comments. The printing workers said they would not print the document with regard to Western Australia's new industrial law.

The Hon. R. F. Claughton: You did not listen to what I said.

The Hon. O. N. B. OLIVER: What actually happened is that it was decided by a union official of the Government Printing Office that *Hansard* would not be printed with the name of the Minister for Labour and Industry in it. The workers led a deputation to the Minister and said that they intended to print it. They went back to the Government Printing Office and told the shop steward that they would be printing it—and they did.

The Hon. R. F. Claughton: That is not what happened.

Several members interjected.

The DEPUTY PRESIDENT: Order!

The Hon. O. N. B. OLIVER: There are three Labor members interjecting, but I certainly will not reply to the interjections.

The DEPUTY PRESIDENT: Order! Any member who has the floor has the right for protection to make his speech. There is no right for interjections in this Chamber and as all members well know they waste time and do not help the debate on either side. The person on his feet should be able to express himself and get on with the debate.

The Hon. O. N. B. OLIVER: To continue: I was speaking about the pamphlet to be produced by the Government Printing Office. It is called "The Western Australian New Industrial Laws" and is issued by the Government of Western Australia and the Minister for Labour and Industry.

The Hon. Lyla Elliott: Propaganda, paid for by the taxpayers.

The Hon. O. N. B. OLIVER: This document is a precis of the Bill and I do not believe that legislation brought into this House should be categorised as propaganda. A member of the Opposition has accused the Government of bringing forward legislation as propaganda. That is not a statement of which to be proud when we consider the charade of Opposition members earlier.

The Hon. R. F. Claughton: You quoted an opinion poll as the reason for the legislation being introduced.

The Hon. O. N. B. OLIVER: I will come to that in a moment. The point is, there was some uncertainty, but the vote about not printing the pamphlet was not taken by the union at the Government Printing Office. However, the pamphlet was printed elsewhere.

Several members interjected.

The DEPUTY PRESIDENT: Order! Will the honourable member continue his speech?

The Hon. O. N. B. OLIVER: We have heard that 10 per cent of the report is considered totally unacceptable to the Opposition. No doubt we will learn of that 10 per cent in the Committee stage. I would be surprised if the Labor Party ever said it liked 100 per cent of any inquiry the Government commissioned.

It is interesting to note the summary of the Labor Party Conference held from the 16th July to the 20th July, 1979. I have a copy in my hand.

The Hon. D. K. Dans: Be very careful. You are stealing Mr Pike's thunder.

The Hon. O. N. B. OLIVER: One of the matters discussed was the making of one rule for unions and another for employers. The summary states at page 5—

> An ALP Government would move immediately to repeal "all penalties for strikes against arbitral decisions of the Commission or a conciliation committee and the prohibition of action by the Commission to insert or register clauses in awards or agreements excluding the rights of workers to resort to industrial action".
>
> This again demonstrates the ALP's eagerness to place unions completely outside the scope of the law. However, the real significance of the policy is that the 1977 Platform had been even-handed in that it called for the repeal of penalties for employer "lockouts" as well. The words "and lockouts" were taken out at the 1979 Conference, meaning that while unions would be free to engage in strike action without penalty, employers would be penalised for retaliating by engaging in a lockout.

Another matter related to political strikes. The summary says—

> An ALP Government would "recognise that the legitimate role of the trade unions is not limited to legally defined industrial matters".
>
> Labor has clearly endorsed "political strikes" in adopting this plank, and has indicated its contempt for the democratic parliamentary process. Labor does not accept Parliament as the proper place for voicing its concerns and opinions, but has deferred to the unions in acknowledging that they can strike on any issue at all and force their views on the Australian public. The plank is a direct threat to democracy.

The Hon. R. F. Claughton: Who wrote that?

The Hon. O. N. B. OLIVER: I am quoting the political manifesto. The next matter is the closed shop. The summary says—

> Labor will "encourage the membership of registered organisations through the provision of preference to unionists in the taking of leave and . . . in their engagement and promotion and their retention in cases of retrenchment".

That, in a nutshell, is a closed shop.

The Hon. D. K. Dans: That is not a closed shop.

The Hon. D. W. Cooley: What is your definition of a closed shop?

The Hon. O. N. B. OLIVER: I will relate my experience of a closed shop. The situation involved the Builders' Labourers Federated Union, which does not have in its Federal award a clause relating to preference to unionists. One afternoon I had a phone call in this House from a young fellow who was working at Osborne Park and who was told that unless he joined the BLFU—which has no clause giving preference to unionists—the management would have to terminate his employment within 24 hours. I went out to this place at Osborne Park and asked to see the manager. I met him and passed across to him a card which showed I was a member of Parliament.

The Hon. D. K. Dans: Couldn't you have just said you were a member of Parliament?

The Hon. O. N. B. OLIVER: The situation was that the lass asked me, "Who are you? Do you have a card?"

The Hon. D. K. Dans: And you were lucky enough to have one!

Several members interjected.

The DEPUTY PRESIDENT: Would the honourable member please address the Chair?

The Hon. O. N. B. OLIVER: There was a delay of approximately five minutes which enabled the management to summon together a few other people to support the chief executive. I

was told the Builders' Labourers Federated Union had said that unless every employee on that shop floor was a member of the BLFU the place would be closed down within 24 hours.

The Hon. D. W. Cooley: How are you going to rectify that position?

The Hon. D. K. Dans: Is that a closed shop?

The Hon. O. N. B. OLIVER: The Builders' Labourers Federated Union will be answerable to the court. If it cannot give a satisfactory explanation or does not follow its award, it will be deregistered—

The Hon. D. K. Dans: What will they do about it then?

The Hon. O. N. B. OLIVER: —or it may be suspended.

The Hon. D. K. Dans: It was deregisterd in New South Wales, but it is still going strong.

The Hon. O. N. B. OLIVER: As I understand the union movement, unions do not like to be suspended or deregistered. The Amalgamated Metal Workers and Shipwrights Union went completely against the ACTU policy. It was fined an enormous amount and was deregistered. The difficulties and disadvantages in not being registered were such that the union defied the resolution of the ACTU congress.

The Hon. D. K. Dans: How long ago was that?

The Hon. O. N. B. OLIVER: Approximately four years ago.

The Hon. D. K. Dans: In this State or the Eastern States?

The Hon. O. N. B. OLIVER: I believe it was generally in New South Wales.

The Hon. D. K. Dans: It has been registered in this State for how long?

The Hon. D. W. Cooley: For 11 years.

The Hon. O. N. B. OLIVER: I come back to the other situation; that is, the builders' labourers federation was deregistered and it was very quick to return to the arbitration system. I will not elaborate the benefits to a union of being recognised as a respondent to an award. The gentlemen around me here know the benefits which accrue to a union which is registered and comes under the umbrella of the Industrial Commission.

The Hon. R. F. Claughton: If it were deregistered, would it prevent disputation at the factory you were talking about?

The Hon. O. N. B. OLIVER: Do I have to spell it out again? The basis of the legislation is conciliation for a start, to be able to deal at the shop floor, as Mr Cooley has done. That is what it is all about. When a dispute or confrontation occurs, where two parties cannot agree, an impartial person or commission ensures that reason prevails.

The Hon. D. W. Cooley: That has been the case since 1912.

The Hon. O. N. B. OLIVER: The Leader of the Opposition referred to the difficulties he had with the second reading speech of the Minister; but I read the second reading speech of Mr J. E. Dodd who was in this House in 1912.

The Hon. D. K. Dans: That would be a dead issue now.

The Hon. O. N. B. OLIVER: It is strange, but the Bill passed through this House.

The Hon. F. E. McKenzie: What happened at Osborne Park? You have not told us how you fixed it all up.

The Hon. O. N. B. OLIVER: The manager and owner clearly put it to me and said, "We must pay this chap's annual subscription, although the project will be finished in three weeks and we will be looking around for work and putting people off. It is necessary for him to pay his full annual subscription, but at the moment we are paying it and deducting it from his salary. If we do not do that the project will not continue." The consulting engineers and the principals for whom the work was being prefabricated at Osborne Park had clearly said that in future the firm would not be invited to tender. That was the result. I note that under this legislation that will not occur.

The Hon. D. K. Dans: How can you stop it?

The Hon. O. N. B. OLIVER: It is well and truly covered.

I now come to Commissioner Kelly. The choice of Mr Kelly was a little unfortunate. He has a wide knowledge of the arbitration system in Western Australia, but I think it would have been better to have an independent individual—

The Hon. D. K. Dans: You are not suggesting Mr Kelly is biased?

The Hon. O. N. B. OLIVER: —who would have a broader spectrum—probably in the manner of the Victorian set-up to which Mr Cooley was referring. It is unfortunate that Mr Cooley did not tell Mr Kelly about the Victorian legislation. He mentioned there was a tripartite conference such as we have had here, which has been going on for some time. It is unfortunate that Mr Cooley did not pass word about the Victorian legislation through to Mr Kelly.

The Hon. D. W. Cooley: That was in 1978 and the Victorian Bill was introduced only last month.

The Hon. O. N. B. OLIVER: Mr Cooley stated that the tripartite conference had been in progress for some time, and I would have thought, if he made a suggestion to the commissioner conducting the inquiry, that he had examined the Victorian legislation. Mr Cooley, having access to this information, should at least have made a submission to Mr Kelly so that he could incorporate what Mr Cooley said. Mr Cooley has mentioned how the tripartite conference operated and it is unfortunate he did not bring it forward earlier.

I have always found that people who are very close to a problem or who administer legislation or have responsibility for the executive implementation of legislation are too close to the matter when it comes to a review. It is therefore difficult for them to see the encrusted wounds which eventually heal.

I have read Mr Kelly's report. I was interested to note that it came in the form of a draft Bill without going to the Parliamentary Draftsman. I would have preferred it to be in layman's language so that comment from unions and employers could be facilitated.

The Hon. D. W. Cooley: Did you read the report to the Government?

The Hon. O. N. B. OLIVER: Yes. I have it here. I thought it was quite strange for Mr Kelly to put forward his final print-out in the form of a Bill.

Much has been said about Germany. I have often heard Mr Dans speaking on this subject, and the last speaker (Mr Claughton) spoke about the wonderful form of conciliation which operates in West Germany. I am not aware whether Mr Dans was referring to West Germany or East Germany. I presume it was West Germany.

The Hon. R. Hetherington: I think you are correct in that assumption.

The Hon. O. N. B. OLIVER: I am not aware of whether it was East or West Germany, but I make that assumption. There is quite a difference between the two systems. Friends of mine from Bremen in West Germany visited Australia. They are husband and wife, and on one occasion they stayed in Sydney before coming to Perth. I point out these people are industrialists; they are involved in industry in Bremen. When they reached Perth they asked me how unions operate in Australia. They cited the instance of a brewery in Sydney to which extensions had been undertaken. Members of the Builders' Labourers Federated Union were working on the extensions. As members may know, when one works at a brewery one receives a glass of beer for morning tea. In this instance a woman was working as a labourer, and the management of the construction company decided she should not have a glass of beer with the other workers. Apparently they had not heard about women's liberation. That caused a strike, and construction was disrupted for three weeks.

My friends from Bremen were absolutely astounded; they could not believe a situation could arise in Australia in which a complete construction project could be shut down for three weeks over the issue of whether a person received a glass of beer for morning tea.

I do not know from where Mr Dans draws his comparisons. However, let me point out that in Australia there exists a high degree of compulsory unionism in one form or another, whereas in West Germany individual persons have the right not to join industrial organisations.

Australia has a Conciliation and Arbitration Act, with penalties for breaches of awards. In West Germany, under civil law, unions have obligations as well as rights. There are no legal immunities for unions or their officials, which is contrary to the manifesto of the Australian Labor Party conference. I would like to know where Mr Dans stands. Does he support the West German philosophy, or does he support the philosophy of the ALP?

It is interesting to note that whereas in Australia union membership represents 57 per cent of the total work force, in West Germany it represents only 32 per cent.

Mr Cooley commented on our policy. I refer to the Liberal policy document of 1977-80, which was issued on the 26th January, 1977. Right at the very beginning, at page 2, the document says—

> We want the individual to be free, and feel free from standover—in the shearing shed, in the service station, in the factory, and in any walk of life.

That is our basic commitment.

The Hon. D. W. Cooley: But you believe in conscription for the Armed Services.

The Hon. O. N. B. OLIVER: Mr Curtin, one of Australia's greatest Prime Ministers, believed in conscription for overseas service. Some people around here have very short memories.

Several members interjected.

The PRESIDENT: Order! That has nothing to do with the Bill. Will the honourable member please confine his remarks to the Bill? If he does so he will make more progress.

The Hon. O. N. B. OLIVER: Our philosophy then goes on to say, at page 3, that we want a society fit for decent people. It goes on to say that we will work for it by firmly upholding the dignity and the rights of the individual.

The Hon. D. K. Dans: What book is that?

The Hon. O. N. B. OLIVER: I have already quoted that, and I will not do so again. Mr Dans can read *Hansard*.

The Hon. D. W. Cooley: At least it has page numbers this time.

The Hon. O. N. B. OLIVER: In respect of union affairs, our policy document says on page 14 that the Government believes in industrial unions and it prefers that unions run their own affairs. It then goes on to say—

> We will do all we can to encourage the main body of the workforce to participate at union meetings and in ballots.

In regard to the arbitration system, the following can be found on page 16 of the policy document—

> We will fully re-examine our Industrial Arbitration Act, weed out sections that are out of date or inadequate, and make any desirable improvements—with full regard for the complications under differing State and Federal laws and administrations.
>
> As part of this process, we will establish a tripartite inquiry by Government, industry and unions, to go into the Act and make any recommendations even to the extent of complete reconstruction, if necessary.

That action was taken, and the committee met on many occasions. The document continues—

> We will press the Commonwealth Government to likewise review its legislation and administrative procedures to provide for greater co-operation and co-ordination including elimination of situations where those seeking to make industrial trouble take advantage of the differing State and Federal laws and practices.
>
> Among other things we will endeavour to achieve a situation where de-registration of an offending union automatically has equal force at State and Federal levels.

My final quote, under the heading of "Protection" at page 20 reads as follows—

> We will act in other ways to protect the rights of individuals in respect of union membership.
>
> We believe a person must be free to join a union, free not to join, and free to leave.

(157)

That is the policy enunciated by the Government, and endorsed by the Liberal Party. The Opposition is endeavouring to lead members of the Liberal Party in this charade, and to entice us to go back on our word and back down on the mandate given to the Government. We will not do it.

Reference was made to a meeting at Bunbury, and to young hot-heads. I heard the policy speech of Prime Minister Malcolm Fraser, delivered on the 21st November, 1977, and it outlined exactly what the Federal Government intended to do in the area of industrial arbitration. It contained nothing new. A document issued by Mr Tony Street, MP, in May, 1975, set out what the Liberal Party would do; and another document produced by Mr Street on the 9th August, 1976, set out the Government's industrial relations policy. Yet members opposite would tell us that a group of hot-heads in Bunbury are trying to stir up an election issue. What, two years later?

I think I had better put some of the Opposition members on the Liberal Party distribution list so that they receive our pamphlets. We do not hide our publications; they are readily available just as are the current manifestos of the Australian Labor Party. Incidentally, our documents present statements of fact; Labor Party documents are not called policy documents, but research papers. That is to ascertain how people feel, and to draw comment. It means that if anybody should in any way disagree with what the Labor Party says, and it is found the document has got off on the wrong foot and made a horrible mistake, members opposite can say it is only a research document and the necessary alterations will be made. In effect they are asking, "Come one, come all; tell us where we are wrong."

I understand members of the Opposition will make a lengthy contribution to the Committee debate. I will be only too delighted to participate in that debate.

Finally, I would like to repeat my own experience in respect of the freedom to join unions. When I left school at the age of 17 years I was required to belong not to one union, but to two unions. I had to pay an annual subscription to two unions. I can assure members there was no doubt about whether I paid; had I not paid I would not have had a job. That was a case of intimidation; I was stood over. This occurred out back of Conargo near Jerilderie, in the Riverina district of southern New South Wales. What hope did I have? I had to join both unions or lose my job.

I have had personal experience of the stand-over tactics of unions, and I know that when one stands up to them they back off because they are cowards. If that is what the Opposition condones, let members opposite stand up and say so.

I would not dare mention the name of a man whom I was asked to see during the recent national stoppage. He came here from Italy, and is married with young children. He lives at Bayswater, and he refused to participate in the national stoppage because he said it was a political stoppage. I called on that man night after night; each time the house was in darkness and the curtains were drawn. I thought the family must have been on holidays, or else something was wrong. One evening at about eight o'clock I left my card under the door. Before I got home the gentleman had phoned and asked for me. The family was in the house the whole time, but they were not game to answer the door. That man decided to get away from Italy, and he left his mother and father, and all his friends and the people with whom he grew up.

That man said that he left Italy, and he left his family, to settle in Australia and to move away from union intimidation. I went round and saw him and I said, "Don't you worry. If they try anything on you, you let me know about it." I will tell members one thing: this is why these cowards slink away.

A decision was made once to take on the bricklaying subcontractors in Western Australia. The Builders' Labourers Federated Union and the Building Workers Industrial Union decided they would force the bricklaying subcontractors into unions. At that stage, I was president of an association.

The Hon. D. W. Cooley: I think you have a chip on your shoulder.

The Hon. O. N. B. OLIVER: I am an ex-union member. I paid my subscriptions.

I said, "Let's use the Esplanade. We will have a meeting." I stood up at that meeting and I said to the 1 800 bricklaying and carpentry subcontractors who attended the meeting, "We will work. Let me know of any person who intimidates you—who puts a truck across a driveway; who lets a tyre down—and we'll deal with it. The cement will get to the sites; the bricks will get to the sites. We don't care what the Transport Workers' Union will do."

The Hon. Lyla Elliott: Who are "we"?

The Hon. O. N. B. OLIVER: "We" were those 1 800 people there. Do members know what actually happened? The secretary of the BWIU left the day before, and dear old Mr Fred Haggers was landed with the whole thing. It fizzled because they were cowards.

The Hon. D. W. Cooley: You must have been a hero that day.

The Hon. O. N. B. OLIVER: I do not want to be in the limelight for that. I believe in what is right. I believe reason should prevail.

The Hon. D. W. Cooley: I never heard of you until you came here. It is a wonder I didn't.

The Hon. O. N. B. OLIVER: I never heard of Mr Cooley until I arrived here.

The Hon. D. W. Cooley: I think you did, somehow.

The Hon. O. N. B. OLIVER: I did not hear of him; and I had been involved in union affairs. I had been to tripartite meetings; I had met union officials; I had met Mr Coleman when he was the Secretary of the Trades and Labor Council. I sat with Fred Haggers; I sat with Mr Clohessy; I sat with all kinds of people around the table; but I never heard of Mr Cooley.

The Hon. G. C. MacKinnon: Mind you, Mr Cooley is a very quiet, gentlemanly fellow.

The Hon. O. N. B. OLIVER: Probably the reason is that Mr Cooley had a very good union which used conciliation at the shop floor level. Probably I had not heard of Mr Cooley because he did not have any problems with his workers and management, and the Press, naturally, did not print any information.

The Hon. R. Hetherington: He was the President of the TLC. Don't talk such arrant nonsense. You have wounded him.

The Hon. F. E. McKenzie: Did you not know Mr Cooley was a long-term President of the TLC?

The Hon. O. N. B. OLIVER: No.

The PRESIDENT: Would the honourable member continue with his remarks, and relate them to the Bill?

The Hon. R. Hetherington: That would be a pleasant change.

The Hon. O. N. B. OLIVER: My apologies, Mr President; but a gentleman behind me is trying to make a speech when he has already made one. It is extremely difficult. No doubt you are aware who is speaking here.

The Hon. R. Hetherington: All you have to do is take a deep breath and overcome the unionists.

The PRESIDENT: I am waiting for somebody to speak on the Bill.

The Hon. O. N. B. OLIVER: The new legislation sets out to ensure conciliation on the

shop floor, which is the ultimate goal spelt out in clause 6 of the Bill. If settlement is not obtained, an independent body will hear both sides of the dispute in order to make an impartial decision in the matter.

The Hon. G. C. MacKinnon: Every time a speaker glances at the clock he should think of sitting tomorrow night.

The Hon. R. Hetherington: I will be brave and not look at the clock.

The Hon. O. N. B. OLIVER: There are several other speakers to follow me.

We are dealing with laws, like any other laws. The Parliament passes the laws, and every law-abiding citizen expects the laws to be respected and obeyed. Therefore, I support the Bill.

THE HON. R. G. PIKE (North Metropolitan) [5.05 p.m.]: Until I read *The West Australian* this morning I had no intention of speaking on the Bill before the House because I knew we had speakers who were competent to handle the debate. However, because of an article in *The West Australian* this morning and comments made yesterday by the Hon. Don Cooley, I would like to put a few facts right.

I use the word "right", and I would like to deal with that particular word because both the Hon. Don Cooley and the Hon. Roy Claughton used it in their speeches, if one plucked the guts out of the speeches. They quoted the ILO Conventions and the United Nations Charter, with reference to the right to associate. Those words establish a principle. I want to say to those members in particular and to the House in general that the right to associate includes the right not to associate.

The word "right" does not mean "duty". So that the debate is in its proper perspective, I will refer to the definition of those words. Hopefully the Hon. Bob Hetherington will follow me, and this is one of the occasions when we can possibly agree to disagree. I would like him to put a proposition opposing the one I am now putting before the House.

The Hon. R. Hetherington: I am going to ignore what you say.

The Hon. R. G. PIKE: In the *Oxford Dictionary*, the word "right" is defined as a thing one is entitled to. The word "duty" is defined in the *Oxford Dictionary* as a moral or legal obligation—something one is bound to do. That was not the point of view presented so forcibly by Mr Cooley and Mr Claughton. I think it behoves this House and the State of Western Australia to understand that.

I now pass on to the article in *The West Australian* of this morning, and I will quote from page 45 of that paper. Unfortunately Mr Cooley knew I was going to quote him, and he now seeks to absent himself from the House. He knew I was going to raise this matter.

The Hon. D. K. Dans: I do not think you should say he does it deliberately.

The Hon. R. G. PIKE: On a Bill as important as this one, when a member knows another member is going to quote him he stays in his seat. The point is that Mr Cooley said, as quoted in *The West Australian* this morning—

The PRESIDENT: Order! The honourable member is conflicting with Standing Order No. 82 by reading extracts from newspapers relating to debates in the Council in this session. I would suggest that he read Standing Order No. 82 and confine his comments to extracts from *Hansard*, if he wants to refer to them at all.

The Hon. R. G. PIKE: Thank you, Mr President. In order to qualify under the Standing Order, I have the note of Mr Cooley's speech yesterday. He made two points. One dealt with the philosophy of the Liberal Party, and I will deal with that in a moment.

The second point made by Mr Cooley in his speech yesterday referred to the fact that the closed shop system would become illegal, and the preference system would be abolished, thus contravening the ILO Conventions regarding the right to organise and bargain collectively. That point was made with great emphasis by the member yesterday.

The point Mr Cooley made was incorrect. Therefore I shall give the House the details of that matter. I hope the organisations responsible for reporting the procedures of this House shall publish the repudiation that I am about to make on the authority of "The ILO and the Protection of Human Rights" so that the public of Western Australia are aware that what was published as a statement of fact is incorrect. I will quote from that document, which was printed by the Stanford University Press, California, and which was written by Ernest B. Harts. I draw this to the attention of the House because throughout this debate the ILO Conventions and the United Nations Charter have been quoted continually. It is right that the facts be put so there is no further misunderstanding.

I quote from page 27 of "The ILO and the Protection of Human Rights" as follows—

> Convention 98—the Right to Organize and Collective Bargaining Convention—is a supplement to Convention 87, protecting

> workers in their jobs against anti-union discrimination:

The Hon. D. W. Cooley: That is what we are all about here today. That is what we are trying to do. The Opposition is trying to protect the unions against your legislation.

The Hon. R. G. PIKE: The appropriate noises are coming from the larynx of the honourable member, but it is clear his brain is not involved. I will quote that again—

> Convention 98—the Right to Organize and Collective Bargaining Convention—is a supplement to Convention 87, protecting workers in their jobs against anti-union discrimination: workers cannot be punished or penalized for organizing or participating in unions, or for engaging in collective bargaining.

Please note this next comment—

> This text does not formally recognize closed or union shops, but it is so drawn as to be acceptable to countries that have such institutions.

This is the crux of the proposition. The situation applies to Nos. 98 and 87. Nobody has quoted Convention 98 till now, and that Convention is drawn so that it covers both situations. The ILO Convention applies to closed shop and non-closed shop situations.

The free enterprise Liberal-National Country Party Government in this State chooses to have a non-closed shop situation. Since the Convention covers both situations, perhaps the Clerk will pass that document to the Labor Party proponents. It needs to be highlighted, and it needs to be reported in order that the facts may be made clear.

I say this to anybody listening: report the facts; it does not matter if my name is left off the report, but for God's sake do not do what often happens when those responsible for the dissemination of the information tell half the story, without being fair to the parties in this House. I hope that the authority is quoted—"The ILO and the Protection of Human Rights"—because we know that it caters for a non-closed shop and a closed shop situation.

I now pass on to the second point in dealing with the speech made by the Hon. Don Cooley. He said, by interjection as I recall, and in his main speech, that there is nothing in the Liberal Party policy document that tells about the—

The Hon. R. F. Claughton: You can say that again—there is nothing in it. We won't disagree with you. There is absolutely nothing.

The Hon. R. G. PIKE: It is quite obvious that the honourable member thinks with his mouth.

Quoting the Hon. Don Cooley yesterday, he said there is nothing in this Liberal Party document that says we will abolish compulsory unionism. So that the record may be set straight, please listen to the quote from page 21 of the 1977-80 Liberal Party policy. Mr Cooley has botched a rare opportunity to demonstrate to the House some of his knowledge on arbitration. As always, and like the Labor Party generally, he simply did not do his preparation.

I shall quote again, because the Hon. Bob Hetherington is present and I ask him to repudiate or refute the facts I represent. I ask other speakers—the Hon. Fred McKenzie—to check the Hon. Don Cooley's speech so this matter can be clarified for them.

I should like to quote from the Liberal Policy of 1977-80. The following statement appears under the heading, "Protection"—

> We will act in other ways to protect the rights of individuals in respect of union membership.

It goes on to say—

> We believe a person must be free to join a union, free not to join, and free to leave.

That is perfectly straightforward and absolutely contrary to the bovril the Hon. Don Cooley dished up yesterday. What he said was a misstatement of fact and a misstatement of truth. He is simply not right and the record should be corrected.

The second statement is—

The Hon. D. W. Cooley: Why don't you speak the truth?

The Hon. R. G. PIKE: I am quoting from the policy document of the Liberal Party. The Hon. Don Cooley asserted this was not correct and I am telling him—

The Hon. D. W. Cooley: You are a liar. You are an unmitigated liar.

Withdrawal of Remark

The PRESIDENT: Order! I would ask the Hon. Don Cooley to withdraw that statement.

The Hon. D. W. COOLEY: A statement made by way of interjection has never had to be withdrawn and you, Sir, have ruled that way.

The PRESIDENT: I am asking the member to withdraw the comment.

Points of Order

The Hon. R. F. CLAUGHTON: With respect, Sir, there is no way a statement made by way of

interjection can be withdrawn. An interjection is not recognised in the House.

The PRESIDENT: I am saying the member must withdraw that comment.

The Hon. R. THOMPSON: Is or is not the man a liar? If the man told a lie, he is a liar. Why should it be withdrawn?

The PRESIDENT: It should be withdrawn, because I am asking the member to withdraw it. It is a completely unparliamentary comment and I ask that it be withdrawn. I again ask the Hon. Don Cooley to withdraw that comment.

As to Suspension of Member

The Hon. G. C. MacKINNON: With some reluctance, Sir, under Standing Order No. 108, I move—

> That the member named (the Hon. Don Cooley) be suspended from this sitting of the Council.

The Hon. R. THOMPSON: Mr President—

The Hon. G. C. MacKinnon: There can be no debate on that motion.

Question put and a division called for.

Bells rung and the House divided.

Remark during Division

The Hon. R. Thompson: Don't divide—walk out! The place is not worth sitting in.

The PRESIDENT: I have asked the Clerk to stop the ringing of the bells. I report to members that, on reflection, I consider the motion on which we are now voting to be incorrect. The procedures leading up to the motion have not been carried out correctly. Therefore I ask members to resume their seats and I will commence proceedings at the stage prior to the Leader of the House moving the motion.

I again ask the Hon. Don Cooley to withdraw the comment which I believe was unparliamentary.

The Hon. D. W. COOLEY: With the greatest reluctance, Sir, I withdraw it.

Debate Resumed

The PRESIDENT: I ask the member who was speaking to proceed.

The Hon. R. G. PIKE: Thank you, Sir. It is appropriate and proper at this time that the point I was putting should be repeated so that the House and those responsible for recording the proceedings of it can clearly show what happened and clearly record what was obviously a misstatement of fact on behalf of the member who interjected. I believe the member was perhaps so carried away by his interjection that he did not listen to the facts; therefore, I shall now repeat them clearly and slowly.

Yesterday in his speech and as I recall by way of interjection, Mr Cooley said there was nothing in the Liberal Party policy document that dealt with compulsory unionism. He made that remark in his speech and by way of interjection also.

I hold the Liberal Party policy document in my hand and I should like to read in part what appears on pages 20 and 21 of that document. The following statement appears under the heading, "Protection"—

> We will act in other ways to protect the rights of individuals in respect of union membership.

Further on it says—

> We believe a person must be free to join a union, free not to join, and free to leave.
>
> It is as wrong to use compulsion to force people to join a union as to force them to join a political party.

In order to clarify the matter, and for the information of the House, I should like to point out that that is as far as I had proceeded when the honourable member interrupted and called me "an unmitigated liar".

The Hon. R. F. Claughton: You were not referring to the facts he was referring to.

The Hon. R. G. PIKE: As I said before, the member thinks with his mouth.

The Hon. R. F. Claughton: You resort to personal abuse.

The Hon. R. G. PIKE: I am prepared to stand here and repeat that so that the record is put straight. That is as far as the debate had proceeded when the interjection was made. I stand on my record and I stand on that fact. For members who wish to check the matter, I ask them to look at yesterday's *Hansard* report so they can see exactly what the member said. I shall now complete my quote from the Liberal Party policy document. It reads as follows—

> With left-wing leaderships thrusting their ideological policies into union affairs—including the promotion of political strikes—it amounts to being forced into political action groups.
>
> This is alien to the way most workers feel about their personal freedom.
>
> With extremists using the public as pawns in industrial blackmail—cutting off supplies

> or communications at critical times and in vital places—it also amounts to being forced into gang tactics of dubious morality.
>
> This is repugnant to most workers.

I also set out to correct a statement made by Mr Cooley in his speech yesterday in regard to the ILO. He made an incorrect statement and it is repudiated on page 27 of this document titled, "The ILO and the Protection of Human Rights". I am holding the document in my hand.

There are the facts, and if the Hon. Bob Hetherington and other Labor Party speakers want to do so they can try to repudiate them; but they are the facts. Members opposite should not confuse rights with duty, because that is what they are doing. They do not mislead members on this side of the House when they do that.

I shall conclude my speech by saying it is regrettable the Hon. Don Cooley left the House when he knew I intended to refer to a statement he made. At the beginning of my speech I made it perfectly clear I intended to deal with a statement made by the Hon. Don. Cooley, but he left the House. That is unfortunate. It is even more unfortunate that when we arrive at the stage where I am explaining what I said and am repeating it carefully so that nobody misunderstands it—I quoted from the policy document—Mr Cooley has again absented himself from the Chamber.

The Hon. D. K. Dans: If you keep that up I shall quote every time a Liberal Party member is not in the Chamber.

The Hon. R. G. PIKE: I would rather Mr Cooley were here to listen to the discussion taking place.

The Hon. D. K. Dans: Every time one of your members is not in the Chamber I will put it on record in *Hansard*.

The PRESIDENT: Order! The debate has been proceeding for two days and members have been acting in a very responsible manner. I am disturbed at the turn of events this afternoon.

I remind the member speaking that, in addition to the Standing Orders under which we operate in this House, some very long-standing conventions have been adopted. I am sorry to see he is taking the opportunity this afternoon to breach some of those long-standing conventions and I am sad he is doing so. I ask the member to continue his speech on the Bill, but to be more moderate in his approach and in the language he uses.

The Hon. R. G. PIKE: Thank you, Sir.

The Hon. D. K. Dans: You can hardly expect me to observe those conventions in the future.

The Hon. R. G. PIKE: I want to conclude my comments by saying to the House that I am aware of the conventions you, Sir, have mentioned and I scrupulously adhere to them. However, if I am called "an unmitigated liar" and the member who called me that then leaves the Chamber—

The Hon. D. K. Dans: That comment was withdrawn.

The Hon. R. G. PIKE: —I believe I should point out the situation. That is a rule of real principle.

The Hon. R. F. Claughton: You are not covering truthfully what Mr Cooley said.

The Hon. R. G. PIKE: I conclude my speech by saying that this Bill—

The Hon. R. G. Claughton: You would not know the truth if you looked at it.

The Hon. R. G. PIKE: —includes the right to work, the right to strike, the right not to belong to a union; it provides separate ballots, and it provides also that the weakness of right before union might will be brought into closer balance if the House supports the Bill.

I certainly intend to support the legislation. Before I sit down I should like to apologise to you, Sir, as President of the House, because of the convention you have mentioned in regard to a member absenting himself; but I say to you, Sir, that if one is called "an unmitigated liar" at the least the man who called one that should be present to hear the facts and the explanation. I apologise to the House.

THE HON. F. E. McKENZIE (East Metropolitan) [5.27 p.m.]: There has been a great deal of debate on the Bill, but I have yet to hear from members opposite what the Bill will do to prevent further industrial disputation. In fact, I believe the legislation will create further industrial confrontation. That is a very disturbing matter.

One of the disturbing aspects I have noticed in regard to the introduction of this Bill and the events which have taken place during the time it has been debated in another place is the fact that members opposite have remarked they are not opposed to the trade union movement, because they recognise it is an essential part of our society. Members opposite agree that the responsible unions which are most concerned about the industrial legislation are the ones they purport to support.

The history of this Bill since its introduction shows it is not left wing militant unions which have objected—and members know which unions they are without my naming them—and have led

the struggle; it has been in the main the white collar unions, or those unions which members opposite claim to be responsible. Nobody can deny that.

While debate took place in the other place I observed those people who were present in the gallery, and most of them were familiar to me. They were mostly people from the unions which are regarded as being less militant. They were very concerned, because they will suffer the most.

The Hon. W. R. Withers: They may have been there in support of the Bill.

The Hon. F. E. McKENZIE: I do not think that is the case.

The Hon. W. R. Withers: Do you think that all people in the gallery are against the legislation?

The Hon. F. E. McKENZIE: Most certainly. I spoke to many of them, and I asked some of them to have a cup of tea with me because they were my former colleagues. I can assure members they were most concerned.

Since 1954, strikes have been illegal, but that has not stopped strikes. The same will be the situation when this Bill goes through; it will not stop the powerful unions from striking. As Mr Dans said, trade unions have been functioning since before we had government in this country. I see Mr Williams shaking his head, so perhaps my statement is not correct. However, Mr Dans' remarks were something similar to that. The Seamen's Union was operating before we had a Commonwealth Government; perhaps that is more correct.

Members opposite realise they are attacking the fabric of this society. They are trying to cripple those unions which are less militant.

The Hon. G. E. Masters: We are not; that is your interpretation.

The Hon. F. E. McKENZIE: I never thought I would be standing here in support of Mr Santamaria. He is a man I have despised over a long period of time.

The Hon. N. E. Baxter: You are using that to suit your own purpose.

The Hon. D. K. Dans: Mr Pike is the greatest proponent of the Labor Party policy in this House.

The Hon. F. E. McKENZIE: For Mr Baxter's information, I have never been to the extreme right, as is Mr Santamaria; nor have I been to the extreme left. If that is a middle course, that is where I have been for a long time. I do not believe in extremes of any type. However, Bob Santamaria is aware of what members opposite are doing. He is concerned that the Liberal Party is building up a pro-Communist community. That precisely is what this Bill will do, but members opposite do not give a damn; they could not care less.

The Hon. W. R. Withers: You are quoting Santamaria so much as an authority I thought you may have amalgamated with him.

The Hon. D. K. Dans: Joske's book is better; it is all there.

The Hon. F. E. McKENZIE: I do not suppose I will get another opportunity to quote him because we are just about at the climax of the whole thing. However, I will quote Mr Santamaria now because if I have to quote him again I feel we will have reached the end of the road. The article is not dated, but it reads as follows—

> Scarcely a week passes without some new announcement that this or that Liberal Government intends to tighten up the law in relation to trade unions. It is visible evidence of the high level of public concern over abuses of power by sections of that movement. All the more reason to keep a critical eye on what is proposed.
>
> If the mere promulgation of new industrial laws was the solution to the problems associated with unionism, those problems should have been solved long since, by the spate of industrial legislation passed by the Fraser Government. There is little evidence that the new laws have had any effect at all.

I agree on that particular point. What do we find? We find it is not only Mr Santamaria who is concerned about this Bill, but also some employers who have made statements.

Accompanying the correspondence from Mr Santamaria was another document which stated that WA mining companies oppose the Premier over our industrial laws. Of all the people who ought to oppose the Premier over our industrial laws, I would have thought the Australian Mines and Metals Association would be one of the last—in view of the industrial disputation which has taken place in the Pilbara. However, that organisation commented, and the article is as follows—

> The Australian Mines and Metals Association has said that it is preparing a submission to the Western Australian Government on the proposed amendments of the State's industrial legislation. This action arises from the AMMA's concern at the deletion of the WA Industrial Commission's ability to award preference clauses to apply to certain unionists and because it is worried that under the new legislation it will be an

offence for an employer to take action in relation to non-unionists.

While maintaining that the AMMA supports the principle of freedom of choice—

I trust that members opposite are listening. To continue—

—its WA manager, Mr R. Date, said last week that there were practical reasons to be considered in its application to industrial relations. The closed-shop system was widespread and, in the mining industry, the result had been a degree of industrial peace which otherwise would not have been experienced.

The association was also concerned about how the heavier penal clauses would be enforced. Such clauses had been in the statutes for years but had not been enforced, he said.

I see the very same thing happening in relation to many provisions in this Bill. They will not be enforced, because their enforcement would cause chaos. What is the point in writing provisions into legislation if they are not to be enforced? If some of the provisions of this Bill are enforced there will be tremendous confrontation.

The whole result will depend on whether all the provisions of this Bill are enforced. Not all the provisions are bad; there are some good aspects. However, it is the bad provisions about which I am most concerned.

I have already quoted the view of the Australian Mines and Metals Association. I noticed an article in the *Daily News* of the 26th October this year, concerning the Minister for Labour and Industry (Mr O'Connor). It read as follows—

Employers' objections to some aspects of the State Government's proposed new industrial law have been dismissed by the Minister for Labour and Industry, Mr O'Connor.

In a statement today he said he was puzzled by an employers' group claim that the "closed shop" system had brought a degree of stability to the mining industry.

Notwithstanding the fact that Mr O'Connor disagrees with the statement made by Mr Date of the Amalgamated Mines and Metals Association, I have not seen where the employers' federation has said that the Bill is a good one, and that the federation supports it. In fact, members opposite have not indicated to me any support at all in respect of this Bill.

On the 28th October, this year, an article appeared in *The Sunday Times* under the heading, "11 unions ask for Bill adjournment". These are the very unions which will be affected, and about which I spoke earlier. The article, in part, reads as follows—

A group of 11 white-collar unions have asked the State Government to adjourn its controversial industrial relations amendments.

The Leader of the House (Mr MacKinnon) is mentioned in the article, and he is in a position to do what the unions requested—bearing in mind that the white collar workers are non-militant, but they are concerned with the contents of the Bill. The article continues—

The unions, not affiliated with the Trades and Labor Council, represent about 7 000 members in salaried and skilled technical professions.

Their move is considered significant because they make up the bulk of swinging voters in general elections.

The general secretary of the University Salaried Officers Association, Mr Ray Clohessy, said yesterday the unions wanted the Bill adjourned in the Legislative Council.

Mr Clohessy said the unions felt hoodwinked by the Government because there had been no public debate or scrutiny of the Bill.

The amendments were supposedly based on the Kelly report on industrial relations, released 12 months ago.

"But there are so many fundamental differences between Mr Kelly's recommendations and the amendments in the Bill, they need closer scrutiny," he said.

"We would like to see the Bill left on the table while an all-party committee reviews it.

"Mr MacKinnon, as Leader of the House would be acceptable to us as a chairman.

I thought he was being very charitable about that.

The Hon. G. C. MacKinnon: Why do you think he was being charitable?

The Hon. F. E. McKENZIE: Well, he was being very fair to the Leader of the House in some later comments.

The Hon. G. C. MacKinnon: Are you implying that any less reasonable man would think I was unacceptable?

The Hon. F. E. McKENZIE: That might be the case, at times. It is what he has to say later that matters.

The Hon. G. C. MacKinnon: I get on well with Ray.

The Hon. F. E. McKENZIE: I did think that was the case in view of the remarks the Leader of the House has made since I have been in this Chamber. To continue the article—

> "He chaired a similar three-man committee which reviewed Labor's proposed changes to the Workers' Compensation Act in 1973.

The Hon. G. C. MacKinnon: He has a good memory.

The Hon. F. E. McKENZIE: Since then the Government has decimated part of the good work done by the Leader of the House. The Leader of the House did a good job, and I gave him credit for that. However, since then—notwithstanding the attempts of the Leader of the House—the Government has made changes. The article concludes—

> "That committee made several vital changes, and was unanimous," Mr Clohessy said.

The concern of the people, right throughout the Press reports surrounding debate on this Bill, has been expressed by the less militant unions. They are the ones most responsible for the changes to the Act.

On the same date, the 28th October of this year, the *Sunday Independent* carried an article under the heading, "Poll—Government move a 'blue' ". The article, in part, read—

> The State Government could be making a serious political blunder if it goes ahead with its industrial relations legislation in its present form.
>
> A public opinion poll, commissioned by the Sunday Independent showed that less than 24 per cent of those interviewed wanted the bill passed without amendments.
>
> A further 11 per cent wanted it passed, but with major amendments.
>
> Most disturbing for the Government is that 25 per cent of those questioned believed the bill requires further study. Another 20 per cent believe it should be rejected.

So much for the popularity of the legislation now before us. I will refer again to a Press report which was quoted yesterday. It appeared in *The West Australian* of the 19th November, and it mentions that Sir Ian McLennan, the former Chairman of BHP, was concerned about the type of legislation we are passing in the State sphere and in the Federal sphere. He said that our industrial record was not all that bad, and that we were far better off than many other countries including New Zealand, the United States, Britain, Canada, and Italy.

In regard to the penal provisions, Sir Ian said that little would be achieved in the industrial relations field by punitive measures. The Bill before us will increase penalties.

While on the subject I would like to refer members to clause 100 of the Bill which provides that unionists will not be discriminated against. That provision was contained in the old Act, but there is no reference to a penalty to apply to employers. If the employee wants to join a union against the wishes of an employer, there is nothing in the Bill that provides for a penalty against the employer. The employer cannot be penalised at all—it is all one way.

We received additional information from the Law Society of Western Australia, and as this has been referred to in great detail in the House already, I do not intend to quote from it in full. However, I would like to refer to the comments of the society on clause 73(3)(b) relating to deregistration, which read as follows—

> This clause has the appearance of injustice and as we are constantly told the law must not merely be just, but it must appear so. The position is that the Commission may issue a summons to a union calling on it to show cause why it should not be deregistered, and it is obliged to do so if the Attorney-General makes a request to that effect and declares that the safety, health or welfare of the community or a part of it is at risk. Otherwise the Commission may act if requested so to do by an employer or a union, or of its own motion. In those cases it is precluded from directing that a summons issue unless "by reason of the conduct of the union or its officers or members or any of them, either generally or in a particular case, it appears to the Commission that the continuance of the registration is not consistent with or will not serve the objects of this Act", and even then it must first have discussions with officers of the union.
>
> The obfuscating wealth of words used may confuse and create a belief that all is reasonable, but that cannot be so in principle. What is required is that the Commission reach a conclusion without hearing the other side to the case, that is the union which may be the subject of de-registration proceedings. That is simply and plainly contrary to natural justice. Different considerations might apply were it necessary to have

> discussions with union officials before the Commission could form even the tentative view that continuation of registration was not consistent with statutory objects. As a matter of principle this provision ought to be deleted or amended, at least so as to give the union a right to be heard before any factual judgment contrary to its interests is made.

From all areas people have objected to this legislation. One wonders why the Government has introduced it at this time. What does the Government hope to achieve by having us consider the legislation in the dying hours of the Parliament?

The Hon. T. Knight: For the same reason that you said—you are getting opposition to it and we are getting support for it in our areas. That is the simple reason for our introducing it.

The Hon. F. E. McKENZIE: Mr Knight has not told us about the support he has received. He will have an opportunity to take part in the debate.

The Hon. T. Knight: And I will use it, too.

The Hon. F. E. McKENZIE: I suppose the honourable member could find support for the Bill if he likes to quote what the World Freedom League has to say about it. The World Freedom League is about as far right as Genghis Khan.

The Hon. D. K. Dans: Or Attila the Hun.

The Hon. F. E. McKENZIE: I have been able to quote from articles which appeared in the Press, from the comments of the Law Society, and from representatives of the employing groups such as the Australian Mines and Metals Association.

The Hon. T. Knight: Maybe I should have had my electors sign a petition to show members opposite a great number of people support our move.

The Hon. F. E. McKENZIE: Did those people have an opportunity to study the legislation?

The Hon. T. Knight: They know its background.

The Hon. F. E. McKENZIE: I do not agree entirely with the provisions in Commissioner Kelly's proposed Act—some of them were obnoxious also.

The Hon. N. F. Moore: We did not agree with them all, either.

The Hon. R. Hetherington: So we noticed!

The Hon. F. E. McKENZIE: At least Commissioner Kelly's proposed Act was workable and it would not have hit at the unions which need the most help.

The Hon. G. E. Masters: How does it not help? What damage does it do?

The Hon. F. E. McKENZIE: Commissioner Kelly's proposed Act would have left in the preference to unionists clause. Mr Cooley gave the reason that people would choose to opt out of union membership—they do not want to pay the dues.

The Hon. G. E. Masters: Commissioner Kelly wrote two reports. In the first I think he said there would be no compulsion, and in the second he said there would be preference to unionists.

The Hon. F. E. McKENZIE: I have not seen that. On page 79 of Commissioner Kelly's proposed Act the provisions for exemption are set out.

The Hon. N. F. Moore: Why would people opt out if there is no preference clause?

The Hon. F. E. McKENZIE: I agreed with Mr Cooley when he said that they would opt out so they would not have to pay.

The Hon. N. F. Moore: What about the Teachers' Union? It has 90 per cent membership and no compulsion. It provides a good service.

The Hon. F. E. McKENZIE: I am talking about the unions least able to cope; those are the ones at which the Government Bill will hit. The unions which have gained the most from the preference clause are the ones this Government refers to as responsible unions. We have not always had a preference to unionist clause and the unions have managed before. They will manage again, but Mr Cooley made a lot of sense. The retention of the exemption clause would mean that more people would meet their responsibilities..

Commissioner Kelly's report was laid on the Table of the House a few weeks ago. If members look at that report, they will see that it supports my comments. People will not join unions so they will not have to pay their dues.

The Hon. N. F. Moore: All because the unions do not provide a service.

The Hon. F. E. McKENZIE: As I said yesterday, if one has a water service passing one's door, one must pay rates whether or not the water is used. That is another form of compulsion. Does the Government say that people should not accept their responsibilities in relation to such services? As I said, unions are a part of society—an essential part.

The Hon. N. F. Moore: But not a compulsory part.

The Hon. F. E. McKENZIE: Is water a compulsory part? The Government has made it

that way. There is no difference. If people were given the option of whether or not to pay for the water, certain people would not want the water.

The Hon. G. E. Masters: Do you think that is a reasonable sort of comparison? It is a ridiculous comparison.

The Hon. F. E. McKENZIE: I do not think it is ridiculous.

The Hon. G. E. Masters: You just make comments off the top of your head, whether or not they are relevant. I am very surprised.

The Hon. F. E. McKENZIE: I wish to tell the House why the exemption provisions have failed. It is not just because people do not want to belong to unions. The money aspect plays a big part in their decision. However, to highlight another reason I would like to refer to the last report of the Industrial Commission.

Up to the 30th June, 1978, the commission received 1 300 applications for exemption. Of this number 918 were granted, 43 are pending, and 339 applications were not proceeded with. I believe that the reason the majority of the 339 applications were not proceeded with was that the applicants realised the same amount as the union dues had to be paid into some form of charity.

Let us look at the situation in regard to renewed applications for exemptions. Of the 798 exemptions which came up for renewal the next year, only 371 applications were received. So that means 427 people failed to renew their exemptions.

Probably there is one of two reasons for this situation. Either the people realised there was some value in union membership, or alternatively, they adopted the attitude that they had to pay so they might as well pay to the union that was providing some service. If unions do nothing else they contribute to the conduct of the national wage case.

Let us look at the situation in regard to the number of the unions and their members. For the year ended the 30th June, 1978, there were 184 578 members of registered unions. By the 30th June, 1979, the membership had increased to 192 056.

At the end of June, 1978, 2 154 employers were registered with the commission. By the 30th June, 1979, that figure had decreased to 2 102. So there was an increase in the number of unionists and a decrease in the number of employers. Perhaps the decrease was brought about by the economic conditions—some of the smaller companies may have gone by the board.

What I am saying is that clearly the concept of exemption from union membership failed. People still belonged to unions when they were able to seek exemption.

I believe that we will still have closed shop situations; the unions will find a way round that particular provision. Certainly it will happen with the stronger unions. However, some of the smaller unions will suffer. The Federated Clerks' Union is not affiliated with the ALP. It has used the services of the Industrial Commission extensively for prosecution of people who would not join a union. This will be the type of union to suffer under the legislation, and yet it has never brought any heartache to the Government at all. In fact, such unions have had a tempering influence on the trade union movement.

I cannot understand what the Government is aiming at with this Bill. Either the Bill has been brought forward for political propaganda purposes, or the Government is responding to the extreme right wing of its membership. The Government is being quite stupid about the whole matter, because nothing will be gained by anybody.

Of course, the Bill contains some nice phrases. The long title explains that the Bill relates to the resolution of conflict in respect of industrial matters. That sounds all very fine, but in reality, that will not be the case at all.

The Government is on the wrong track with this legislation. I am disappointed that such a Bill has been brought here for political propaganda purposes with an eye to the forthcoming election. This Bill will not achieve the result hoped for by the Government, because it will not fool the more responsible element in our society.

I oppose the Bill.

Debate adjourned until a later stage of the sitting, on motion by the Hon. G. C. MacKinnon (Leader of the House).

[Continued on page 5024.]

Sitting suspended from 6.01 to 7.30 p.m.

STATE ENERGY COMMISSION BILL

Receipt and First Reading

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

Second Reading

THE HON. I. G. MEDCALF (Metropolitan—Attorney General) [7.31 p.m.]: I move—

That the Bill be now read a second time.

The major portion of this Bill is involved with administration and internal matters concerning the State Energy Commission, in which respect it contains few changes to the parent Act.

Certain administrative requirements were found lacking in the primarily 30-year-old legislation. These requirements have been included to meet the challenge of current trends affecting managerial efficiency expected of such a large organisation.

Members will observe that provision has been made for the repeal of the considerable amount of fragmented legislation under which the commission now operates. All the customary and necessary transitional provisions are made for the continuance, not only of the State Energy Commission—which also includes reference to the pre-1975 State Electricity Commission or abbreviations thereof—but also for the continuity of the various regulations and by-laws which are not inconsistent with provisions of the Bill. Similarly, all existing appointments, deeds, and documents, and the like are proposed to be preserved.

The organisational structure of the commission is hardly changed. Existing composition details of the officers, appointments, remuneration, commission meetings and the like, are all set out in depth in the Bill. Over the past four years, no fault has been found with the structure and function of the Energy Advisory Council. Therefore little change has been made to matters concerning the council, functions, composition, members, meetings, and advisors.

Over recent years, difficulty was sometimes experienced in establishing quorums for conducting meetings. In order to avoid temporary disruptions or delays to its business, the Bill now gives the Minister authority to appoint an acting member of the commission or council during a member's absence, temporary incapacity, or vacancy of office.

The Bill expands the obligation for a person to disclose his pecuniary interests in matters before a meeting to now include, in addition to the commissioner and associate commissioners, any other officer or servant of the commission, or member of a committee appointed by the commission, whether or not the person is actually present at the meeting. This will go a long way to ensure the integrity of persons who make decisions or who influence the making of decisions on matters which could affect the community at large.

Emphasis is placed on the fact that the commission is an independent statutory authority, which does not have the rights or privileges of the Crown unless it is acting as an agent of the Crown. Members should take cognisance that it is clearly stated that this Bill does not bind the Crown, except in matters of safety and in terms of the Crown being a consumer.

The commission's expressed duty is to implement the provisions of the Act, subject to the Minister and with the assistance and advice of the Energy Advisory Council. The commission will now be able to delegate its powers, rights, or duties.

An obligation is placed on the commission to record all the Minister's directions of a continuing nature and to place these before an incoming Minister within 28 days of his assuming office, which decisions will lapse within 28 days unless re-affirmed. The commission is required to give the Minister all reports, documents, papers, and information required pursuant to any order of Parliament and full information concerning its business.

The ambiguity contained in current legislation concerning the relationship between the State Energy Commission Act and other Acts dealing with energy-related activities has been clarified to demonstrate that the commission and the other authorities may exercise respective powers which are not in conflict. To alleviate fears, it should be noted, however, that the undertakings of persons or bodies dealing in energy-related activities, under agreements with the State and ratified by Parliament, will not be subjected to any provisions of this legislation which are inconsistent.

Provision has been made for dealing with disputes between the commission, Government departments, and local authorities.

As a means of providing fuller and wider use of specialist personnel, research materials, and the like, it is provided that, with the Minister's approval, the commission may use the services of employees of the Public Service or Crown. The commission will be able to provide reciprocal services under this Bill. Similar arrangements also may be made with professional or technical persons or bodies, Ministers of the Crown, State or Commonwealth, or education bodies with respect to investigational studies or research.

With regard to its numerous employees, the commission is not only empowered to employ officers and servants, but will also now be able to remunerate and train apprentices, cadets, students, and other trainees. Hopefully, this measure will assist in the employment of more young persons.

The general provisions relating to conditions of service and rights of appeal for permanent employees against the imposition of fines, reduction to a lower class or grade, and as to the dismissal by the commission are virtually unchanged, except for minor modifications.

The commission's function is to implement the provisions of the Act and to carry out the various duties imposed by this or any other Act.

To make the situation quite clear, it has been provided that, where the commission is authorised to do some act or exercise some power in respect of works or entry on to land, this authorisation extends to officers or servants of the commission, or persons acting at the request or under agreement with the commission, together with vehicles, machinery, equipment as may be necessary in connection therewith.

It will be appreciated that the commission is duty bound to provide throughout the State of Western Australia an economical and efficient supply of energy in the form of electricity and gas wherever derived. Provision has been made for the Governor, by Order-in-Council, to be able to charge the commission with a duty on behalf of the Crown to provide energy and in such manner as may be provided in the order in any form for use in this State or elsewhere and to hold or deal with energy resources, notwithstanding that such would not normally be undertaken by the commission.

The Governor may also, by an Order-in-Council, authorise the commission, or the Minister, or both, to give directions as to the supply or distribution of energy stocks, in accordance with Government policy, where there is a shortage of supply or distribution is adversely affected. Provisions have been included exonerating the commission or other persons from action for loss or damage resulting or arising from and by reason of the giving of or compliance with any such direction.

Subject to the provisions as to publication and the obligation to table every order before both Houses, all such orders shall, for the purposes of the Bill, be treated as regulations and as such be capable of being disallowed.

The commission is also charged with the duty of promoting the safety, health, and welfare of persons engaged in activities relating to energy, works, and systems, and the use of the same.

In order that the commission might perform and exercise its functions and carry out the duties imposed on it, extensive powers are needed and are set out in the Bill.

Although Parliament approved legislation in September last year dealing with the commission's financial powers, serious deficiencies were found in their practical application. In consultation with Treasury, provisions have been redrawn to overcome the working difficulties experienced and to provide more practical terms to keep abreast with the intricacies of financial operations, extending to international finance. In all other respects, the provisions remain similar to the existing powers.

To safeguard the position of persons dealing with the commission, a new provision has been included which will enable the Under Treasurer to give a certificate to the effect that he is satisfied that all requisite information, securities, and conditions, as required by the provisions of the Bill, have been supplied or fulfilled.

Stringent restrictions put on the commission's making of contracts where the consideratiion exceeds $200 000 have been slightly amended.

The Bill now provides that where the consideration exceeds $200 000, but does not exceed $1 million, the contract may be authorised in writing by the Minister, or ratified by the Governor. However, where the consideration is in excess of $1 million, the contract must be ratified by the Governor-in-Executive-Council.

Other provisions are made for the Governor to exempt certain classes of contracts which shall be gazetted; for the payment of bond moneys or other penalties; and in respect of the performance, breach, or non-performance of such contracts.

To dispel doubts, it is stated that contracts entered into by the commission are effectual in law and binding on the commission and all parties.

The State Government's current policy directions that preference should be given to Western Australian goods and services is retained in the Bill.

With regard to its internal matters and contractual obligations, the commission is empowered to make agreements in writing as to the sale or supply of energy, or matters relating thereto and prescribed regulations will be applicable unless otherwise stipulated in such agreements. Where there is no written contract, the prescribed terms and conditions shall apply as if they had been included in an agreement in writing.

The commission has been given a discretionary power to repudiate all contracts in writing relating to the supply or sale of energy made prior to an appointed day to be proclaimed for the

purpose of this clause in so far as they are still executory unless—

(a) they are affirmed by notice in writing to the person receiving the supply or with whom the sale was effected in accordance with the provisions of the Bill; or

(b) they are contracts relating to the sale or supply of energy to consumers beyond the normal range of supply, which will be dealt with shortly.

Where a contract has been repudiated and the commission continues to effect supply or sale, such supply or sale shall be taken to be one to which no written contract applies.

The Bill re-enacts certain sections relating to the provision of a supply of energy beyond the normal range in country areas. However, the commission proposes to extend the scheme into isolated areas.

The commission will then be able to assist such consumers with the purchase of their own new generating units, which will be achieved either by the commission providing periodic financial assistance, or by any means which is considered appropriate and practicable.

Clauses which relate to the charges, conditions of supply, and termination of the supply of energy, or matters such as services connected therewith, remain practically unchanged, but are drafted in a more clear and concise manner, removing doubt which existed as to the procedure to be adopted.

The current basis used in calculating any deposit or security as the commission may require from a consumer remains virtually unchanged, but such deposits can be required only from non-domestic consumers. The consumer is given the option of providing a bank guarantee in place of a cash deposit. Consumers will be pleased to learn that the commission will be obliged to pay interest on all moneys held as security.

Numerous clauses are contained in the Bill outlining necessary accounting procedures to be adopted by the commission in connection with the recording of its financial activities. These are basically the same as those existing in the parent Act with minor drafting modifications.

The existing powers of the commission as to the issue of inscribed stock and debentures have been retained in this Bill with a minimum of change so as not to disturb the market.

A new provision for the setting up of registries in other states has been included so as to ease and simplify the transfer of stock.

The commission retains its power to purchase by agreement the stock or shares of a business or company carrying on energy-related activities anywhere in the Commonwealth. Also it may purchase as a going concern or lease, or otherwise acquire any undertaking, works, or business relating to energy in the form of electricity or gas, or such other forms of energy as shall be described in an order made by the Governor pursuant to the provisions of the Bill which I have referred to earlier, as well as any mine, quarry, or land within the State which contains or is believed to contain potential sources of energy.

Further, where the Minister, on the advice on the commission, thinks it is in the public interest to acquire, in whole or in part, energy undertakings relating to energy in the form of electricity or gas, he may recommend that the Governor acquires same as a public work to be vested in the commission. However, the owner of such undertaking is now given the right to demand that the entire undertaking and not just a part of the undertaking be acquired.

In relation to land, a separate clause has been drawn containing an extensive definition of land to include partial interests in land. This, it is believed, now removes doubts as to the interests included in that term.

New provisions permit the commission, for purposes of its works, to acquire a partial interest in land rather than the entire fee simple—such as the acquisition of an easement. This provision not only suits the commission in that it will not have to outlay capital for the acquisition of land it does not need, but it also reduces the inconvenience to the property owners to the absolute minimum. However, a right of appeal by the owner to the Minister against the decision of the commission to acquire a lesser interest in the land instead of the whole fee simple or *vice versa*, has been included in the Bill.

In order to facilitate the acquisition of property, a simplified method of conveyancing has been devised. The commission may make regulations prescribing for the use of a standard series of forms which will describe the more frequent kinds of interests acquired in an abbreviated manner and also provide for the recording of these interests at the Titles Office. This method of abbreviated conveyancing has been approved by the Commissioner of Titles and is an optional method.

In regard to the land to be acquired, the commission may apply to and be granted subdivision approval by the Town Planning Board.

It is emphasised that the commission may enter into any agreement in relation to land. It is now provided in the Bill that where the commission acquires land which it does not immediately or exclusively need for its own purposes, it may by lease or licence permit other persons to use or occupy that land temporarily or concurrently. Where this lease or licence, however, formed part of the consideration for the acquisition of the land, it shall not be revoked without payment of compensation by the commission.

The Minister's approval is required for the commission to dispose of all land it no longer requires, unless this land belongs to a class to which the Minister's approval has already been given in writing. Where such land was compulsorily acquired, the relevant provisions of the Public Works Act shall continue to apply, but not where the land was acquired by agreement.

This means that if the commission sells land compulsorily acquired, it has to first offer it back to the original owner. If it sells land acquired by negotiations, it is free to sell it to anyone.

The commission's existing general powers relating to its works have been updated and clarified. However, restrictions are specified to ensure, in so far as it is reasonable and practicable, that no obstructions are created, that works and installations are fixed or constructed, whether on land or over water, so as not to constitute danger or interference and that as little damage as is possible is caused in the execution of such powers.

A specific provision has been included to remove any doubts which may exist as to the ownership of any works placed by the commission on land in which the commission has no interest under a purported power, prior to the coming into operation of this Bill. It is now clearly stated that such works shall remain the property of the commission and that access shall continue to be afforded to such works to enable maintenance, renewal, or similar services to be carried out by the commission. Regulations can be made to protect such works in the interest of safety. If the commission, however, wishes to place substantially different kinds of works on the land, it cannot do so without the landowner's consent.

Provisions are made for the payment by the commission of compensation for damage caused by the use of land for purposes of its works. The commission is obliged to acquire an interest in land upon, over, or under which certain specified commission works have been placed, in order to protect these works. Specified works, as members will find in the Bill, are larger-sized electric transmission lines, larger diameter gas pipelines and certain plant, such as generating plant, transformers, and switchyards, etc. The commission will also be able to regulate for the safety of persons and property in the adjacent areas.

Provisions as to compensation payable upon the acquisition of land and the general application of the relevant sections of the Public Works Act, 1902 with which the commission is obliged to comply, are set out.

The commission may enter land lawfully only upon service of a notice specifying the purpose for which entry is required to carry out feasibility studies, surveys, inspections, maintenance, and construction of its works. However, where an emergency situation exists and it would be unreasonable and impractical to comply with normal requirements of the Bill, the commission is empowered to enter upon land, premises, or things without notice.

Where any commission works are lawfully situated on land, the owner's consent to entry by the commission for the purposes of the Bill will be deemed to have been given.

Where the commission is unlawfully obstructed from carrying out its powers, and in order to prevent unnecessary or additional expense and delay, a new power enables the commission to obtain a warrant from a justice of the peace or an order from a judge of the Supreme Court, provided he shall be satisfied as to the merit of the commission's application.

In exercising its powers, the officers, servants, and agents of the commission are required to do as little damage as possible and the commission must pay compensation for, or make good, physical damage done to land, premises, or things.

Provisions are made for placing or altering the position of works in streets, the giving of necessary notices, payment of reasonable expenses, and the re-instatement of the street by the authority requiring the alteration.

In order to remove the danger caused by trees or other vegetation interfering with supply systems, a duty is imposed on the occupier of land to prevent such interference. Where such duty is neglected, despite a notice to the effect being given by the commission, the commission is empowered to remove such trees or other vegetation and is to be re-imbursed by the occupier or body who planted or encouraged the planting of such vegetation.

There are provisions made in the Bill to cover certain areas of the commission's operations

which are not adequately dealt with under the existing legislation.

New and essential powers have been given so that the commission may take remedial measures to deal with emergency situations which have arisen or are likely to arise affecting supply systems. These situations are those where life or property is in danger, where the normal operation of the system has been, or is likely to be affected, or where the capacity of the system is insufficient to meet normal demands. The commission's officer in charge of such matters may make such order as he thinks necessary to deal with the particular emergency and such order must be gazetted. Anyone contravening same, or obstructing commission officers will be guilty of an offence carrying a penalty.

General matters relating to meters, the metering of energy supplied, metered accounts, and the testing, placing, and circumventing of meters are outlined. It was considered necessary to make specific reference to the commission's right of access to inspect, repair, and read meters.

A declaration that meter readings are *prima facie* deemed to be correct, as well as provisions creating an offence for interfering with meters, are new and, hopefully, will deter persons from unreasonably requiring meter tests or interfering with meters, as a means of not paying for any of or all the energy used.

The position of inspectors appointed by the commission under the Bill has been clarified. An inspector is required to carry a certificate indicating his authorisation and classification. His powers and duties include inspection, examination, correction, and evaluation of commission property. He is given authority to make orders prohibiting, restricting, or limiting the use of any installation or works which are unsafe or which do not conform with regulations and from which he thinks death or personal injury could result. In order to avoid possible unfair advantage, the Bill ensures that anyone aggrieved by an order of an inspector has the right of appeal.

After the coming into operation of this Bill, the rights of authorities to construct, purchase, or operate gas undertakings is restricted to those approved by the Governor on the recommendation of the commission, or those confined entirely to private land. This provision does not affect existing operations based on statutory powers.

The trading in liquid petroleum gas is also restricted within the current restricted area, or within such area as may be prescribed, with few exceptions. These exceptions apply to persons holding written permission of the commission and operating in conformity with the Liquid Petroleum Gas Act, 1956. They also apply to apparatus which is used in a caravan, boat, etc., or for purposes of demonstration or testing, or where the capacity does not exceed nine kilograms, or is in an apparatus declared to be exempt by the Minister.

The Bill makes it an offence for persons unlawfully entering onto any land, works, or structures of the commission and allows for the ejectment or apprehending of such person. Authority is also given to a commission officer to restrain someone who, he believes, is engaging, or is about to engage in activities relating to commission property, or which could endanger life of property, or the interference with supply of energy.

The current legislation concerning malicious damage done to commission property is expanded by authorising commission officers to apprehend persons believed to have maliciously or unlawfully destroyed or damaged a supply system, works, or other property of the commission. An offence is committed by persons who wilfully interfere with survey markings, warning lights, protective devices, or who interrupt the distribution or supply of energy.

Other miscellaneous offences which are committed by persons who obstruct commission officers, or refuse to given inspectors access to apparatus or information vital to their duties, or who knowingly give false information without reasonable excuse, are stated.

A new clause provides that anyone who fails or refuses to do something required by or under the Bill, or does something contrary to its provisions, commits an offence. Where an offence is committed and there is no specific penalty stated, the fine shall not exceed $100.

It was found economically necessary to empower the courts to make orders against convicted persons for payment of compensation for the cost of repairs, loss of property, and the enforcement of such orders.

Proceedings for offences under this legislation or regulations or by-laws may be dealt with summarily and the Justices Act, 1902 shall be applicable, save that a complaint can be made within two years from the time such complaint arose.

The liability of someone who employs or knowingly permits another to contravene provisions of the Act are to be re-enacted. Similarly, where an offence has been committed by a body corporate, its management officers also

may be guilty of the offences in certain circumstances. Provision is made as to the matter of intention of the body corporate and as to the question of joint liability.

This Bill is the result of detailed preparation and concentrated effort in updating technological terms of the current Act and is designed also to encompass all forms of energy.

Many of the provisions in the Bill are re-enactments or expansions of the existing legislation, yet in some areas new provisions have been included and doubtful ones clarified.

I wish to inform members that it is my intention to move amendments to clauses 8 and 74 of this Bill during the committee stage.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. R. Hetherington.

ELECTRICITY ACT AMENDMENT BILL

Receipt and First Reading

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

Second Reading

THE HON. I. G. MEDCALF (Metropolitan—Attorney General) [7.54 p.m.]: I move—

That the Bill be now read a second time.

This Bill contains a number of amendments to the Electricity Act, 1945 which are consequential or deemed necessary following the introduction of the State Energy Commission Bill.

Members will appreciate that section 4 of the Electricity Act requires that Act to be read in conjunction with the State Energy Commission Act and, therefore, most of these amendments are necessary, in order to avoid any inconsistency or conflict that could otherwise arise.

The opportunity has been taken also to clarify the commission's powers, particularly as to its right in certain circumstances to exercise the powers of a supply authority for the purposes of this Act, or to make regulations concerning electrical works and contractors and cinematograph workers.

This is to remove certain doubts and uncertainties which have arisen as to the correct legal interpretation or effect of certain provisions of the Electricity Act.

It will be observed that the long title has been amended so that it is now clear the purposes of the Act include provision for the examination and licensing of people in respect of their competency to carry out works relating to electricity and for the examination, prohibition, or approval of electrical appliances.

At the present time, for the purposes of interpretation of terms used in the Act, reference has been made to the provisions of the State Energy Commission Act, 1945-1978, which is to be repealed. The definitions to be included in the new State Energy Commission Bill are not, in most instances, appropriate when applied to the same word or term used in the particular context of the Electricity Act provisions.

It has therefore been considered essential that an interpretation clause, giving a definition of those words or terms which have a particular meaning when used in this Act, should be included.

Where possible, the particular definition has followed that used in the new State Energy Commission Bill. In other instances, the old definitions, as contained in the existing State Energy Commission Act, have been updated or revised or, where this has not been possible, completely new definitions have been included. Where a definition has been updated or revised, this in turn has, where necessary, been reflected by minor amendments to the appropriate provisions of the Act.

The existing regulatory powers as to the licensing of electrical workers, contractors, and cinematograph workers by the commission are set out in section 32 of the principal Act. They are phrased in general terms and are considered, from a legal point of view, to be somewhat vague and ambiguous. As a result, doubts have been cast as to their scope or effect.

To meet any challenge that might arise surrounding the exercise of these powers, it was decided that provisions should be included in this Bill clarifying the position by specifying in considerable detail the commission's powers and, at the same time, giving the existing regulations or any future regulations made under this Act the necessary substantive support required to make them enforceable. In clarifying the commission's powers in this way, it is not considered that the effect has been to enlarge them.

Doubt has been cast also as to whether or not the commission could exercise the powers conferred on a supply authority by this Act. This point now has been clarified and provisions have been included in the Bill enabling the commission to exercise the powers of such an authority for the purposes of those sections enumerated in the Bill,

largely concerning the power to prosecute for offences under the Act.

In view of the legal doubts surrounding the exercise by the commission of these purported powers, it is considered necessary to arrange for the inclusion in the Bill of a provision validating the commission's past actions.

Finally, to reflect changes made in the State Energy Commission Bill concerning penalties to be imposed for breaches of any regulation made under that Bill, the penalty imposed under this Act for a similar breach has been increased to $200.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. R. Hetherington.

LEGISLATIVE COUNCIL

Chamber: Fans

THE HON. H. W. GAYFER (Central) [8.00 p.m.]: Mr Deputy President, now that the President has left the Chair—and he might have been a little overheated—do you think you might allow the fans to be switched off? I notice the *Hansard* reporters shivering, the Attorney General wiping his nose, and Mrs Piesse with a heavy jacket on.

The DEPUTY PRESIDENT: In the interests of good health I will have the matter attended to.

GAS STANDARDS ACT AMENDMENT BILL

Receipt and First Reading

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

Second Reading

THE HON. I. G. MEDCALF (Metropolitan—Attorney General) [8.01 p.m.]: I move—

That the Bill be now read a second time.

Members will no doubt appreciate that, with the introduction of certain proposals in the State Energy Commission Bill which impose restrictions on the trading in liquid petroleum gas, it is necessary to make some consequential amendments to the Gas Standards Act, 1972.

Currently, the principal Act applies only where the gas, which is intended for use as a fuel, is supplied by means of a reticulated system and therefore would not apply to gas supplied in bottles or similar means. To remove this restriction the definition of "gas" has been revised so that in future the Act will apply to gas intended for use as a fuel for gas appliances, or for use in any chemical process, however supplied.

Although the Act is concerned with the utilisation of gas, it will apply also to liquid petroleum gas storage facilities in tanks having a water capacity of 500 litres or less, or in cylinders having an aggregate water capacity of 1 000 litres or less.

A new definition "gas installation" has been included in place of the existing definition "consumer's installation" to reflect the extension of the provisions of this Act to cover the use of liquid petroleum gas or other gas supplied in bottles. Consequential amendments throughout the Act also were considered necessary to reflect this change.

The long title of the principal Act is to be amended so that the purpose of the Act will be to regulate the standards of quality, pressure, purity, and safety of gas, however supplied, and the standards and safety of gas installations.

Measures have also been included in respect of the supervision and control of persons engaged in the practice of gas fitting.

Following the disturbing events which occurred recently, there can be no doubt in anyone's mind of the need to safeguard the public from the incompetence of persons carrying out gas fitting work, particularly in motor vehicles.

It will be observed that the new provisions prohibit the carrying out of gas fitting work by any person not holding a certificate of competency, permit, or authorisation to be issued by the commission. In certain cases, the Minister will have power to grant an exemption from these provisions.

These provisions are to enable the commission to set up and administer a scheme which provides for the examination and qualification of gas fitters, the granting, suspension, or cancellation of certificates of competency, permits, or authorisations, and the imposition of penalties. A person affected by a decision of the commission in this respect will be given a right of appeal to the Minister, or to an arbitrator appointed by the Minister.

To assist with the administration of the scheme, provision has been made also for the making of regulations.

It is considered these proposals will be welcomed by the gas industry as a whole and by the public at large, as they will be seen as a means of maintaining the existing high standards in gas fitting techniques and safety.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. R. Hetherington.

COUNTRY HIGH SCHOOL HOSTELS AUTHORITY ACT AMENDMENT BILL

Second Reading

Debate resumed from the 20th November.

THE HON. R. HETHERINGTON (East Metropolitan) [8.05 p.m]: The Opposition has no objection to this Bill. In fact, it seems to me to be long overdue.

I am quite interested to see the powers at present held by the Anglican Church and the members on the present board, which I presume are largely a matter of history and now need to be amended. I think the proposed new board is an improvement, and the Opposition therefore supports the Government in this measure.

THE HON. D. J. WORDSWORTH (South—Minister for Lands) [8.06 p.m]: I thank the Opposition for its support of the legislation. The new board should be an improvement, but one looks back with hindsight perhaps. When the authority was originally set up it was necessary to determine how it should work. Through the years we have seen some improvements.

It is a pity the hostels are not being used more. They seem to be a barometer of how things are going in the rural industries. When things are not very good in the agricultural industries the hostels are full, but when the situation improves the children go to private schools.

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.

SURERANNUATION AND FAMILY BENEFITS ACT AMENDMENT BILL

Second Reading

Debate resumed from the 20th November.

THE HON. GRACE VAUGHAN (South-East Metropolitan) [8.08 p.m]: The Opposition supports this Bill. It is aimed at distributing a surplus which was actuarially discovered, and at the same time the opportunity has been taken to introduce into the Act some measures which it appears will be in some instances of great benefit to those who have retired on superannuation and their families. The children's allowances have been upgraded from $12 to $16, and in the case of doubly orphaned children from $20 to $26.

The most important part of the Bill, we believe, is that which gives those who are receiving superannuation the opportunity to refuse the extra money which is distributed from time to time in the form of so-many cents per unit—in this case 10c per unit per fortnight, the same amount as in the last two distributions. However, this distribution comes a short period after the previous one and those who are receiving superannuation may welcome it as enabling them to keep up with the great increases in the cost of living.

The reason for enabling people to refuse the increase obviously is that representations have been received from people receiving superannuation who find quite often that an increase in their superannuation means they lose money, in fact, and they have not previously had the option of refusing what otherwise might appear to be a windfall. Sometimes the increase places people in different income categories, affecting their social security pensions to the point where they lose fringe benefits which are very useful to people on small incomes because they carry quite an amount of entitlement in the community and in the long run they save people a considerable amount of money and are better than cash payments.

It is a pity that, actuarially and administratively, it would be very difficult to compensate those who decide to refuse the increase in superannuation brought about by the distribution of the $20.3 million. Having refused the increase, they will then be unable to recoup the money they have refused, when later on they may need a boost to their income, and take up the increase when the extra money may not cause them to lose their fringe benefits.

The Act says that a person retiring on superannuation must decide a month before retiring or within three months after retiring whether to take a lump sum by commuting the payments he and the Government have made into the fund, or whether to take a fortnightly payment for as long as he lives, after which his family will receive certain allowances. There does not seem to be any way in which people can commute this increase of 10c a fortnight. It is unfortunate that people have to make an economic choice whether to have the 10c a unit which may interfere with social security payments or forgo the increase altogether.

The Government has taken the opportunity to introduce other amendments to the Act. It was mentioned that those people who have commuted their pensions upon retiring are not entitled to take advantage of this distribution of funds, and that is fair enough. An important provision is that persons who previously have been precluded from taking part in the State superannuation scheme because they belong to an invalid pension scheme in any other public sector fund, will now be able to participate in the State scheme. An injustice is being removed.

Apart from our regrets in respect of those people who will not be able to take advantage of the 10c a unit because it will interfere with their social security payments, we have great pleasure in supporting the Bill because it will bring relief to many people who are superannuated.

THE HON. V. J. FERRY (South-West) [8.16 p.m.]: On behalf of the Leader of the House, I thank the Hon. Grace Vaughan for her support of the Bill. I concur with her that the subject matter of the measure is the result of an actuarial valuation of the fund. The Bill is one with which there can be little argument and, therefore, it obviously has universal support. I thank the House for that.

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.

CHILD WELFARE ACT AMENDMENT BILL

Second Reading

Debate resumed from the 20th November.

THE HON. GRACE VAUGHAN (South-East Metropolitan) [8.18 p.m.]: The Opposition is opposed to certain provisions of the Bill. I refer to that clause which is designed to allow the publication of the names of children over the age of 16 years when they have previously offended after achieving the age of 16. In addition, when a child of any age is dealt with in the Supreme Court or the District Court the judge may, after due consideration of the public interest and the interest of the child, order that no person shall publish in any newspaper or other printed medium or broadcast or televise any report of the proceedings of the court.

In other words, the whole situation has been reversed. Previously when a child appeared before a higher court his name could not be published unless the judge considered it was a special occasion and that his name should be published for a special reason. Now the infrastructure is becoming the superstructure, and the matter may be reported unless the judge specifically says it may not. The Opposition thinks that is a dangerous provision, and we see no reason to alter the existing situation. Therefore, we are opposed to that provision.

We will support other clauses to provide that a Children's Court can be held in any place, whether in a building or otherwise. Clause 3 repeals and substitutes section 22 to achieve that. This, of course, is a matter of convenience. There is no reason at all that a Children's Court cannot be held underneath a tree as well as it can be conducted in an elaborate building, as long as the persons associated with it are qualified and the correct procedure is followed. We do not object to that.

Section 34E is to be amended to enable a fine to be imposed on a child in addition to the other punishments set out in the Act.

It is the proposed new section 126 which really concerns the Opposition. No explanation has been given as to why the situation regarding publication of a child's name should be reversed in respect of the Supreme Court and a District Court or that it should be published in respect of any court when the child has committed an offence before attaining the age of 16 years. I do not understand the reasoning behind that. What sort of punishment or deterrent is it if the name of a child is published? It can bring only anguish to the child's family. In the case of a child who is seeking attention by committing offences, publishing his name may give him some reward. It may be a rewarding thing to a child who has a particular problem and who wants to singularise himself by committing an offence.

I do not see how that would deter anyone else from committing an offence. Who bothers to read such reports, anyway? Does the Government imagine that children of 16 years of age sit down and read the newspaper to see who has been convicted for the second time since attaining the age of 16 years? Who on earth would be interested in reading that anyone has committed an offence such as a traffic offence, the illegal consumption of liquor, drunkenness, or illegal betting? I just cannot see that this will produce any deterrent effect.

I can see it having the effect only of producing anxiety for the parents and perhaps for those people who are working with the child and

attempting to rehabilitate him to follow new channels.

I hope the Minister in charge of the Bill has some explanation for this. I can see no rhyme or reason for it at all.

The Opposition opposes very strongly that clause of the Bill.

THE HON. D. J. WORDSWORTH (South—Minister for Lands) [8.25 p.m]: I am somewhat surprised that the Opposition has raised the matter of the indentification of children appearing in a District Court or the Supreme Court.

The Hon. R. Hetherington: I am surprised that you are surprised.

The Hon. D. J. WORDSWORTH: The matter has received a fair airing in letters to the Press and in public opinion columns. In fact I think pressure from the public brought about the amendment because people are concerned that they are not able to identify the children who are actually committing such offences.

The Hon. R. F. Claughton: Has there been great public pressure in respect of that?

The Hon. D. J. WORDSWORTH: I think so, yes.

The Hon. R. F. Claughton: It has been barely noticeable to most of us.

The Hon. D. J. WORDSWORTH: I am sure we all agree that youth are maturing more quickly today and by the time they are 17½ years of age they are really not far from adulthood. In some instances they are committing serious crimes.

The Hon. R. F. Claughton: This will only give them public notoriety.

The Hon. D. K. Dans: They will become the real leaders of their peer groups.

The Hon. D. J. WORDSWORTH: On the contrary, I think they tend to show a lot more responsibility when they know they can be identified before the public.

The Hon. R. F. Claughton: Not at 17 years.

The Hon. D. K. Dans: I would like to believe you, but it isn't true.

The Hon. D. J. WORDSWORTH: That is a matter of opinion.

The Hon. R. F. Claughton: We hope you are right.

The Hon. D. K. Dans: Have you ever been to the Children's Court and listened to what some of the experienced police officers have to say?

The Hon. D. J. WORDSWORTH: I thank Mr Dans for saying that. This provision has nothing to do with the Children's Court; it deals with the serious cases before the Supreme Court and the District Court.

The Hon. Grace Vaughan: It deals also with the Children's Court in respect of 16-year-olds.

The Hon. D. J. WORDSWORTH: No, the identification to which we are referring has nothing to do with the Children's Court; it refers only to the Supreme Court and a District Court, and is in respect of serious offences. Indeed, I am informed this was the situation 15 years ago. The onus is still upon the judge to decide whether a case is sufficiently serious for the offender to be identified publicly. Really the only change is that the judge must make the decision for the name not to be published, instead of making the decision that it be published. He still must make the decision.

The Hon. D. K. Dans: I have not even read the Bill, so I am not well informed about it. However, recently there was a serious case in Geraldton in which the culprit's name was published quite freely. She was subsequently sentenced to death.

The Hon. D. J. WORDSWORTH: Frankly, the onus is still upon the judge; it has been in the past, and it will be in the future.

The Hon. Grace Vaughan: Not in regard to a 16-year-old who has offended; that has nothing to do with the Supreme Court or a District Court.

The Hon. D. J. WORDSWORTH: We are referring at the moment to a case before the Supreme Court or a District Court.

The Hon. Grace Vaughan: I made the speech, and I was referring to the case of a 16-year-old who has offended.

The Hon. D. J. WORDSWORTH: I am referring to what is contained in the Bill.

The Hon. Grace Vaughan: So am I. If you look at proposed section 126(2) you will find that the magistrate or judge does not even make a decision because the legislation says the restriction on the publication of names shall not apply.

The Hon. D. J. WORDSWORTH: The member is referring to subclause (2) of clause 6, which refers to certain offences. They are selected offences under the Criminal Code.

The Hon. Grace Vaughan: They are not very terrible offences.

The PRESIDENT: Would the honourable the Minister direct his comments to the Chair?

The Hon. D. J. WORDSWORTH: Perhaps this sort of dialogue should take place in the Committee stage.

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. D. J. Wordsworth (Minister for Lands) in charge of the Bill.

Clauses 1 to 5 put and passed.

Clause 6: Section 126 repealed and substituted—

The Hon. GRACE VAUGHAN: I asked the Minister to explain the rationale underlying this amendment to the Act. I cannot understand why the Government wanted to reverse the situation which now applies, that there should be no publicity unless the judge so orders. That is the way the Act stands, but this amendment will provide that anything may be reported unless the judge orders it cannot be. I am sure the Minister can see the difference. The underlying philosophy is different.

That was not the main point I raised. I wanted to understand why the Government thinks it is necessary to exclude from the provisions of subclause (1) a child who has become 16 years of age and has been convicted for the second time. That is the part which protects children from being exposed to publicity. I cannot understand why the Government is taking this stand.

I thought the Minister was listening to me when I was speaking on the second reading. There does not seem to be any rhyme or reason to this. What does the Government hope to gain by doing this? What will be the gains to the Government or to society? A little line will appear in the paper and it will mortify the parents who are trying to help their child away from a life of delinquency, and it will give the child a moment of glory by seeing his name in the paper. I cannot see the rationale in that. I wish the Minister would explain it.

The Hon. I. G. MEDCALF: I trust the member appreciates there is a significant difference between subclause (1) and subclause (2). Subclause (1) applies to Children's Court offences whereas subclause (2) applies to more serious offences under the Criminal Code or the Police Act, or to offences which would normally be tried in the District Court or the Supreme Court. Subclause (1) applies to any child, whereas subclause (2) applies to a child over the age of 16 years.

Subclause (1) is the traditional Children's Court clause which was previously in the Child Welfare Act. There is no publication of names or identifying details. Subclause (2) was omitted inadvertently a few years ago. Nobody seems to know why it was omitted. This changed the then existing law.

There has been a lot of public controversy concerning children who commit more serious offences and who cannot be identified publicly. Indeed, there have been a number of letters to the paper about it. The Government has received a number of letters and complaints from various quarters. It was felt in the case of more serious offences it was desirable for the public to have the opportunity to know who the offenders were. However, leave is still reserved to the judge or the court to restrict publication in appropriate cases. The judge has the final say if he considers that publication should not take place.

Certainly there is a most significant difference between subleause (1) and subclause (2). The more serious offences, which involve assault or drunkenness or criminal offences of a serious nature committed by children over 16 should be dealt with differently.

The member may say it is a matter of philosophy; but that is the view of the Government. In the case of more serious offences there is justification for publishing details, or for allowing the details to be published—in other words, permitting the information to be made public—with the right of the court in appropriate cases to deny publication.

The Hon. D. K. Dans: You mentioned drunkenness. I might agree with you on some of the others, but I could hardly see that. I know some States have done away with printing the names of people who are picked up in the paddy wagon for being drunk, who are adults. I know there is some distinction there, but it seems—

The Hon. I. G. MEDCALF: One might say this is a matter of opinion. One man's opinion might be different from another's.

The Hon. D. K. Dans: In the States of New South Wales and Victoria they do not publish the names of the daily drunks.

The Hon. I. G. MEDCALF: They would hardly do so with simple cases of drunkenness under section 53 of the Police Act.

The Hon. D. K. Dans: But you did say drunkenness.

The Hon. I. G. MEDCALF: Drunkenness as an element.

The Hon. D. K. Dans: That is different. I understood you to say "drunkenness".

The Hon. I. G. MEDCALF: It is not a simple charge of drunkenness. Perhaps the Leader of the Opposition has the wrong impression. Section 53

of the Police Act is not specifically referred to in this clause. I was talking about where drunkenness is an element in relation to a more serious offence.

The Hon. D. K. Dans: I was not looking at the clause; I was listening to you.

The Hon. GRACE VAUGHAN: It is nice that the Attorney General has lent his expertise to help the Minister in this matter; but I am afraid that the Attorney General also has not grasped the purport of our opposition to this. He is talking about more serious offences. Many of the offences stated in subclause (2) are inferior to some of the offences which go before the Children's Court. I have seen offences in the Children's Court where there has been property damage of up to $50 000.

The Hon. I. G. Medcalf: Yes, if it is a child.

The Hon. GRACE VAUGHAN: We are still talking about a child.

The Hon. I. G. Medcalf: Over the age of 16.

The Hon. GRACE VAUGHAN: The Attorney General says that subclause (2) has nothing to do with subclause (1). In fact, all three subclauses are interrelated.

The Hon. I. G. Medcalf: I said there is a distinction between them.

The Hon. GRACE VAUGHAN: There is also a distinction between subclauses (2) and (3). In some cases, the children may appear before a Children's Panel. The illegal consumption of liquor has often been dealt with by a Children's Panel; and that relates to a child over 16. It could be a case of a child taking a swig from someone's flask in Kings Park as a police car is going past. That child would have his name mentioned in the paper.

I believe there ought to be some rationale for a change in the philosophy of not exposing children to publicity. It is bad enough in subclause (3) although, as the Attorney General said, it is still up to a judge to decide. Can the Attorney General indicate the reason for the change in philosophy if the names of those children are to be public property unless the judge decides otherwise?

The Hon. I. G. Medcalf: I said there was a difference in philosophy.

The Hon. GRACE VAUGHAN: What is the philosophy? The philosophy underlying the Child Welfare Act is the protection of children, not their exposure to publicity. It is my belief that this will be harmful to children, particularly if they are at a delicate stage of rehabilitation. It could be harmful for the parents who have been working with their child to keep him from bad company. Usually we parents, when our children start to misbehave, say, "It must be somebody else's fault. He is in bad company."

This is a dangerous precedent being set by the Government. I wish a lot more thought had been given to it. Obviously the Minister has not been instructed what the philosophy is. He was obviously surprised when I objected to the clause.

The Hon. D. J. Wordsworth: Not the slightest bit surprised. You are only echoing what happened in the other place.

The Hon. GRACE VAUGHAN: The Minister said he was surprised.

The Hon. R. Hetherington: We can only take you at your word.

The Hon. GRACE VAUGHAN: I am not criticising the Minister for being surprised. An explanation should be given to the Parliament why there has been such an important change in philosophy.

The Hon. I. G. MEDCALF: It is true opinions will differ over this matter; but there is a strong body of public opinion which believes a child over the age of 16 who continues to commit more serious offences should be exposed publicly. I have been on the receiving end of comments made by people in this regard.

The Hon. Grace Vaughan: I object to the words "more serious offences". These are matters which are dealt with in the Children's Court.

The Hon. I. G. MEDCALF: They are offences under the Criminal Code, Police Act, or offences which involve assault, illegal consumption of liquor, drunkenness, or illegal betting. They are more serious offences.

The Hon. Grace Vaughan: No they are not.

The Hon. I. G. MEDCALF: It is a matter of opinion.

The Hon. D. K. Dans: You said, "continues to commit". Is that the case, or would this legislation apply to a child who committed a first offence?

The Hon. I. G. MEDCALF: It applies only when a child has committed more than one offence. The member did not mention that.

The Hon. Grace Vaughan: Yes I did.

The Hon. I. G. MEDCALF: The member did not emphasise it. The provisions apply where there has been more than one conviction. If someone is convicted on more than one occasion of one of these offences under the Criminal Code or Police Act, and is over the age of 16, I can assure you, Sir, there is a strong body of opinion which takes the view that he should be identified publicly.

Admittedly others will say they should not be identified and some people will say they should not be exposed even when the offenders are older. Some people would say offenders under the age of 21 should not be exposed publicly. The benefit of the doubt should be given to these people.

However, we live in a community which is becoming increasingly concerned about the serious offences committed by juveniles, particularly in regard to stealing cars, breaking and entering, and similar offences. People who are on the receiving end of this type of behaviour do not adopt the same sort of charitable attitude as that adopted by the honourable member.

Whilst one can be very concerned about children of tender age—any child under the age of 16 is not affected by this provision—when a child over the age of 16 is convicted on more than one occasion of one of these more serious offences, there is real justification for the publication of the child's name. In the case of proceedings in a District Court or in the Criminal Court a judge can refuse to allow publication.

The Hon. R. THOMPSON: I realise the public attitude may be changing, but I agree with the comments made by the Hon. Grace Vaughan. When I was Minister for Community Welfare I received complaints from disgruntled people. However, this provision will affect people in metropolitan areas differently from those in more isolated areas and that is the danger of it.

The daily Press in the metropolitan area appears only to publish cases which involve murder, rape, or drug offences. Therefore, there is little danger that a child's name will be published in the metropolitan Press as a result of this provision.

The danger in this legislation is that a juvenile's name could be published in a more isolated area where a District Court judge or JP sits, and this could have a great effect on the future of the child concerned.

If this occurred in a town such as Port Hedland, or even in a more isolated town, a juvenile could be ostracised by the community. The local Press in isolated areas would be more likely to publish the child's name than would the Press in the metropolitan area.

I am not so concerned about a criminal charge, because we still have an age of criminal responsibility, although I believe that age should be lifted by three or four years. I oppose this provision as it affects juveniles in isolated areas, because life could be made very uncomfortable for them.

The Department for Community Welfare tries to carry out its functions under very harsh and restrictive conditions. The Police Force operates in a similar manner. It is under pressure all the time as a result of lack of funds, and lack of staff and amenities. I do not believe this legislation will help community welfare officers or policemen. In fact, we will make their tasks more difficult.

If a juvenile has shot someone, the general public is entitled to know who he is; but in the case of other offences I believe this provision is dangerous.

The Hon. I. G. Medcalf: What about in the case of a rape?

The Hon. R. THOMPSON: In that case I believe the name of the offender should be published. I do not condone drug running, murder, rape, or serious offences of that nature. However, they are dealt with by the Supreme Court. A dangerous precedent is being set by this legislation as it affects District Courts, Local Courts, or Children's Courts. A great deal of disharmony will be created as a result of it.

The Hon. N. E. Baxter: What about people who steal motor vehicles?

The Hon. R. THOMPSON: I am glad the member mentioned that. On many occasions in this Chamber I have pointed out the law should be changed in this regard. People should not be charged with being unlawfully in control of a motor vehicle. They should be charged with stealing a motor vehicle of a particular value, whether an adult or a child is involved.

Recently we have seen cases in which doctors' cars containing life-saving drugs have been stolen and I believe the law is completely wrong in that respect. If a person steals $1 000 from a bank he is charged with that offence. Therefore, if somebody steals a motor vehicle of a particular value he should be charged with stealing a car worth such-and-such an amount. He should be charged with stealing that sum of money.

The Hon. D. K. DANS: I can see the intent of the provisions contained in subclause (2) and I am aware there is a punitive attitude amongst some sections of the community at certain times, not only towards children or juveniles, but also towards adults. That punitive attitude varies from time to time.

However, it is well to bear in mind that we are living in the year 1979 and we have a good Police Force that is harassed on occasions. We are all aware the Police Force comes under pressure from time to time. If it is necessary for the police to stop young people drinking outside a cabaret or behaving in a boisterous manner, it may be

necessary for them to speak brusquely as a result of the harassment and lack of numbers in the force. This stirs up a resentment in young people towards law and order. Juveniles from the ages of 15 or 16 years upwards frequently feel resentful towards the Police Force and it is necessary to spend many hours explaining the ramifications of the system to them.

If one looks at the Criminal Code and Police Act one can understand that continuing offenders should expect to have their names published. If one's daughter were raped by a 16-year-old who had committed a similar offence on three or four previous occasions, one would probably feel that his name should be published. If a 16-year-old person committed a vicious assault on more than one occasion it is possible one would feel his name should be published also.

I am disturbed by the fact that the power is discretionary and I agree with Mr Thompson that the effect of it would be felt more severely in a smaller community than in a big city. It could have a devastating effect on a juvenile's future and it could completely distort his view of law and order if such a provision were applied to an offender in a small town.

I agree with Mrs Vaughan that the Child Welfare Act did not appear suddenly. It has been formulated over a period of many years by experienced people. We should not turn back the clock in such an arbitrary fashion.

The Hon. N. E. Baxter: Don't you think that is covered in subclause (3)?

The Hon. D. K. DANS: No, I do not. I would like to think it is, but I do not believe it is. It says, "illegal consumption of liquor". All kinds of severe sentences have been imposed by justices of the peace for very minor offences and I am not criticising justices of the peace.

The Hon. N. E. Baxter: They have given some very light sentences on occasions also.

The Hon. D. K. DANS: That may be correct, but people remember only the very heavy sentences. People will never remember Mr Baxter for the good things he has done in Parliament. If he did something bad, however, he would be remembered for that.

President Nixon was responsible for much good work. He recalled the troops from Vietnam and made other very good decisions. However, he is remembered for the indiscretions he committed which, in the fullness of time, may not turn out to be as bad as they were regarded at the time.

I have great regard for experienced magistrates and judges. They usually know how to apply the law in a fair manner. However, how would one define illegal betting when we know we can walk a little way across the railway line and find a number of illegal casinos?

We all know that the police say the best way is to contain them. So, we allow these juveniles to get into that kind of situation, and there are some dangers in it. I believe we are turning back the clock, and perhaps my view differs slightly from that of Mrs Vaughan.

Unfortunately, this type of situation will not always be dealt with by a person who deals with it every day. As the Attorney General has said, a name can be published after two offences in a certain area in a particular town where a juvenile can become the king of the kids overnight. From then on that person would encourage others into hostile behaviour. The section could be written better.

I take the point raised by Mr Baxter that we are getting a reputation for bad drafting.

The Hon. N. E. Baxter: It is not bad drafting.

The Hon. D. K. DANS: Well, it casts a net too wide and leaves too much discretionary power. I do not want to stop the publication of the name of a 16-year-old who commits three rapes, five murders, or who bashes up five old ladies; but, I still do not know how it can be said that drunkenness or illegal betting is an element. We should be careful.

Our predecessors were not completely dopey. They put together a set of conditions to deal with juvenile behaviour and juvenile law-breaking long before we had the electronic media and long before we had such rapid means of communication.

I know the Attorney General can give an assurance for the people who sit on the bench, but the provision should be tighter. Over the centuries we have gone through the exercise of making the punishment fit the crime, but it has not worked. The iron fist treatment does not work. I would like to hear the view of the Attorney General.

If we were to save 10 or 12 juveniles from going down a certain path that would be something, and we will do a service for the people who will follow us.

The Hon. N. E. BAXTER: The query raised by Mr Thompson, and supported by Mr Dans, in relation to smaller areas where juveniles are charged with subsequent offences, or other offences, is ill-founded. Where justices preside in small towns they know the people and they know the children. After due consideration the justice can order that no person shall report the

proceedings of the court. There is a safeguard in the Bill so that no injury will be caused where a justice believes that in the interests of the public, or the interests of a child, nothing should be published.

It is time we had provisions whereby the names of some children can be published, particularly those who commit crimes consistently. If Mr Dans' motorcar were stolen from his house, and if his next-door neighbour's car were stolen also, by the same young chap, it would be in the interests of the people in that area to know who was committing the crimes. If the crimes were committed incognito, no-one would know who was responsible. I believe the provision is rather good.

The Hon. R. HETHERINGTON: What perturbs me about the explanation given is that apparently the clause is here to satisfy the outrage of those people who have written to the Government. I would like to know where there is any hard evidence that this is supposed to be a greater deterrent.

The age of 16 or 17 years is a very difficult time for young people, particularly in the metropolitan area. That difficulty arises because of the way we have allowed our cities to develop, the lack of facilities in them, and the growth of youth unemployment.

We have some very perturbed 16 and 17-year-olds. Quite often when they commit crimes, they need help. If it is felt that discretionary power should be given to a judge, something more positive should be included. A name should not be published unless the judge decides it should be published for good reasons. The way the provision is written the assumption is that a name will be published, and pressure will be placed on the judge to publish the name unless he can think up a good reason for not giving permission. If he does prevent the publication of the name he will come under criticism.

It seems to me that by publishing the names of 16 and 17-year-olds we will develop a particular kind of criminal. My philosophy is different from that of Government members but it seems to me that in our present society we are developing pressures which do not allow young people to satisfy their instincts. We do not provide jobs or decent urban development schemes, and it seems we should not be surprised that our 16 and 17-year-olds get into trouble. I think the publishing of names will make the situation worse.

This is reactionary legislation. It acknowledges that we have a tremendous problem, and suggests that we should hit harder and publish the names of juveniles and, in that way, hope to solve the problem. I find that deplorable.

The Hon. I. G. MEDCALF: I do not believe I could produce any hard evidence which would satisfy Mr Hetherington because he is clearly looking at the commission of crime as a product of the evils of society.

The Hon. R. Hetherington: Sometimes it is, and sometimes it is not.

The Hon. I. G. MEDCALF: Everybody does not look at it that way. It is convenient, every time a crime is committed by a child, to blame society or claim it is due to people being brought up in impoverished conditions, or brought up in affluent conditions, or neglected by their parents. I am quite prepared to agree that these factors are relevant to various individuals for acting in a particular way; perhaps in an anti-social way; or perhaps in some cases it causes people to lapse into crime. However, I think the argument is abstract and it applies equally to adults as it does to children.

The Government is trying to do something of a practical nature which will allow a person to tell his next-door neighbour that a lad from around the corner had been breaking into his house, and had been convicted in a criminal court or in a Children's Court. It seems that is very desirable if a child is over the age of 16 years and is engaging in that type of offence. We should be able to name that person to somebody else. As the law stands, one cannot even mention the person's name.

There is a public demand for the names of offenders to be published. I cannot produce the hard evidence requested by the honourable member. I do not know what would be hard evidence, except perhaps a number of files containing the cases.

It is quite apparent there is a public view with regard to this. Many letters have been written and published in the Press. On many occasions approaches have been made to members of Parliament. Perhaps the member opposite, and other members, have been badgered by their constituents. The people want to know what we are doing about these juvenile delinquents. Whilst there may be social reasons that some children have committed offences, there is also a right for the people in an organised society to protect themselves by demanding that miscreants be named if they are over the age of 16 years.

I agree with what Mr Dans said; it is a matter of opinion. Perhaps it could be phrased more happily. It is something that could be looked at on

another occasion, although members will realise it is not in my sphere.

I am sure the Minister for Lands will not mind my making a comment because I know something of the background of this matter. I believe the legislation will be examined constantly—it is a changing area.

Over the last 20 to 30 years tremendous changes have taken place in regard to juveniles. The causes of juvenile delinquency are beyond an easy answer. I am sure there will be other developments and changes in the legislation from time to time.

I would like to answer a comment made by Mr Thompson. When children take possession of someone else's car, they cannot be charged with stealing. The definition of stealing is that one must have an intention to permanently deprive the owner of the item concerned. In the case of children who take a car for joyriding, it can never be proved that they had an intention permanently to deprive the owner of that car. That is the reason that children who joyride are charged with a lesser offence than stealing. As members here would know very well, when the owner of a $4 000 car finds it crashed against a tree in Kings Park and is able to recover only $2 000 from the insurance company, he takes a very dim view of the matter.

As it is not my Bill, I cannot give any firm assurances about it. However, I hope members will accept that there will be undoubtedly continuing reassessment of the situation and accept the Bill as it stands.

The Hon. GRACE VAUGHAN: I listened with interest to the contributions of other members who have now come to support my opinion that we should be doing something to get at the underlying reason for this change. When he commenced speaking the Attorney General kept saying, "Where we have a child committing a more serious offence". That is not so.

We have before us a new clause that provides that children under 16 years of age or those over 16 years of age who have offended only once, do not receive any publicity except when they appear in the Supreme Court or a District Court. This means that in the case of children of any age who appear in the Supreme Court or a District Court the judge can decide, not only after conviction, but also before conviction, that that child's name and details of the offence can be published.

The child who has offended twice and has attained the age of 16 years will be very much discriminated against. In certain cases, and in courts other than the Supreme Court and a District Court, nothing can stop his name being printed. So if he appears before a lower court because his offence is not very serious, nothing can stop his name being published. However, if he commits rape and murder and the charge is heard in the Supreme Court the judge can order that his name be not published.

The only conclusion we can draw from what has been said here tonight is that this is a vindictive and punitive attack on 16-year-olds who have offended more than once.

We could talk all night about the causes of delinquency, and I quite agree with Mr Hetherington who said that we need to look more closely at the causes of delinquency and the individual differences in children in their formative years and, indeed, the individual differences in criminals of all ages.

The levels of maturation differ. A very responsible person of 14 years may know whether he is doing right or wrong, whereas a person of 17 years can be very immature. This is why we do not give certain privileges in society until a person reaches the age of 18 years.

We are now saying that at the chronological age of 16, a person's name can be exposed to the public. This could affect a very delicate situation of rehabilitation. It may happen that a child may have been well and truly coming into the area of the Attorney General's portfolio, but through preventative work, his rehabilitation is progressing satisfactorily. At the age of 17 years and 364 days, he may be caught for illegal betting or consuming liquor, perhaps outside a dance or in Kings Park on a hot afternoon. If this child had offended quite seriously at 16 years of age, when he appears before the court on the lesser offence, the public are told that he has offended twice.

When his name is published, disaster follows. His boss reads the Press report and says, "I don't want a twice-convicted person working for me—get lost. People coming into my shop or business do not want me to employ criminals." And so all the rehabilitative work is lost.

So it is not a matter of my being charitable towards people as the Attorney General said it is. It is a matter of real concern about rehabilitation measures. Very serious results can follow the publication of a child offender's name, and it is quite inappropriate to have such a provision in the Child Welfare Act.

Subclause (3) reverses the previous position. Whereas a judge had to say that a name could be published, now he must intervene and say that a name cannot be published. I suppose it is a matter

of opinion whether a judge should adopt a negative or a positive approach.

The Attorney General said that this matter will be reconsidered, and I certainly hope this happens. We should have a report giving an analysis of the behaviour of children who have received publicity because of their misdemeanours or delinquency. We should try to determine the difference where details are published and where they are not. Hard facts can be obtained, and definite professional opinion can be given on this matter. It is not good enough for the Government to respond to the grizzles of people in the community who do not realise they may be creating far greater problems in the future for themselves and for society.

I oppose this clause. If the Government does not look at it again it is erring very much on the side of punitiveness and even vindictiveness.

The Hon. D. J. WORDSWORTH: We have had a most interesting debate on this subject, and in no way am I endeavouring to stifle it. We are very fortunate indeed to have such a range of experience in the Committee. Very seldom would any Chamber be able to benefit from the experience of two previous Ministers for Community Welfare, an Attorney General who has been able to give a legal viewpoint, and a person with the experience of the Hon. Grace Vaughan in the Children's Court. Perhaps as the shadow Minister for Education Mr Hetherington feels he, too, is an expert on children.

The Hon. R. Hetherington: I am not an expert in anything.

The Hon. D. J. WORDSWORTH: As has been mentioned, this is a matter of opinion. Mrs Vaughan says we are acting punitively. One must realise that the Government has looked at the matter, and it is our opinion, as a body of legislators, that the Act should be amended in this way. We have the backing of a great many people who are not ignorant in this field. It is not just a political party making this decision. We have our advisers, and this is what they feel, what we feel, and what we believe the public feel. The Leader of the Opposition asked what I would think about a situation in Esperance.

The Hon. D. K. Dans: I said, "Let us take Esperance".

The Hon. D. J. WORDSWORTH: While the matter was debated I thought of just that. I believe sincerely that the people of Esperance would wish to know the name of a second offender on a serious charge should the magistrate or judge consider it was to their benefit to know. In a small community such as that I believe such information is in the public interest.

It can be argued that the publication of an offender's name can make it more difficult for him. However, the great majority of the people are simply members of the public, and as such they should be aware of such incidents.

These days many people—and particularly the older ones in the community—are worried about assault. Certainly they have the right to know the details of assault cases.

It is important that the people in charge of places where liquor is sold or consumed should be informed of cases of offences in regard to liquor. The same situation applies in regard to illegal betting. So my opinion is that this provision is quite proper.

I will pass on the comments of members to the Minister for Community Welfare. I am sure they will be read by him and by his advisers and that due consideration will be given to them. I am sure the legislation will be kept under full consideration.

Clause put and passed.

Clause 7 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

ACTS AMENDMENT (PORT AUTHORITIES) BILL

Second Reading

Debate resumed from the 20th November.

THE HON. D. K. DANS (South Metropolitan—Leader of the Opposition) [9.31 p.m.]: The Opposition does not oppose this Bill, the principal purpose of which is to ensure port authorities have legal power to borrow for all new works approved by the responsible Minister, and to validate all such past borrowings. The extension of this facility to the "lesser" port authorities, and the extension of the powers to the two larger port authorities of Port Hedland and Fremantle are very desirable.

We support the Bill.

THE HON. D. J. WORDSWORTH (South—Minister for Lands) [9.32 p.m.]: I thank the Opposition for its support of this legislation. It is quite straightforward and needs no further explanation.

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.

PERTH THEATRE TRUST BILL

Second Reading

Debate resumed from the 20th November.

THE HON. R. F. CLAUGHTON (North Metropolitan) [9.34 p.m.]: The Labor Party supports this legislation. We are pleased the Government has retracted from the proposals originally submitted for the management of His Majesty's Theatre when the suggestion was that TVW interests would have control of the theatre, and has adopted the proposal submitted by Mr Davies, on behalf of the Labor Party, that a theatre trust should be established. Since it was a policy of our party that there should be established a theatre trust, we cannot very well disagree now the Government is actually putting our proposal into practice.

We might argue about who are the personnel to be placed on the trust. However, at this stage I think it would be a matter of experience. There would not be very many people available in our community who would have a great deal of experience of the sort necessary competently to manage a group of theatres of the nature of His Majesty's Theatre, the Perth Concert Hall, the Entertainment Centre complex, and any other theatres which may be constructed in the future. Hopefully, the drama theatre complex, proposed for the Cultural Centre, will be an addition in the future.

The demands normally expected of a commercial theatre to perform financially in order to maintain its very existence will not apply to these theatres. So, they will encounter a very different set of problems in respect of management and financial control. I hope the style of direction which is adopted will be that the trust lays down general policy lines and for the actual day-to-day management of the theatres a competent person is selected with the necessary freedom to carry out the demands of the operation. This appears to be the scheme laid out in the Bill.

One considerable problem to be faced by the management of the theatres will be to what extent a financial return is expected to be achieved by the performances conducted in these theatres. The ideal situation would be that the theatres become self-supporting or, preferably, return some sort of profit. However, if they are to play a role in the community which traditionally is expected of art theatre, that would be a most unusual circumstance.

For example, I do not think there is anywhere in the world where opera companies make a profit. The cost of mounting that form of entertainment is so great it is not generally possible to attract audiences of a sufficient size to ensure a profit. However, there is no question that opera is a very desirable form of artistic entertainment, and should be available to the public.

Any member here who saw—as I did—the performance of Madam Butterfly, which currently is at the Concert Hall, would have to admit it was a magnificent production by our local company and reflected great credit on the artists involved. I attended on opening night, and there appeared to be a full house. It was a fully satisfying production from all aspects.

I take this opportunity to say a word of praise for the orchestra conductor (Mr Alan Abbott) who has been the subject of recent public controversy. There is no question but that he made a considerable contribution to the success of the performance. I would well recommend the performance to any member interested in going along.

The arrangements to be entered into at His Majesty's Theatre could well be very trying in that a number of companies will be competing for space and performance time. This is on the assumption that the WA Opera Company, the WA Ballet Company, and, perhaps, the Gilbert and Sullivan group will have their home at the theatre.

One of the problems which occurred in the past when His Majesty's Theatre was under commercial control was that the local companies were not often able to obtain a season at the theatre at the most popular audience attendance times. The theatre management, of course, required that their commercial productions take the cream of the market.

One of the worries which led to objections to the management of the theatre going to TVW was that a similar situation could continue into the future, with the commercial management wanting to take the most favourable audience times for commercial productions, leaving our State companies struggling to produce audience attendance figures which justified their continued funding from public sources.

We hope the establishment of the trust proposed by this Bill will overcome that problem, in that it will not be a commercial theatre venue, but one which will allow our State performing arts companies to show their product to best advantage. I have no doubt that, given the opportunity, each of them will prove itself worthy of public support and, by being able to mount quality performances, will steadily increase the numbers of people who wish to patronise them. I could go into the question of funding for these groups, but I will leave it at this time.

I raise the question of the selection of members for the trust. The fact was that the establishment of the trust was announced suddenly; there was no public canvassing to find the most suitable people available. I would hope, even if it was not done in this instance, when we are looking for people to place on boards—it can be applied generally, but I am more particularly concerned with boards in the arts field, such as the theatre trust and arts council—the practice to be adopted will be that of advertising publicly for persons wishing to be considered for the positions.

The Government would still be left with the final choice, as in the past; but we would be likely to have a wider choice of suitable persons available to us. It seems to me that what we normally do is rush around to our friends and ask them to make suggestions as to people who might be suitable. We do not necessarily get the most suitable people available in the community. By advertising the positions we would increase the scope.

This is not something new or untried. I was in the Northern Territory earlier this year and I noticed advertisements for people to serve on—if my memory is correct—a housing trust. I understand that has been the practice in the Territory in terms of its new responsibilities, which are not all that long. It is a practice the people there feel works well for them. I believe it is a system which would work well for us in Perth.

It is not possible for us to be aware of all the sources of talent which are available in the community. Any means we find to discover new talent willing to contribute to the public good in this way would be worth while.

I cannot understand why it has been thought necessary to include, in clause 3 of the Bill, the interpretation of "financial year" means the year ending on the 30th day of June. This is something peculiar to Australia and does not have any great logic behind it. When dealing with theatres, the end of June could be a very difficult time if it is in the middle of the theatrical season. A suitable date for them would be in the off periods. I am not sure precisely when that is; but it is not necessarily the end of June. It would be better not to have that date stipulated. It would be better to have a date, to be fixed by experience, which is the most suitable for theatrical operations.

There is no logic in having the financial year ending in June; it is just a custom we have in Australia. Many organisations in this country end their financial year at a different time. I suggest the date in the Bill is really not necessary and there could be value in removing it. Once it is there, the company is obliged to work to that time.

I think I have covered the matters which occurred to me in my reading of the Bill. I would have preferred a bit more time to consider the Bill and it was only in a spirit of co-operation that I did not ask for a longer adjournment. Since we are in support of this Bill we have no reason to delay its progress. Any other matters I may have found with a little more research would be unlikely to change this attitude. We are very pleased the Government has introduced the Bill. We wish the trust well and I hope His Majesty's Theatre—which is turning out to be a very costly enterprise confronted with all sorts of problems which were not foreseen; and I have been told by people who have seen inside that it will be a building to delight—will soon be completed so that I will be able to go there and enjoy performances put on by our own companies and feel pride, along with the rest of our citizens, in the worth of our own State companies. I support the legislation.

THE HON. A. A. LEWIS (Lower Central) [9.47 p.m.]: I hope Mr Claughton is invited to the opening of His Majesty's Theatre, because he has shown a great deal of interest in this matter from the start. It fascinated me to hear in another place last evening the Leader of the Opposition state in a mildly rebuking way that the cost of "the Maj" was high and that this Government could have done much better. I hark back to the time when I was in Opposition and suggested to the Tonkin Government that it purchase the building. My suggestion was flatly refused and that Government then spent $4 million or $5 million on the Perth Entertainment Centre. We all make some mistakes!

I join with Mr Claughton in supporting the Government. If members feel inclined to go back to the dark days of 1972, I think probably the first parliamentary approaches for the purchase of His Majesty's Theatre were made by me. The outline the Government has now accepted for the Perth theatre trust also was put forward at the

time when the Arts Council legislation came into being.

I worry a little about the Cultural Centre and the drama theatre. I have a feeling that culture is a little like manure; spread around, things grow; left in a heap it smells. I believe successive Governments have to be very careful they do not load a Cultural Centre on the other side of the railway line, having everything there and denying certain people access to it. I believe some of these theatres should be moved out and other sites found for them so that there is a sharing around of the culture instead of its being thrown together in one heap.

Mr Claughton commented that he hoped eventually these centres which make up the theatres the trust will control would return profits. We all hope this happens. One of the interesting things is that when we look at Government grants to the opera company and other companies, we see that some four years ago the total Government grant for the opera company was taken up in hiring a theatre for the performance nights and rehearsal nights. One beauty of the theatre trust is that, I hope, the rehearsal nights will not be charged for. The plans of the opera company living in the theatre should make it possible for some savings along the line in that direction.

Mr Claughton commented on the commercial management and how commercial shows were given priority during the past ownership of these theatres. I hope he was not suggesting the theatre trust should not take those commercial views into consideration when it is carrying out its duties. I hope it will not go overboard in providing local companies with the best dates in the calendar to the detriment of outside companies. I think the theatre trust has a very difficult job in achieving a balance as to whom it lets the theatre, and when.

I think Mr Claughton's suggestion of public advertising for nominations from people wishing to serve on some of these trusts is interesting. All members of this House at one time or another have discussed the choice of people to be appointed to various boards and trusts. Whether in Government or in Opposition, we tend to select only a few people. It seems we are not throwing our net wide enough. I would agree with any suggestion to try another system to get new names. The Minister will know that new names are fairly hard to find. In any case, the final decision will rest with the Minister. However, advertising the positions may allow us to find new names. I support the Perth theatre trust and wish it a profitable and happy future.

THE HON. D. J. WORDSWORTH (South—Minister for Lands) [9.58 p.m.]: I thank members for their support of this legislation. It is obviously a Bill with which most members would agree. It gives us an opportunity to reflect on the very fine facilities we have in Perth. In the past perhaps we have taken them for granted. We should be thankful to have such a facility as the Perth Entertainment Centre which can hold some 7 000 people and can be used to stage spectacular performances. I do not know whether there is any other such facility in Australia. I am sure it is quite unique.

For some time now we have had the Perth Concert Hall, which is a magnificent venue for musicals and orchestral works. Regretfully it does not have a very big stage. But now we will have His Majesty's Theatre. Whilst its restoration has cost a great deal of money, now we will have a venue of a high standard for both opera and stage. It is interesting to realise it could have been purchased for about $700 000 when it was offered to the previous Labor Government; yet the price was probably three times that amount when it was finally purchased.

One must compliment the Hon. Sandy Lewis in this regard because he staged a one-man campaign in the parliamentary field. It is a tribute to him that we did finally purchase this building and restore it. I am sure it is something of which we will be very proud as we should be of the whole group of theatres and centres we have. There is to be another one; that is, an experimental or lyric theatre which has been tentatively planned to be within the Cultural Centre.

Another matter was raised and that was with regard to advertising for members for boards. This appears to be quite a novelty to me. Governments have been very fortunate to have had people working for them on the various boards. These people do not arrive there just because they happen to be friends of the Government. Their appointment is very wisely thought about and this Government takes the matter to Cabinet. Much thought goes into those decisions and very seldom do people refuse. Generally speaking, their duties take up much of their time and they make many sacrifices for which we are very grateful.

Mention also was made of the financial year ending the 30th day of June. One would find that that is to conform with the requirement of audit and the various pieces of Government legislation. Whilst it may be difficult in the theatre scene, it is the day on which Government departments close their books and because of the subsidies to

be made it is appropriate that they conform. This applies also to the Concert Hall which ties in with the City of Perth and they have to fall within the financial year also.

I thank members for their support.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

INDUSTRIAL ARBITRATION BILL

Second Reading

Debate resumed from an earlier stage of the sitting.

THE HON. T. KNIGHT (South) [10.07 p.m.]: First of all, I would like to make it quite clear that I wholeheartedly support the Bill before the House. During the debate the Hon. Des Dans asked whether members on this side would say they were in support of what the Government was doing. I want him to be aware that I fully agree with what the Government is doing and say that I support the Bill wholeheartedly.

This Bill will be achieving two objectives for the workers and it surprises me that the Opposition has not thought of them. They are: freedom of speech and freedom of association. They are two conditions that I believe members of unions do not have at the moment, but they will be achieved through this legislation. At the same time it will achieve the abolition of compulsory unionism which I believe is obnoxious.

During discussion on this Bill it has been said very regularly by the Opposition that we do not have compulsory unionism. If this is so, why are they arguing so much about that facet of the Bill? I also mention the Government believes in legislation which gives the right to work. If unionism is so good why is it that members are compelled to join? I believe anything worth while is willingly adhered to and supported. People do not have to be pressurised into supporting it. That is the freedom of choice and everyone in our country should have that freedom and right.

Let us consider the closed shop and the situations it has created. We have seen workmates working against one another and life-long friends growing to disassociate with one another because of the situations which have occurred. I am aware of some instances where people have grown up together as children and gone to school together and then worked together, but have grown to dislike one another because of their political views and standing. I like to think that whatever sphere I might drift into, my political opinions will not affect my friendship with the people with whom I associate.

The Opposition is always stating that we make attacks on the trade union movement. They say that we are the "bogey" of the peace. We on this side could say that the Opposition is the "bogey" as it is trying to take away the rights of the individual unionist, the rank-and-file worker, who is looking after his interests and those of his family and the town in which he lives. This man is trying to hold onto his job to be able to afford to do the things he set out to achieve.

When we look at the situation at the moment I have to liken it to unions because they are in total command of the livelihood of the rank-and-file workers; the unions decide when workers will work or knock off work, what time they will have their tea break or lunch break, and whether they will strike. Admittedly they have fought for things such as workers' compensation, holiday pay, sick leave, and the like. They also determine, by strike action, what type of education that worker will give his children because of loss of income and whether he can afford to keep up the payments on his house, car, or furniture. At the same time, they also determine whether a worker will take a holiday. A worker cannot afford to go on holiday because of the money he has lost during strike action. I believe this is interfering with family life. The unions maintain they act in the interests of the everyday worker. However, they have not looked far enough ahead at the total concept of what they are doing to the community and to their rank-and-file workers by their militant actions against the community.

It is the selfish attitude of the union hierarchy which is causing the trouble. The hierarchy has the control of the workers. If I hire someone to do some legal work for me, I know I will pay well for it; therefore I expect satisfactory legal advice to cover that cost. When a union is paying for a top-ranking union official to go to court and fight for the workers' conditions it is taking the members' money again because it decides to go on strike when it cannot get its way in the Arbitration Court or the Industrial Commission because of their inability to present a reasonable case on behalf of the worker. It is a case of the workers' pocket backing the official's mouth. The union officials do not go on strike; it is the worker who goes on strike. It is the worker who loses out, and his family suffers as a result of that strike action. People have to go without power, without gas, or without the essential commodities. Over the last

few years the Government has been trying to eliminate those problems and to give people a better life.

I am sure the Hon. Des Dans would not want his wife and family to be caught without electricity, gas, or the essential commodities because of stupid militant strike action.

The Hon. D. K. Dans: Is this Bill going to eliminate that?

The Hon. T. KNIGHT: I think this Bill is a step in the right direction.

The Hon. D. K. Dans: I said, "Is this Bill going to eliminate that?"

The Hon. T. KNIGHT: Can the member tell me of any legislation introduced in this Parliament which will achieve what it set out to do, precisely word for word? I know the answer I will receive. Someone has to be seen to be doing something and this is what the Government is attempting in the interest of the people of Western Australia and other States will follow.

Mr McKenzie asked, "Why is the Government doing this?" The people who have spoken to him about the legislation are against it. At the time I interjected and said, "That is the reason we are bringing it in." People who have approached me and my colleagues on this side of the House have a different view. Perhaps it has something to do with the political spheres in which we move.

The people want to know when we are going to do something and when the union bosses will be in a position to look after the interests of the workers instead of trying to run the country. It is obvious that members opposite believe there are good unions and bad unions.

I fully support that proposition. I believe it is necessary. I believe in the concept of unionism. The person who was elected to run that particular union at the time unionism was conceived was a rank-and-file worker. We move in a different sphere. In most cases the people organising unions have been politically biased and that is not what unions were originally set up for.

The Hon. D. K. Dans: That has always been so.

The Hon. T. KNIGHT: I believe what the unions are doing today to the rank-and-file workers in Western Australia and in Australia is to the detriment of the workers and the standing of the trade unions. In this legislation we are giving people the right to volunteer to do something. Volunteers always make the better members and participants—not the people who are compelled to do something, but the people who volunteer. Look at our Anzacs: they volunteered to fight for the sort of thing which is being ripped away from the people of this country today by the militant action of unions in stopping the export of goods to other countries, and stopping the export of rams and live sheep, etc. What is happening is disrupting the economy and well-being of this country. In my opinion, what unions are doing is against the interests and the well-being of this country. What they are doing today would have been likened to treason in the 1940s. That is what the unions are doing to their fellow men and their fellow workers and to Australia. They are disrupting this country and destroying whatever national pride is left.

We will lose our export markets if we are not careful.

The Hon. D. K. Dans: Tell me an export market we have lost.

The Hon. T. KNIGHT: One we will lose is the iron ore market. Our customers are getting iron ore from Brazil because we did not shape up to our commitments.

The Hon. D. K. Dans: The iron ore trade is so lucrative that Hamersley is buying two new ships and manning them with Australians.

The Hon. T. KNIGHT: Our customers are looking towards Brazil because they cannot rely on supplies from Australia. We know it and the unions are aware of it, but the people on the other side of the House do not want to accept this fact. They represent people as I do. Are they aware of what they are doing to the ordinary, rank-and-file working man in this country? I am sure they do not see it; and if they do see it, I am very disappointed in their reaction.

Over the last year or so I have been picking out bits and pieces in the Press, and some items are in keeping with the reasons the Government has introduced the legislation we are debating tonight. Most of the statements are by union bosses.

It has been said that the unions need money to operate, and that if they lose members they will not be able to afford the staff, facilities, and backup the worker requires as far as industrial legislation is concerned.

An article by Ian Huntley in *The Bulletin* of the 11th December, 1976, states—

> Extraordinary membership and assets muscle is concentrated on Australia's top 10 unions. They have assets worth $14.2 million, a third of the total assets of the top 100, and have about a million members compared with Australia's total union membership of 2.8 million...

> It says 69.42 per cent of disputes are accounted for by only 13.6 per cent of the workforce.

We see here the militant unions. We cannot legislate to pick out a particular sector. We know there are responsible unions and we support them, and we are proposing legislation to bring unions to a level in the interests of the workers.

Here is another extract from the article by Ian Huntley—

> Pat Clancy, of the Building Workers' Industrial Union of Australia commenting on the future of the trade union movement:
>
> "There has to be worker control to the point where they take over the whole country and economy. It is not possible to have a limited control. Worker control is the planning and destiny of people, and it is the only effective way to cement the trade union movement.
>
> "Currently the worker movement is in a state of flux with a division in the left wing, a division in the communist movement, and conflict between trade unions.

I do not like statements such as that by unions representing workers who do not have that sort of ambition. It is totally irresponsible of trade unionists to say they must take over the whole economy of the country.

An article in *The Bulletin* of the 5th March, 1977, states—

> The AMWU has become what the Federated Ironworkers' Union was when its then national secretary, communist Ernie Thornton, declared, "Strikes is my business"—

What a fabulous statement from a man heading a multitude of workers! "Strikes is my business"—that is his attitude. The article continues—

> —and before the ALP's Laurie Short became the FIA's national secretary. It is the Communist Party's main industrial citadel, though lately there has been some infiltration from the Socialist Party of Australia, the pro-Moscow communist breakaway group headed by Pat Clancy, Federal secretary of the Building Workers' Industrial Union.

Mention is made of nominees of the Communist Party, then the article continues—

> At the moment, the more responsible of the communist element, in the union—and there are those among this element who believe that jobs for their members are as important as the ideology they support—recognise that strikes and impossible wage demands have gone a long way towards pricing their members out of work. Membership has fallen by at least 10 000, possibly by as much as 20 000. They have watched businesses close down and Australian manufacturers, to survive, being virtually forced to go to Singapore, Hong Kong or the Philippines, where powerful inducements, including a skilled and well educated work force, are held out.

It is shocking that this sort of thing is happening in our country. To continue—

> Amalgamation has not ended demarcation disputes. At the Pilbara there have been inter-demarcation disputes within unions. There are some extraordinary happenings in this area, some vouched for by persons whose accounts I am prepared to accept. An AMWU member was replacing a clapped out radiator. In doing so he pulled out a simple push-in, pull-out plug. An AMWU member from another section claimed that it was his task to pull out the plug. The machine was declared black.
>
> The West Australian Government has a case where 22 men were told to go on strike. A few of them with more boldness than is usual in such circumstances—there is always the threat that a union ticket may be withdrawn and a man deprived of his highly paid job—asked what the strike was all about, and why it was not settled. They were told that the union representative's job was not to settle the strike but to send the company broke.
>
> One mine had been having a comparatively long period of industrial peace. Then the AMWU held a seminar for shop stewards in Perth. When the shop stewards from this particular mine came back the pattern changed immediately. There was trouble over every minor thing.

This is what is coming from people within the trade union movement.

Here is a statement by Sir John Egerton—

> "There is a general community call for unions to be put in their place and there is no doubt that unions are exceeding their rightful role and responsible position in the community," Egerton says. "If trade unions do not want penal clauses or provocative and restrictive legislation they have an obligation to see that they operate in accordance with their proper place in the community. They should be obliged to obey the law as much as

any other organisation and as much as any other citizen. They cannot be exempted from criminal or civil law simply because the matter on which they offend can be termed an industrial dispute.

"Unfortunately a handful of political opportunists, anarchists, and idealists have been able to exert more than a legitimate influence on trade unions. They have very often used unions, their finances, their organisation, and their membership as pawns to further the narrow ambitions of minority elements.

"There's a whole host of occasions when trade unions completely ignore their rules because the union is under the control of a narrow militant minority," Egerton says. "No union should be involved in a dispute without the rank-and-file being given a proper opportunity to have a say.

That makes good sense to me. That is what this legislation aims to do. Sir John Egerton has been recognised for years as a top-ranking man in the Labor Party and the union movement. These are statements made by him. I intend to table all these papers.

The Hon. D. K. Dans: Tell us how this legislation will change it.

The Hon. T. KNIGHT: The article continues to quote Sir John Egerton as saying—

"I know it is hard to stand up and be counted. As soon as a trade union official tries to take a responsible stand there is this small narrow group of professional agitators who threaten and abuse and jeer, and you have to have a fair amount of courage to stand up to them," Egerton says . . .

"I said there are only about 20 individuals in the trade union movement who cause most of the trouble," says Egerton. "Why didn't I do something about them while I was at the top of the trade union movement? I did do something about them. I used to name them in the Queensland Trades and Labor Council. But I suppose I was too tolerant. I knew they could not affect me, though they eventually did, I suppose.

"It's interesting to see how the communists and their splinter groups work. When the tanks went into Czechoslovakia and Hungary, a number took the opportunity to get out of the Communist Party because they woke up that there was no future with that party. But these people never gave away their communist leanings and communist teachings.

"But in the trade union movement it was quite noticeable that while they had their own political differences they always ganged up against the ALP and what they liked to call the right wing.

This is the problem members on the other side should be thinking about. These are the problems they should be aware of. To continue—

It was very, very noticeable that the Communist Party has still a finger in and an influence over all of the various communist groupings. There's a very, very strong liaison between the Socialist Party of Australia, the various communist parties and the extreme left-wing element inside the Labor Party. They have their secret meetings. They have their secret plans. They decide which particular union or group of unions is going to be used to further their struggles.

"The government should be exposing some of these people. I see processions and marches and protests in which numerous people from other unions mingle with schoolteachers, or postal workers, or printers or whoever is directly involved. In these demonstrations there'll be a hard core of communists, anarchists, and others of that type who provide the agitators for those particular demonstrations," Egerton says.

The point is that we are all aware of unionism, and we are aware of and back its concept. Unionism has produced the type of thing we accept today; but it has now entered the political sphere. It is unfortunate that the Opposition has been inveigled into backing this sort of unionism. I believe members opposite think their power is coming from that web of unionism, but they would have more chance if they showed the people that they do not want standover tactics, and openly supported the workers. I suggest to members opposite that they do not use standover tactics in respect of fellow members or people in the community; nor do they use standover tactics in connection with the staff in this building.

The Hon. D. K. Dans: How much trouble do you have with the WWF in Albany?

The Hon. T. KNIGHT: I do not have any trouble with the WWF, and nor does the Town of Albany. Nor does Esperance experience trouble with the WWF. The reason is that the members of that organisation live next door to the people in those towns, and they want to support the towns. They mix socially with other people and drink with them, and they will not create industrial strife. It is in the bigger cities that strife occurs. What I am trying to say is that people admire and

respect the good things about unionism. It is the ratbags in unions who unfortunately are misleading members opposite, and who are misleading other people throughout the whole country.

The Hon. D. K. Dans: You are not saying that Charlie Fitzgibbons of the WWF is a ratbag, are you?

The Hon. T. KNIGHT: I have not named anyone. Four of my closest friends are waterside workers, and I would not say anything against them. I am proud of the fact that I went to school with them. They believe the union heirarchy is getting too big for its boots.

The Hon. D. K. Dans: Are you saying the Albany wharfies think Charlie Fitzgibbons is a ratbag?

The Hon. T. KNIGHT: No, I am saying some of the union heirarchy are ratbags. I am not naming anyone.

Several members interjected.

The DEPUTY PRESIDENT: Order! There is far too much audible conversation and too many interjections.

The Hon. T. KNIGHT: A headline in *The Bulletin* of the 25th September stated that the closed shop is enforced openly, ruthlessly and with complete disregard for the injustice it inflicts on individuals. That is the point I make about the closed-shop situation. The article went on to state—

> In a few years' time, as the closed shop completes its stranglehold on the nation, every British working man and woman will be forced to pay out to the union bureaucracies, just like income-tax.

A little further on it states—

> But woe betide any humble trade unionist who questions the doings of the mighty above him! The union bureaucrats have ample power to deal with the recalcitrant subjects, including the right to expel. It is this which makes the closed shop such a terrifying weapon in their hands, because today expulsion means automatic loss of job too; indeed, if Michael Foot and his friends get their way, men and women thus expelled, and so unemployable, will also lose all entitlement to social security, and so will be driven to beg in the streets.

That is in England—a country which has been there as long as any of us can remember, and a country that has stood proudly in the world.

The Hon. G. C. MacKinnon: How many times have you been back on earth, Mr Knight?

The Hon. T. KNIGHT: Britain has stood proud in the history of the world, but the situation there is deteriorating as a result of the bureaucracy of the trade unions. I am worried that the same situation might occur in Western Australia; I do not want to see that happen. The article goes on to say—

> Let, us for instance, have a national referendum on the subject of the closed shop. After all, the union bosses are not opposed to referenda; they strongly advocated one, and they got their way, on the subject of British membership of the EEC. Is not the closed shop, in terms of everyday life, just as important? Is there any reason why ordinary British men and women should not pronounce on the subject? Of course the union brothers will refuse. *They know they would lose.* And not only lose; they would lose heavily, overwhelmingly. Gone, once and for all, would be their arrogant claim to speak for the people. But, however hopeless, I think it is right that this challenge to a referendum should be put to them. At least it would help to expose them for what they are. Not a group of idealists. Not men who devote their lives to the welfare of all. Not even ideologues. But, rather, an ugly factional interest, like any other which has stained the pages of history, operating at the expense of the community, and motivated by an insatiable lust for personal power, and by enormous greed.

Let me return now to what Sir John Egerton had to say—

> "VOTING IN some union elections is shockingly low," says Egerton. "For example the national president of the Amalgamated Metal Workers' Union, Scott, was elected on just over 1 percent of the membership. It's fairly difficult to get members to vote. In the boilermakers, we got a 70 percent to 80 percent vote. But we were a smaller organisation. We were able to police voting more thoroughly.
>
> "But secret or compulsory union ballots won't alter the situation unless you have candidates, and a ballot in the AMWU today would be like a ballot in Spain or Russia. You'd only have one list of candidates because the communists have control of the metal trades, make no mistake about that. They control the journals and propaganda and the leaflets. And the delegates.
>
> "They smear their opponents. When they can, they stand over them. I don't suppose

> they have attempted to stand over me for a long number of years. But I have been threatened with violence in my lifetime unless I supported this or opposed that. But it is a case of whose side are you on? They get three or four vociferous people at a meeting, hopelessly and fanatically attached to a cause. It doesn't take long for them to upset the decent people. More and more of the decent people are leaving the trade union movement.

They are moving out under fear of the things they face in a closed shop situation. They are so frightened they are moving out. Let us give workers the right to join a union voluntarily if they want to without fear of intimidation; but let us also give them a right not to be a member of a union. The article continues—

> This leaves the way open for the fanatics to take over.
>
> "At the moment, if you had a compulsory court-controlled ballot in the AMWU, it would not alter the control. The officials, the hierarchy, are too strongly entrenched.

The Hon. F. E. McKenzie: How old is that?

The Hon. T. KNIGHT: I do not know what Mr McKenzie is talking about; the age of the article will not make a great deal of difference.

The Hon. F. E. McKenzie: Catch up with current times.

The Hon. T. KNIGHT: How old is unionism? Come off it, Mr McKenzie! This situation has existed for 100 years. Mr Dans said earlier that unionism in this State was 100 years old; but it is only in the last 20 years that the matter has got out of control. If I want to go back 20 years to make a point, I will do so.

The Hon. Neil McNeill: Is Mr McKenzie saying Sir John Egerton has changed over the last 20 years?

Several members interjected.

The DEPUTY PRESIDENT: Order!

The Hon. T. KNIGHT: On the 15th November an article appeared in *The Bulletin* in which Mr Santamaria was interviewed. Mr McKenzie used Mr Santamaria to prove one of his points, so I shall do likewise. He was asked the following question—

> You see the hold of the communists on the AMWU as a danger to the community, yet people like Carmichael and Halfpenny are elected on a tiny percentage of the total vote of the union. That's not much of a toehold. Why isn't it a pushover for the NCC to organise their defeat?

Part of his answer was as follows—

> Organising groups who will stick their necks out in meetings or stand up to the shop stewards on the shop floor puts a premium on moral courage. Imagine if one man beat Scott for the presidency of the AMWU—would you like to be that one man in an office of 200 hostile organisers? To win the AMWU you'd have to win hundreds of positions, you have to win the whole teams."

That is a rather frightening situation. It can be likened to the situation of the Parliament, if it could be said that although the Government changes from time to time, the bureaucracy still runs the State.

I looked at Federal *Hansard* of the 22nd October, 1974, and I found therein a list of all Communist Party members who hold top positions in some of the top unions in Australia. I am prepared to read out the names of those persons, but I believe in fairness to them I should not. However, I have three full foolscap pages of names, and I am prepared to table the list if members opposite so desire. It is terrifying to know and to be able to prove our unions are dominated by Communists.

The Hon. D. K. Dans: Which Communist Party? There are five or six of them.

The Hon. T. KNIGHT: I am saying the trade union movement is influenced by Communists, and that is the sort of thing we do not want. I do not believe the Opposition wants Communist influence over the trade union movement. Just consider what happens in Russia. Do unionists there have a chance to stand up for what they want and to strike? Imagine what would happen if that happened in Communist Russia; there would be a lot of extra labour in the salt mines within a few weeks. That is the sort of thing people advocate when they say we should follow what happens in Russia. Why do not such people go to Russia and leave us here to run our own country?

I would like to conclude on this note: Many years ago, after the Battle of Britain, Sir Winston Churchill made a statement which I believe will remain in the minds of people for a long time. He said, "Never before in the annals of human conflict have so many owed so much to so few." I would refer to the action of militant unions over the past few years and change that statement to reflect what those actions mean to workers in Australia. Then the statement should read, "Never before in Australia's history have so few cost so many so much."

I support the Bill.

THE HON. R. HETHERINGTON (East Metropolitan) [10.41 p.m.]: One gets a feeling of *déja vu* when one listens to the member opposite. It used to be said of the Bourbons that they forgot nothing and they learnt nothing; and certainly that seems to be the case with members opposite.

I wish to start by giving some members who have spoken some real anti-union propaganda from the World Freedom League, so that they can soup it up a little when next they speak. This is taken from the December, 1977 newsletter of the World Freedom League. It is a little out of date, but the sentiments seem to be filtering through—

> THE FIGHT FOR THE RIGHT TO WORK.
>
> The battle for democracy in Australia today begins at work.
>
> Unscrupulous militants have clamped a Soviet grip on the right to work.
>
> As in the Soviet, the so-called "closed shop" has closed the door on human rights.
>
> It is the worst blot in the history of work relations in Australia. There is no difference in principle between a closed shop and a Soviet concentration camp. Both are prisons which arbitrarily close around the individual, without freedom of choice.
>
> The closed shop is the worst possible violation of the Universal Declaration of Human Rights, which seeks to guarantee, among other things, a freedom of association. The closed shop is a system of forced association—with severe penalties, outside the law, for insisting on freedom. The closed shop enables small, powerful juntas, controlling large unions, to persecute freedom-loving members of those unions from job to job—casting them out, if they see fit, thereby depriving them of the right to work on their own terms.
>
> It is ridiculous to try to equate the closed shop with concern for workers' rights—when the basic right of freedom is totally denied.
>
> Democracy in Australia will remain tainted and discredited until the closed shop is blown open on every work front across the nation.
>
> The vileness of the closed shop has been all too visible in recent months. It has been used brutally to enforce worker compliance with a series of sabotage strikes.

There is the myth. It is the kind of stuff Santamaria used to use back in the 1940s and 1950s. It is the kind of anti-Communist story we have been hearing for a long time now.

Whenever somebody says something, people say, "Look, Jack Marks was there, Mr Halfpenny was there, and Laurie Carmichael was there." Of course they were. As always in a time of crisis the conservatives decide that what we want is a whiff of discipline and repression, like Napoleon's whiff of grapeshot, which they think will clear the militants from Australia just as Napoleon cleared the militants from the streets of Paris.

The Hon. Neil McNeill: Just to give the unions the opportunity to do this, though.

The Hon. R. HETHERINGTON: Of course, they are wrong.

When Ben Chifley was the Prime Minister, he was reviled and denigrated by the kinds of people who are bringing in this type of legislation. Then people started to say, "Let us return to the Labor Party of the great days of Curtin and Chifley." Ben Chifley has been described by many people since as a great man.

Ben Chifley once said, "Wherever you find a fire, you will find a Communist there pouring oil on it." That is a very true statement. Wherever there is a cause; wherever there is a fire, one will find Communists trying to make it greater, trying to exploit the situation. That does not mean there was not a fire in the first place. That does not mean there is not an injustice to exploit.

One of the strengths of Communism in this country at various times—and it has been strong in the past, although it is not as strong now as some people would have us believe—was the fact that whenever Communists joined any cause, the conservatives condemned that cause because the Communists were in it.

The Hon. G. C. MacKinnon: You seem to forget they took over most countries with about a 10 per cent active membership.

The Hon. R. HETHERINGTON: The Leader of the House should remember something that is worth recalling; that is, that Karl Marx was not allowed in to Germany. He went to London, where he worked in the British Museum. Perhaps it would have been a good idea if the British had shot him. When Lenin wanted to hold a meeting of his Bolshevik Party, he went to London. The place that has not yet become Communist, or has not yet been ruled by a right-wing dictatorship, although the signs are coming at present, is Britain. Sometimes repression is not the best way to do things.

I know what Communists have done. However, I become sick of hearing the Communist can

being kicked around this place. Mr Knight trots out all these things about unions and Communists, and then talks as if somehow, in some miraculous way, the Bill before us will work the miracle. I have not heard very much about the Bill from the other side. Members opposite have not told me how or why it will achieve its alleged purpose.

I am suggesting this Bill may do very little harm because, in fact, it could be a bit of grandstanding and will not be enforced. On the other hand, it could do a great deal of harm. It could, as *The Catholic Worker* once accused Mr Santamaria of having done, build up the very things it is trying to break down.

It was interesting to hear the member who has just resumed his seat saying the unions have not changed in 100 years. Of course they have changed. The member was inconsistent in his speech, because he said that they had changed. He said, on the one hand, back in the past it was the rank-and-file workers who ran the unions but now, of course, these "ratbags" have seized control. He claims the "ratbags" control the unions, and they dictate to the rank-and-file unionists. I suggest that Mr Knight attend a union meeting at some time. He would see how easy it is to dictate to a number of rank-and-file unionists.

When I first became a member of this House, I was interested to attend such a meeting. I have mentioned this before, but I will mention it again because it was a most interesting experience, particularly when a former colleague of mine from the university had said that the then President of the Transport Workers Union (Mr Rob Cowles) always held meetings on ovals because he was removed from his workers. I went to a meeting he held on an oval; and there he was, surrounded by them. He was just in front of the workers. They wanted to strike. By the time he had finished, they decided not to strike; but it took him a great deal of talking and persuasion. There are many union leaders who have done just that, very often.

There have been many occasions when unionists have wanted to strike and the union leaders have not. I have met union leaders, and they have come in all shapes and sizes—good, bad, and indifferent.

The Hon. N. F. Moore: Does it ever happen the other way round?

The Hon. R. HETHERINGTON: What is that?

The Hon. N. F. Moore: Where the union movement wants to go on strike and the members do not.

The Hon. R. HETHERINGTON: I would think that has happened, too. All sorts of things can happen.

The Hon. D. K. Dans: On many occasions.

The Hon. R. HETHERINGTON: There are things which have happened in unions at various times of which I have not approved. I remember the long, hard battle for the control of the unions during the 1940s and the 1950s. I remember the sad thing that it was when the very dedicated people of the industrial groups movement, masterminded by Bartholomew Santamaria, who were prepared quite often to confront the Communists and work in the unions, found that they were doing the very kind of thing that the people they were trying to supplant had done. The labour movement has always found itself between the upper and nether millstones of extremists.

One of the marks of the extremist is his search for eternal truths, his over-simplification of situations, and his one-way look at things. Earlier in the night I received a challenge from Mr Pike, who wanted me to debate with him the ILO conventions. I do not intend to do that, because I am not an expert on the ILO conventions. I will let Mr Cooley deal with him in due course.

Mr Pike gave us a lecture from the dictionary on rights and duties. The only thing he did not tell us was when he has ever had any real discussion about rights and duties, which he probably has. He was over-simplifying. A right is an entitlement, legal or moral; and it involves a duty imposed on other people to recognise that entitlement by positive or negative action. Therefore, every right has a corresponding duty, because "rights" and "duties" are words we use in talking about relationships between people.

This is what we are talking about in this Bill. We are talking about people, and we are talking about people who are involved in disputes. We are talking about the position where we have the word "freedom". I think this is the important word. The word "freedom" was bandied about.

We must allow people to have freedom to choose. Of course, this was the argument of the employers in the 19th century—that people must have freedom manfully and individually, to bargain. That was what they had learnt from Adam Smith, and so on—that one has to have freedom, individually, to bargain—one man against the other. Therefore, there was the freedom of the employer and the freedom of the workman with nothing but his labour to sell. The

freedoms of the people in the work place were non-existent. They were spied on, morally; they had long hours.

The whole shameful story is one that I will not go into. I have mentioned it before. However, freedom is not just a one-way thing. "Freedom" means freedom to make choices, and having choices to choose between. "Freedom" is being free of interference from outside. "Freedom" means also the ability to do things. Without the union movement, the people in the work force last century—the blue-collar workers; the unionists—had very few freedoms, as they do today.

Even in this century, in the mines at Moonta in South Australia in the 1920s—I think I may have mentioned this before—the mine manager used to drive a horse float down the centre of the street on Sundays, and his workers were "free" to jump on it and sing hymns with him as they went to church, or lose their jobs on Monday. That was the kind of freedom they had then. That is the kind of freedom they have lost since, through the work of the unions.

We are not talking about simple problems. We are talking about very complex problems where people are at risk—and I mean physically; being hurt, with dirty work as in the mines and in the metal workers' unions. In those places, as on the waterside where they lack economic stability, there was militancy because the men worked close together and they could organise. They could talk to each other; and they were afraid. Down in the mines they struck easily on safety measures, because if they did not they died. So they were militant.

I wish members on the other side of the House would realise that militancy quite often derives from the fact that one is in a shop where one is at risk—where one's life is at risk; one is at risk financially; or where one's life may be at risk. It is in those situations that there is militancy.

The Hon. D. J. Wordsworth: That is why all those ships are sitting out in the port, because they are at risk? They are fighting for each job, and which union will do the job.

The Hon. R. HETHERINGTON: I would not describe the present waterside workers' union as terribly militant. It is certainly not as militant as it used to be in the 1940s.

The Hon. D. J. Wordsworth: That is no excuse for it.

The Hon. R. HETHERINGTON: I am not making any excuses for it. I am trying to be simple, effective, and descriptive. I am trying to point out to the Minister, and to anybody else who might be prepared to listen, that there is usually a reason for militancy.

The Hon. G. E. Masters: He has only read it out of a book. He has never been in the work force.

The Hon. D. K. Dans: Yes he has.

The Hon. G. E. Masters: Never left the classroom.

The Hon. D. K. Dans: He has been in the Army, too.

The Hon. R. HETHERINGTON: If Mr Masters wants to divert me, I will say that is not true. I left the classroom when I was 16. I went to work in an office until I joined the Army, when I was 19; and I was in the Army for four years and eight months. I then went to the university under a "handout" from the Chifley Government and obtained a degree.

The Hon. O. N. B. Oliver: The taxpayers of Australia—

The Hon. R. HETHERINGTON: Yes, the taxpayers of Australia. I am now one of them. Because of my education, I am "able" to contribute more in taxes than I otherwise might have. I went to the university on taxes paid by the taxpayers of Australia. The Leader of the House once said in an interjection that I was born with a silver spoon in my mouth. Since then I have worked as a clerk; I have worked in the Public Service; I have worked as a school teacher; and I have worked as a university lecturer. None of those, of course, involved my being in a blue-collar union. I have had friends who were blue-collar unionists, and I have talked to them. I have studied the question, and I have read about it; so that is it. Mr Masters can make of it as he likes. No doubt, in due course, he will hurl the usual things across the floor, as if reading about the subject is somehow a nasty thing.

The Hon. G. E. Masters: I did not say it was.

The Hon. R. HETHERINGTON: As I once said to a gentleman from South Africa when we were debating on the air about freedom in South Africa, the people who are closest are not always the people who best see the game. In fact, if one looks at the people who were close to the game in the 19th century, one finds they did not always see what was happening. Some of them did. There were some very great men who could analyse and see what was happening. One of them was Edward Gibbon Wakefield—a good Liberal—a good, middle-class Liberal. I suggest that the honourable member should read his works sometime. He wrote about some of the things that happened in England.

I am sorry, Mr President, if I have strayed a little from the Bill. I was trying to stick to the Bill, because I think it is an important measure.

I was suggesting to the House that when we look at freedom, we find it is a very complex thing. If people have the freedom to move into or out of unions, and if they use that freedom, some of the unions which are at present non-militant and which have preference clauses will change as their members move out.

An interesting point to consider here is that people do not always realise how they obtained their conditions. I was once a member of a management committee of an association. It was originally registered as a union of workers, but this Government has fixed that. It was a university staff association and members of the academic staff used to say to me—not all members of academic staffs understand everthing—"Why should I join a union? What has it ever done for me?" I used to detail the hours of work put in by the union, the submissions which had been made, and the salary increases it had obtained. As a result, some people would join the union.

We have now legalised the industrial and dispute process of the arbitration system. As a result we have made it expensive. I am not saying whether that is good or bad; I am just saying it has happened. Unions have been registered, they have to have advocates to appear before the commission, they need lawyers, and they need money. This is one of the criticisms which has been levelled at the Australian arbitration system by its critics. The criticism has some basis. I do not want to get rid of the arbitration system, but I am aware it has its drawbacks. Matters are legalised and unions are so busy raising money and appearing before the courts that they do not have time to think beyond that. Therefore, it has been necessary for unions to organise.

If one wants to maintain one's freedoms in the sense that one wants the freedom of better conditions, better hours of work and better salaries and conditions, one needs to organise. It is necessary to have solidarity and to keep together. If solidarity is lost, it is likely that freedoms will be lost also. This may happen with the quiet unions which will suffer most under this legislation. The unions to which I am referring rely on preference clauses. They may lose members, because they say "We have got the conditions, things never go backwards." And they could find they are terribly wrong.

These unions could find themselves in difficulties if they lose their power before the courts, because the courts have been great protectors of the rights of the unions. If that happens and the union is broken up it will have to reorganise and it is likely it will become more militant and desperate. In the long run, by destroying preference clauses, this Bill may well have created the very conditions it is claimed it is trying to remove.

I should like now to refer to the closed-shop situation. If I were an active unionist, I would want a closed shop if I could achieve one. It means a union has power and weight in negotiation. It means a union can back up its claims by withdrawing labour. I am not claiming that problems have not arisen in relation to modern-day unions. We all know a small group of unionists can have great effects now which could not have been achieved previously. A small union in a power plant could go on strike and as a result, the distribution of power to a whole city would cease.

Bearing this in mind, it is necessary that conciliation, mediation, and, in the last resort, arbitration without strikes—if we can get it—should be the aim. However, we will not get that by outlawing strikes and closed shops.

The Hon. G. E. Masters: We have not outlawed strikes.

The Hon. D. W. Cooley: You have put a $2 000 penalty on them.

The Hon. G. E. Masters: They can have a secret ballot and away they go; that is democracy.

The Hon. R. HETHERINGTON: I will refer to democracy in a moment. If Mr Masters cares to listen, I should like to point out that, although a strike becomes legal after a secret ballot has decided such action should be taken, the commission may immediately make it illegal by declaring that the members should return to work. Therefore, a strike does not automatically become legal because a secret ballot has been conducted. The provisions mean, under some conditions, strikes may be legal.

My friend opposite has referred to secret ballots and I should like to point out we are not too sure about this provision. I would be very dubious about inserting such a provision in a Bill, because it makes the assumption which has been made so many times by members opposite that in fact unionists are dictated to by their leaders and, in many cases, this assumption is nonsense.

The Hon. G. E. Masters: In some cases it is true.

The Hon. R. HETHERINGTON: If secret ballots are conducted, members opposite may find

we will have more strikes instead of fewer. Once a secret ballot has been conducted, legality surrounds a strike and it will have the backing of that ballot. I wonder whether a secret ballot has to be conducted before the men return to work. That matter is not covered in the legislation. Perhaps it is just as well, because if it were necessary to have a secret ballot before the men could return to work, the position could be difficult.

Instead of having a stoppage which would last one, two, or three days—perhaps even for a few hours only—by the time a secret ballot was organised the strike could last much longer. The secret ballot provision is a two-edged sword and no member opposite has shown me it will have the effect the Government claims it will have.

Members opposite stand up and talk about unions being run by demagogues and they make references to communism. They imply this Bill will solve the situation. Throughout this debate Mr Dans has been interjecting in a properly disorderly way, saying, "Tell us how this Bill will have that effect." Nobody has told us that yet. I am not very impressed by the arguments put forward by members opposite and I am certainly perturbed by the oversimplistic attitude of the people who drafted this Bill. Furthermore, I am perturbed by some of the imprecise language in the Bill. I said earlier by way of interjection that I regarded this Bill as propaganda, because it contains imprecise, propaganda statements.

Throughout the speeches made by members opposite we have heard about democracy. Recently Mr Knight referred to national socialism. When we say we are a socialist party, members opposite reply, "Yes; there was a nationalist socialist party, wasn't there?" Of course there was a nationalist socialist party in Germany which claimed to be a revolutionary party. It used the rhetoric of freedom to take away freedom and it put the nation, as represented by the general will which was interpreted by the Fuehrer, above everybody else and said that the freedom of people relied on submission to the Fuehrer's will. That is an elitist philosophy and very much akin to what has happened in the Soviet Union which is ruled by the elite and which claims to know the dialectic principle. Whenever I hear people claim simplistic truth, I shudder. I have been doing a great deal of shuddering when listening to the simplistic announcements from members opposite.

The Hon. O. N. B. Oliver: I do not know what he is talking about.

The Hon. R. HETHERINGTON: I would not expect the member to know.

The Hon. O. N. B. Oliver: I should hope not.

The Hon. D. W. Cooley: What you are saying is right over his head.

The Hon. R. HETHERINGTON: Sometimes one has to talk as if one is speaking to grown up people. I am sure the Leader of the House knows what I am talking about although I am quite sure he will not answer me. However, I hope he does not dismiss me by making personal remarks.

The Hon. G. E. Masters: It is not too easy for people to understand.

The Hon. R. HETHERINGTON: I thought better of the member. Just to illustrate what I am talking about in relation to propaganda and sloppiness as far as the provisions involving the commission are concerned, I should like to point out that somewhere in the ILO conventions it is said unions should be allowed to draw up their own rules without outside interference. I will not go into that in detail, because I am not an expert on the ILO conventions.

The president of the commission, who is a judge, can disallow any rule which, in the opinion of the president, is tyrannical or oppressive. I wonder what "tyrannical" means. I know what it means in general terms. Idi Amin was tyrannical; Pol Pot was tyrannical; the Shah of Persia was tyrannical; and the Ayatollah Khomeini seems to be tyrannical. We have had our tyrants throughout the ages. Is this the sort of tyranny which is being referred to in the Bill? Usually when I use the word "tyranny" I am referring to something stronger which happens in a union. The words "tyrannical or oppressive" leave a great deal to the imagination of the president of the commission. He can read whatever he wants into the rules. Fortunately one assumes the president of the commission will be a level-headed, intelligent man of law.

The Hon. N. E. Baxter: What about a union secretary who refused to let a young chap from the Eastern States take a job when he went for a ticket. Wouldn't you say he was tyrannical? I would say he was a complete tyrant.

The Hon. R. HETHERINGTON: It is wonderful how people use the words "a complete tyrant". Members opposite use totalitarian words. They should watch themselves or they will finish up putting on their little jackboots.

The Hon. D. K. Dans: Their little jackboots?

The Hon. R. HETHERINGTON: Perhaps they will be putting on their big jackboots. However, they are really not like that at heart.

They do not really know the meaning of the words they use when they speak in this House.

The Hon. G. C. MacKinnon: You are being sillier than usual.

The Hon. R. HETHERINGTON: The Bill continues on page 69 to say, "the president may disallow any rule which is inconsistent with the democratic control of the union by its members." I wonder what that means. Mr Neil McNeill has told us this is a democratic House because there is an adult franchise for it. Is this democratic control or is there more to it than that?

At various times the Leader of the House has told me he does not know what democracy means: he does know what it means; we do have it; and we may have it. However, he has said we have a representative system here and this Bill is democratic. Such comments appear throughout the second reading speech in an attempt to defend democracy. We all defend democracy when we are trying to take away freedom.

The Hon. G. C. MacKinnon: You will be disgusted with yourself when you read your speech tomorrow. You are making a total fool of yourself.

The Hon. R. HETHERINGTON: I am always happy when the Leader of the House makes those sorts of interjections because it means perhaps I am doing quite well.

The Hon. G. C. MacKinnon: Let me rephrase it and say, "You should be disgusted with yourself."

The Hon. R. HETHERINGTON: That is just a matter of opinion and his opinion is one for which I hold little regard on these matters. However, I believe it is the duty of the Attorney General to stand on his feet in the debate because he is the person who will receive a great deal of power under this legislation and whose job it is to deal with matters contained in the Bill. Perhaps that will happen in the Committee stage.

The Hon. G. C. MacKinnon: For your information, and obviously you have not been following this debate, the Attorney General has been on his feet in this debate, it was when he introduced the Bill on my behalf.

The Hon. D. K. Dans: We are aware of that.

The Hon. G. C. MacKinnon: He is not aware of it.

The Hon. D. K. Dans: You listen.

The Hon. G. C. MacKinnon: I have listened.

The Hon. R. HETHERINGTON: If I can get through, I would point out to the Leader of the House I was not present in the House last Thursday.

The Hon. G. C. MacKinnon: You should have been. You are able to read the debate. You were aware, the same as everyone else was, of the introduction of the Bill. For obvious reasons, the Attorney General introduced it because I was not here either.

The PRESIDENT: Order! Would the honourable member direct his comments to the Chair?

The Hon. R. HETHERINGTON: I am doing my best, Mr President.

The PRESIDENT: Well, ignore the interjections.

The Hon. R. HETHERINGTON: I am against great odds. When I say the Attorney General should intervene, I do not mean he should intervene in the debate by reading the speech which the Leader of the House could not read because he, like me, was away on parliamentary business. For that reason neither the Leader of the House nor I was here. However, the Attorney General should get up and speak on his own behalf.

The Hon. G. C. MacKinnon: No he should not. He is not in charge of this Bill.

The Hon. D. K. Dans: He was up tonight, and he was not in charge of the Bill.

The PRESIDENT: Order!

The Hon. R. HETHERINGTON: I was trying to develop an argument, but we have got the information that the Attorney General is not in charge of this Bill.

I suggest the Attorney General should get up on his own behalf because he will have certain powers under the provisions of this Bill and he might be able to explain how he will interpret them. I am sure the Leader of the House cannot. Even if he could, he should not because the power will not be vested in him.

At page 46 of the Bill—if I can get back to the Bill—

The Hon. G. C. MacKinnon: That will be a delightful change—to get back to the Bill. I am all agog waiting to hear you speak to it.

The Hon. D. K. Dans: That is one good thing about Mr Knight; he never picked it up.

The Hon. G. C. MacKinnon: At least he read it.

The Hon. R. HETHERINGTON: Clause 45(b)(iii) appears on page 46 of the Bill and it states that where industrial action has occurred or is, in the opinion of the commission, likely to occur in relation to a matter, the commission may—

(iii) for the purpose of paragraph (g) of the interpretation "industrial matter" in secton 7, advise the Attorney General in writing of the matter in relation to which the industrial action has occurred or is, in the opinion of the Commission, likely to occur.

Right, so we have to go back to see the interpretation of "industrial matter". This is a little obstacle race, otherwise we might read it too easily. The interpretations appear in clause 7 of the Bill, and "industrial matter", in paragraph (g) reads—

(g) any matter, whether falling within the preceding part of this interpretation or not, which the Commission in Court Session on a reference made by the Attorney General on behalf of the State declares to be—

(i) consistent with the objects prescribed in section 6;

(ii) necessary or desirable to be dealt with under this Act in the public interest; . . .

If the court asks the Attorney General whether something is an industrial matter, he has three choices. He can say, "No", or he can say that for various reasons it is in the public interest. I wonder what grounds he would use. That is something I would like him to tell me. I know that when the present Attorney General does not hold the office, somebody else will and he might have a different interpretation. That worries me, because I have greater faith in the present Attorney General than, perhaps, I might have in some other Attorney General. I know the Attorney General is a man of seriousness and honour, but not necessarily a person who does not make mistakes.

So, I go back to clause 6 which appears on page 4 of the Bill. This is a joy. Mr Claughton has already referred to this. Clause 6 reads—

The principal objects of this Act are—

(a) to promote goodwill and harmony in the community by—

(i) encouraging, and providing means for, the prevention and resolution of conflict in industry by reason rather than force; and—

None of us disagrees with that but, as I said earlier by way of interjection, when one looks at the rest of the Bill this seems like a pious platitude. The clause continues—

(ii) encouraging honest and fair dealing . . .

And so it goes on. The verbiage pleases me. Let the Minister know that I am pleased. Clause 6(c) reads—

(c) to provide means whereby changing social attitudes may be reflected in conditions of employment peacefully, progressively, and without disrupting industry or the community;

Of course, that is the aim of all of us. Certainly it is the aim of those on this side of the House, as far as possible. Certainly, we want social attitudes to change, and we want them to improve. Paragraphs (e), (f), and (g) of the clause read—

(e) to facilitate the democratic control of unions;

(f) to promote and encourage the use of conciliation in preference to all other means of resolving industrial issues; and

(g) to safeguard, in matters relating to employment, the liberties and rights of the individual.

Those are not very precise words, but they are what the Attorney General will be asked to interpret. They can mean almost anything, depending upon the interpretation by the Attorney General. Certainly I am not happy with them. I am quite happy with them as a rhetorical banner with which an election is fought because they do not promise anything specific. However, I do not like to see them written into an Act. It is propaganda, and it is not very specific.

This Bill is a piece of propaganda. Of course, there are many good provisions in the Bill. The Government received some good advice from an experienced senior commissioner, and then the Government gilded that advice to make it look more like the Liberal Party platform. That worries me; it does look more like a party political platform in places rather than a serious Bill.

The Hon. G. E. Masters: It is worrying you?

The Hon. R. HETHERINGTON: Of course it is, and I am trying to tell members opposite why. It might have the very opposite effect.

The Hon. G. E. Masters: What opposite effect?

The Hon. R. HETHERINGTON: I am quite sure the member opposite can competently infer the reason it will not have the effect which the Government believes it will have. So that Mr Masters does not misquote me, I will repeat that it is quite possible this Bill may not have any ill effects because it may be interpreted gently, carefully, and wisely by the commissioner. However, it may not be. There are provisions in this Bill which may be very deleterious to the community of Western Australia. They may well

split the work force and have the effect of destroying the unions. The Government will not then have one solid union with which to negotiate.

The Government will disorganise the general standard of living of the work force of this country, which will decline even further. That standard has declined over the last several years with partial indexation and plateau indexation. Real values have declined with inflation. That is a problem we have in this country which is very real. Similar problems have been referred to by other members.

I mention these matters because they are related indirectly to the Bill. We have the problem of the destruction of our manufacturing industry because we cannot compete with people from overseas. We have the problem that we have to restructure our industry. The common market has caused us to lose markets and we have to look elsewhere.

Let me pay tribute to Mr Moore who drew attention to this fact. It is one of the good things he said during his Budget speech. We have to look for new markets. Mr Moore was looking to Asia, but I look to Arabia and South America. Our capitalised economy is facing inflation, unemployment, and technological change—which is so rapid it is causing a restructuring of industry—and we are facing economic problems.

These problems are not caused by the unions; they are not the fault of the unions. However, they have caused conditions where some unions have overreacted badly because they have been afraid, and some members of some unions have tried to exploit the situation for their own political ends. All these things have happened.

Overall, when members opposite paint their picture of the union movement in Western Australia I do not recognise it. They are not talking about anybody I know. After all, during the past 12 years as a member of the State Executive of the ALP—since 1967—I have met a great number of union leaders, many of whom I hold in the highest respect. These people are not happy with this legislation, and neither are the employers who want a solid and stable union movement with which they can negotiate.

The Attorney General will have two other small tasks—or perhaps there will be three. I will mention one or two of them, anyway. Clause 73 again refers to the powers of the Attorney General, and reads—

> 73. (1) Subject to this section, the Commission may of its own motion or at the request of the Attorney General or any employer or union at any time direct the Registrar in writing to issue to a union a summons to appear before the Full Bench on a date specified in the summons, and show cause why the registration of the union under this Act should not be cancelled or, as the case may be, suspended.

That is good; bingo! We can get rid of them faster—as I believe a Minister said in another place. Subclause (3) reads—

> (3) In respect of a request made under subsection (1)—
>
> (a) where the request is made by the Attorney General and is accompanied by a declaration by him that the safety, health, or welfare of the community or a part of it is at risk, the Commission shall give a direction under that subsection; and . . .

When the Attorney General read his speech—which I know he did not write and, therefore, I do not hold it against him—he said—

> For instance, at present if a strike occurs that affects the health and well-being of the community . . .

The clause refers to the safety, health, or welfare of the community being at risk. The Attorney General will have to decide, so he will hold the fate of the unions in the hollow of his hand because he will decide subjectively. There is too much subjectivity in this Bill.

The words are repeated in clause 74. I do not envy the Attorney General his tasks under this Bill. Clause 76 refers to secret ballots, and subclause (5) reads as follows—

> The expenses of a ballot conducted under this Division, but not including the salary of an officer of the State performing a duty in relation to the ballot, shall be borne by the union concerned, unless in exercise of the authority conferred upon him by subsection (6) the Attorney General authorises payment of the expenses by the State.

So he can cripple or not cripple a union as he sees fit. This decision is to be made not by a judicial officer, but by a politician. I do not think it is a decision that should be made by the Attorney General, and it is not a decision that should be expected to be made by the Attorney General. I do not think I would wish such a decision upon him. Subclause (6) reads as follows—

> Where the Attorney General considers the circumstances justify him in doing so, he may authorise payment of all or part of those expenses by the State.

That is an authorisation by the Attorney General—an authorisation by one man with no appeal from it—and it is sufficient for the appropriation of the payment from the Public Account.

The commission can decide what sort of ballot will be conducted. No democratic ballot system is laid down except that it is to be a postal ballot or some other ballot as the commission, in its wisdom, so decides. This worries me, and I believe I am right to be worried.

I do not want to cover the rest of the provisions. As you know, Mr President, Mr Cooley covered most of the obnoxious clauses in the Bill. I did want to mention the few things I have found from my reading of the Bill. Whatever the Leader of the House may say, I have read the Bill. I did not get someone else to go through it and make notations in my handwriting or put little pink marks across it. No doubt someone will see an evil significance in the fact that I used a pink marking pen rather than a yellow or green one.

For reasons I have stated I am opposed to the Bill. It could have been a much better Bill. I am not opposed to a great number of the clauses which were no doubt put there on the recommendation of Commissioner Kelly. As Mr Dans has said, a great part of the Bill is quite acceptable. It is ordinary, normal, and decent, but some clauses in it I find undesirable, obnoxious, dangerous, and in the long run likely not to be in the public interest, but against the public interest. Therefore, as I have said, I oppose the Bill.

THE HON. N. E. BAXTER (Central) [11.34 p.m.]: I rise to make some remarks to this Bill because of what has occurred over the last few years in the industrial field, and because of the attitude of the people of Western Australia to those occurrences.

During the debate reference was made to the ILO conventions, and the statement was made that the Bill will take away the right to organise and to collective bargaining. That was the gist of one of the conventions referred to. I think it was Mr Cooley who said it.

The Hon. D. W. Cooley: I do not think I said it took away the right to collective bargaining. I thought I said it interfered with the right.

The Hon. N. E. BAXTER: I cannot see that in the Bill. I notice that Mr Hetherington, in his professorial way, skirted over two very important passages on page 5. These passages are more philosophical than anything else, but Mr Hetherington referred to them as propaganda. The objects of the Bill are set out under clause 6, and paragraph (b) reads as follows—

> to encourage employers and employees individually and collectively to have regard for the interests of the community and to provide means whereby the public interest may be safeguarded;

Then when we come to paragraph (d) we find that the ILO convention has been complied with. The Bill does not attempt to take away from the unions any freedom to organise and bargain collectively. Paragraph (d) reads as follows—

> to recognize unions as lawful and responsible bodies for the protection, representation, and advancement of the interests of their members;

That does not sound as though the Bill intends to take away or interfere with the freedom of unions to organise and undertake collective bargaining.

What does this Bill do? It will give a person the freedom to join or not to join a union. It will give him the freedom to opt out of joining a union if he so wishes. It gives unions the freedom to be registered.

Very often the preference to unionists provision has created closed shops, and I illustrated one case of this by way of interjection. This Bill will protect a person who gets a job and who prefers not to join a union. The Bill makes it an offence for an employer to deduct union fees from an employee's wages. These are the things the Opposition is objecting to.

The Hon. D. W. Cooley: It does not stop that.

The Hon. N. E. BAXTER: The honourable member should read the Bill again. What is the reason for the Opposition's objection to the Bill? Can it be that it sees the funds provided to the Labor Party shrinking as union membership falls off? Is that the reason behind the Opposition's philosophy. It can see support for the Labor Party dropping off as union membership decreases. The ALP relies very strongly on the strength of the unions for its finance.

The Hon. D. K. Dans: That may have been so at one stage; I wish it still were today.

The Hon. N. E. BAXTER: The ALP calls upon the unions for contributions.

The Hon. D. K. Dans: They are not very generous.

The Hon. N. E. BAXTER: That has happened in the last few years, and the Leader of the Opposition knows it.

During his speech Mr Cooley asked what unions have stepped out of line recently. Quite a number have done so, and I refer to the actions of the Waterside Workers Federation in regard to the live sheep loading.

The Hon. D. W. Cooley: The Waterside Workers Federation will not be affected by this Bill.

The Hon. N. E. BAXTER: Yes; it will be affected. Another instance is the action taken by the members of the Building Trades Association of Unions at the Wanneroo Hospital site. Several times the State Energy Commission workers have gone out on strike and who has been upset by its actions? The housewives are very bitter when they find they cannot cook and they cannot heat water to do their chores. This is one section of the public that is very bitter about what is happening. Then there is the Transport Workers' Union and the trouble recently in the Pilbara when the Federated Engine Drivers and Firemen's Union and the Amalgamated Metal Workers and Shipwrights Union were out on strike for 11 weeks or more. Who suffered then? The State suffered and the people suffered.

The Hon. D. K. Dans: So did the strikers suffer.

The Hon. N. E. BAXTER: Yes, and so did the strikers because they were coerced into staying out on strike for a long period.

Because of what has happened to the farming community as a result of some of these strikes I would be lacking in my duty if I did not support this Bill. Members will recall the strike at CBH over the loading of wheat. I have referred already to the live sheep dispute which affected the livelihood and the way of life of the farmers. These people came to us as their representatives and they said, "When will the Government do something?" Now they are saying, "We congratulate the Government on introducing legislation of this nature."

The Hon. Lyla Elliott: Don't you think it is important that people involved in the meat industry should be able to work?

The Hon. N. E. BAXTER: At no time have the people in the meat industry been denied the right to work. The honourable member knows very well what the slaughtermen have done over the last few years. They have worked to a quota, and to a very small quota. Each individual slaughterman could have killed many more head of stock in a day.

The Hon. G. C. MacKinnon: The slowest slaughterman can be finished by two o'clock.

The Hon. D. J. Wordsworth: Many could do two quotas by two o'clock.

The Hon. D. W. Cooley: How many times has livestock been withheld because farmers could not get the price?

The Hon. N. E. BAXTER: Sometimes a few head have been held back. Look what happened with the slaughtermen who came here from New Zealand a few years ago. New Zealand was glad to get rid of those men, and they stirred up strife here. Look at what happened at Midland and Robb Jetty. Yet members say there has been no industrial strife.

The Hon. D. K. Dans: Who said that?

The Hon. N. E. BAXTER: The Leader of the Opposition indicated that in his speech.

The Hon. D. K. Dans: You read my speech. I told you how much industrial trouble there had been over the years.

The Hon. N. E. BAXTER: Both Mr Cooley and Mr Dans introduced the issue of Tresillian. What that had to do with the Bill I do not know.

The Hon. D. K. Dans: Read my speech and you will see.

The Hon. N. E. BAXTER: I believe I should make a few remarks in view of what was said.

The Hon. D. K. Dans: Were you the Minister then?

The Hon. N. E. BAXTER: Mr Cooley referred to the terrible things done to the patients. Nothing terrible ever happened to the patients. Mr Dans said that this issue was raised prior to the election for political reasons.

The Hon. D. K. Dans: I did not say that at all; read what I said.

The Hon. N. E. BAXTER: I heard the Leader of the Opposition include that in the things he said happened prior to an election. He should look at his own speech. Who was behind the trouble there besides the Friends of Tresillian? One person was Dr Harry Cohen, who stood as a Labor candidate against the Premier at the last election. He was known to have made a donation to a Federal Labor candidate before the last election.

Another person behind that affair was Mrs Pat Giles, an organiser of the Hospitals Employees' Industrial Union, and a lady who is aspiring to be on the Labor Party's Senate ticket. These members tried to say that was a political gimmick.

The Hon. D. K. Dans: You know why you tried to close down Tresillian.

The Hon. N. E. BAXTER: The whole party was behind it.

The Hon. D. K. Dans: You caved in to pressure from a few people.

The Hon. R. F. Claughton: You say Dr Cohen and Pat Giles were the ones trying to close it down?

The Hon. N. E. BAXTER: Pat Giles.

The Hon. R. F. Claughton: Are you saying they were the ones trying to close Tresillian down?

The Hon. N. E. BAXTER: Mr Claughton does not listen.

The Hon. R. F. Claughton: It was your decision to close Tresillian.

The Hon. N. E. BAXTER: If Mr Claughton would open his ears he would know I said Pat Giles was one of the people who stirred up trouble. It got so bad I gave Dr Ellis an instruction to tell Matron Brookes not to allow Pat Giles into Tresillian. Things became a little quieter after that. Pat Giles kept going to Tresillian and intimidating the staff. Yet members opposite try to deny the Labor Party was involved.

After Surrey House was built and the elections of 1977 were held, there was not a whimper from anybody on this subject. Yet members opposite have the audacity to raise this matter now, just before another election.

The Hon. D. K. Dans: You were saying a great deal about others not talking to the Bill. When are you going to start talking to the Bill?

The Hon. N. E. BAXTER: I have dealt with various clauses of the Bill to which members opposite have objected.

As a final comment on the Tresillian issue, I challenged the *Sunday Independent* through Graham Pratt and a journalist from *The West Australian* to do an article on current-day accommodation for the profoundly retarded. Of course, they are not going to touch it because they know these people are housed in first-class accommodation which makes Tresillian look like a shabby old building.

I believe the public of Western Australia have asked for action to be taken by legislation of this sort. Clause 53 of the Bill relates to the qualifications for and basis of registration of unions of employees. It has been suggested that unions will be deregistered under this legislation. Of course, that is not the case.

Indeed, another clause may well work against certain sections of industry. I refer to the clause providing for the amalgamation of unions. I see this clause applying to the situation on the Kwinana waterfront. However, we are prepared to go along with this provision in order to give unions a fair go.

The Hon. D. K. Dans: How could it affect the dispute at Kwinana?

The Hon. N. E. BAXTER: I did not say it will affect the dispute, but it could have some application to that situation.

The Hon. D. K. Dans: The waterside workers have an award.

The Hon. N. E. BAXTER: There was an attempt by the Waterside Workers Federation to do a body snatch from another union. This clause will provide some control of such a situation.

The Hon. D. K. Dans: Where would they amalgamate—with the Federal or the State award?

The Hon. N. E. BAXTER: We know the Waterside Workers Federation is interested not in amalgamation, but in takeovers.

The Hon. D. K. Dans: That is very good business.

The Hon. N. E. BAXTER: Yes, if they can get away with it.

The Hon. D. K. Dans: Something like Rupert Murdoch, CSR, and Thiess Brothers.

The Hon. N. E. BAXTER: I have dealt with the principal issues to which the Opposition has objected. At no time did members opposite justify their objections.

I support the Bill.

THE HON. I. G. PRATT (Lower West) [11.50 p.m.]: I take this opportunity to associate myself with this Bill and to clearly state my support for it.

One of the few things of any substance Mr Cooley said was that back-bench members of the Government provided some input to this legislation. That was quite a reasonable situation. However, Mr Cooley then got off the rails and went on to discuss such things as the reason for this legislation coming forward. He claimed it was framed after the Bunbury conference and said I was down there. That shows how little he actually knows of what he stands and talks about, because I was not even at that conference.

I wish to comment on attitudes to the Bill; the details of the clauses will be discussed in the Committee stage. It has been a rewarding experience for back-bench members over the months to convey to the Government the attitudes which have been expressed to them by the people they represent.

I am particularly happy that two specific things have been included in this Bill. One is the provision for secret ballots, and the other is the provision for deletion of the preference clause,

because these are topics which have been discussed with me on numerous occasions by my electors. The people who have raised the subject with me and have requested the Government to take action in these areas are the ordinary sort of honest, genuine people one meets in everyday life. They are the sort of persons one says "Hello" to and has a discussion with in the supermarket, the hotel, at sporting functions, or in the streets of the community.

A very strong feeling has been expressed that something should be done in these areas. Mr Cooley disputed the fact that people had made representations of this sort; he said he had not seen concrete evidence of it. The people who wish to express this attitude generally do not bother to sit down and write a statutory declaration to that effect. They speak about the matter, because they feel and care about it.

I notice a smile on Mr Master's face. He may remember an experience I had on Melbourne Cup day this year when I represented Mr Masters at the Canning division of the Liberal Party. I walked into the office and was immediately asked by the organiser to take a telephone call, because someone had called in wanting to speak to a Liberal member of Parliament. By a wonderful coincidence, it so happened the person was from Mr Cooley's electorate. He had looked up the Liberal Party in the telephone book and the Canning division was at the top of the list. Had I not been representing Mr Masters, it would have been Mr Masters who would have taken the call.

This person wanted to speak to a Liberal member of Parliament. He wanted to express the view that the Government should be doing something about unions. I asked him whether he had contacted his local member of Parliament. I emphasise this was before he told me where he came from, although he commenced his remarks by saying he did not live in my electorate. He replied, "What is the use of speaking to them about doing something about unions? They are members of the Australian Labor Party. What could I expect them to do about it?"

The Hon. Lyla Elliott: That is fair enough.

The Hon. I. G. PRATT: These are the people from whom Mr Cooley says he has not heard. Of course he has not heard from them; they would not speak to him because they know they would not be able to get a fair hearing. However, I have heard from these people; I have heard from many people in my electorate.

I am quite happy to be identified on this issue, and to go to the polls next year identified as standing behind the Government on this issue, and on what I believe. I am happy and confident because I know I am reflecting the views which have been presented to me by the people I represent—by the ordinary, honest, working people of this State. All the mumbling in the world by members opposite will not alter that fact.

It was my intention tonight to speak on a couple of matters mentioned in the Press and, again by coincidence, raised by members of the Opposition in this debate. We have read in letters to the Press of people from unions complaining and saying, "Why should non-union members be entitled to the benefits that unions have obtained?" It was interesting last night while Mr Cooley was speaking to hear the Hon. F. E. McKenzie interject to the effect that non-unionists should not receive pay rises awarded to unionists. I interjected to ascertain whether he in fact said what I thought he said, and he repeated the statement. So, he must have been sure.

The Hon. G. E. Masters: Who said that?

The Hon. I. G. PRATT: Mr McKenzie. Mr Cooley was not so sure because he said, "We have never subscribed to that philosophy."

The Hon. G. E. Masters: But Mr McKenzie does?

The Hon. I. G. PRATT: Yes.

The Hon. G. E. Masters: What a shocking statement!

The Hon. R. Hetherington: Oh, stop it! Let us have no more of your mock outrage.

The Hon. I. G. PRATT: The point I want to make is that the fact members opposite say non-unionists should not receive benefits is very relevant to this whole situation. If we were to include such a provision in this legislation—which we have no intention of doing—who would be the first to complain? If we were to say people could work for less than the award, who would be the first to complain? It would be the same people who say now that non-unionists should not receive the same level of benefits enjoyed by unionists. If they did not, the members opposite would complain the most loudly.

The Hon. F. E. McKenzie: Mr Cooley said he did not subscribe to that situation. I was expressing a personal view.

The Hon. I. G. PRATT: I think Mr Cooley and Mr McKenzie had better try to get their game together. They are quite a mixed doubles pair at present, and are not playing the game successfully. They are serving up many bad balls; every ball is going into the net.

The Hon. R. F. Claughton interjected.

The Hon. I. G. PRATT: I will pause to let Mr Claughton make his interjection; I think it might be worthy of attention.

The Hon. R. F. Claughton: Tell us how you support the freeloaders—the ones who do not want to pay their dues.

The Hon. I. G. PRATT: I am glad I paused and I am grateful to Mr Claughton because that is exactly the next point to which I wish to refer.

The Hon. R. F. Claughton: This is dramatic stuff. Let us all sit back now and wait for it to come.

The Hon. I. G. PRATT: It is quite amusing to see how noisy Mr Claughton is in waiting for his answer.

The Hon. R. F. Claughton: Do not hold us up like this. Come out with your great dramatic statement. Let us hear about the freeloaders. We are all agog.

The Hon. I. G. PRATT: Mr Claughton may get an Oscar for his performance here tonight. I certainly would not vote for him, but perhaps we should submit his name; he might be considered. Mr Claughton interjected to ask about what he called the "freeloaders". It is interesting that he seems to want to wriggle out of hearing the answer. We heard quite a lot from Mr Cooley on this very point.

Another matter which has been mentioned in the Press and about which Mr Claughton is very touchy is that concerning unions losing money if preference clauses are taken away. If this happens it will be an indication of how strong or weak the unions are and how valuable they are seen to be to unionists.

We have heard Mr Cooley call people who do not wish to be financial members of unions bludgers. Mr Claughton referes to them as freeloaders. They believe if someone does not want to pay a union due he is a bludger or a freeloader.

The Hon. F. E. McKenzie: They are.

The Hon. I. G. PRATT: Now Mr McKenzie is getting into the act. Perhaps we can have all Opposition members interjecting so that they fall into line and identify themselves. So far we have had Mr Cooley, Mr Claughton, and Mr McKenzie.

The Hon. R. Hetherington: Why don't you shut up and get on with your speech?

The Hon. I. G. PRATT: It seems we have a grumbling gremlin telling me to shut up; this from a man who believes in freedom and democracy.

The Hon. J. C. Tozer: Who told you to shut up?

The Hon. I. G. PRATT: It came from the Opposition front bench; I think it was Mr Hetherington. The interjection did not come across very clearly.

The Hon. R. F. Claughton: You heard it.

The Hon. R. Hetherington: I would be pleased if you would get on with your speech.

The Hon. I. G. PRATT: It seems Mr Hetherington cannot make up his mind. I have every intention of getting on with my speech.

The Hon. R. Hetherington: You are boring me.

The Hon. I. G. PRATT: I have every intention of getting on with my speech despite Mr Hetherington's grumblings.

The ACTING PRESIDENT (the Hon. T. Knight): Order! I would be pleased if the member could continue his speech without interjections.

The Hon. R. Hetherington: It would be nice if he spoke about the Bill, wouldn't it?

The Hon. I. G. PRATT: I recommend to Mr Hetherington the remedy suggested to him by the Leader of the House; that is, that he read his own speech tomorrow. He will have reason for remorse when he sees what he spoke about.

The Hon. R. Hetherington: I know what I spoke about; I knew what I was saying.

The Hon. I. G. PRATT: Obviously the Opposition does not want me to talk about freeloaders and bludgers. The fact that Mr Cooley and other Opposition members keep on interjecting every time I start to speak will not alter my intention of having my say.

What a disgusting situation we have. This is the big point Mr Claughton was waiting for with baited breath. What a disgusting situation we have when we have a person with Mr Cooley's standing and years of experience with the union system rising in this place, a place where the people are represented, and calling half the people he represents bludgers. He was supported by his Opposition colleagues. He was supported by Mr Claughton, who called the people freeloaders. In fact, Mr Cooley was calling half the workers in this State freeloaders. Opposition members have identified these workers as bludgers. What is this great union system Opposition members speak about, when they say half the people are bludgers; when they say there has to be solidarity; and when they say they have to coerce half the bludgers to become union members if the workers want to keep their jobs?

Someone interjected on Mr Cooley and said that because of preference to unionists provisions workers have to join a union and pay a fee, or lose the job. Mr Cooley said, "They do not want to pay. They do not have to get the job." In other words, Mr Cooley is looking at union membership as a licence fee one pays for the right to work. A union due is a licence to work. He went on to say that if the preference clause were taken away, half the members would turn round and walk away from the unions.

The Hon. D. W. Cooley: Some unions.

The Hon. I. G. PRATT: He said that on more than one occasion, just as he said on more than one occasion that people who do not want to pay the dues are bludgers. He also said they would walk away because they do not want to pay the union dues. So Mr Cooley, with all his experience in the union movement and as the lead speaker for the Opposition, has referred to these workers as bludgers.

Obviously, he must be talking about people we all represent. I take strong exception to the idea that half the workers in my province are bludgers; they are not.

The Hon. R. Hetherington: He didn't say half at any stage.

The Hon. D. W. Cooley: You are distorting the truth.

The Hon. I. G. PRATT: Mr Cooley said half the members will turn round and walk away. That is no distortion; that is exactly what Mr Cooley said. I take exception to these remarks as they apply to the people I represent. I do not necessarily agree with the opinions of some of the people I represent. I agree we should have unions. I do not agree with some of them conducting themselves in the way they do; but I do agree with the right of people to decide whether or not they should join a union.

It is fitting that Mr Cooley has used this Bill clearly to identify his attitude to the people he claims to represent. I support the Bill.

THE HON. G. C. MacKINNON (South-West —Leader of the House) [12.06 a. m.]: It has been an interesting debate. However, I think we ought to cast our minds back to the legislation which it is proposed will be replaced. That is the Bill which was carried finally in this Chamber in 1963 and which has served the State, the union movement, and the purpose of industrial harmony—such as we have had in this State—quite well since that time.

The Hon. D. W. Cooley: There have been several amendments.

The Hon. G. C. MacKINNON: Comparatively minor amendments.

The Hon. D. W. Cooley: One or two were made by the Tonkin Government.

The Hon. G. C. MacKINNON: The basic principle was laid down in 1963. The changes then were quite dramatic and I shall recall for members how dramatic they were. Indeed, they were so dramatic they almost ruined one particular officer of Parliament. The Assembly had to be closed and cleared on at least one occasion. There were marches on the House. The galleries were packed in both Houses. This House was forewarned by what happened in the other Chamber and matters were handled differently. But the general attitude to that legislation was not good. Incidentally, there were meetings in Forrest Place also. I shall read from the debates of that time and I shall refer to comments made by the late Hon. Ruby F. Hutchison, whose remarks can be found on page 2192 of the 1963 Hansard. I quote as follows—

> I rise to say this is a bad Bill; it is trying to destroy what was fought for in Australia by sweat and tears and even blood. A Government that will take an arbitration system, such as we have in this State, which has served the country well and has kept peace in industry, and a Government which will put the State in chaos as this Government has done in the last week or two, does not deserve the confidence of the people.
>
> I say this too, in refutation of what Mr MacKinnon has just said, that he knows quite well there has never been democracy in this Chamber; it has always been a one-sided Government.
>
> The PRESIDENT (The Hon. L. C. Diver): Order! The honourable member will not make reflections on this Chamber.

The honourable Lyla Elliott will remember her predecessor (the late Hon. Ruby Hutchison) who always told me that a lovely young lady would replace her when she retired.

The Hon. G. E. Masters: She was right.

The Hon. G. C. MacKINNON: As a matter of light relief, the late Hon. Ruby Hutchison went on to quote at great length a speech which had been made a long time before. She talked about the dreadful pestilence of 1948. I shall quote the following passage, as follows—

> The PRESIDENT (The Hon. L. C. Diver): Order! Will the honourable member please connect her speech with the Bill before the House?

Even at that time we had a great difficulty getting members to concentrate on the substance of Bills. To continue—

> The Hon. R. F. HUTCHISON: This is the introduction by Mr Thomas Walker of the first Industrial Arbitration Bill in 1912.
>
> The PRESIDENT (The Hon. L. C. Diver): That may be so, but I think great leniency was extended to Mr Thomas Walker when he introduced that Bill. I would like the honourable member to connect her speech to the Bill now before us.

The Hon. Ron Thompson was a little more outspoken then and actually accused Government members of being fascists and Nazis. I took a point of order and that was stopped. We proceeded with the Bill in a somewhat more amicable frame of mind thereafter.

The point I want members to appreciate is that the legislation we are currently changing was almost revolutionary in 1963. The attitude towards it was angry in the extreme so far as members of the Opposition were concerned.

The trade union movement was terribly stirred up by all sorts of false stories. Within 12 months an opportunity was given to the union movement to make alterations; but it was adamant there should be no alterations made. I point out from that that the assessments of industrial legislation by those who are supposed to be experts in its practice has, by sheer example in this Chamber, been bad indeed.

The Hon. Lyla Elliott: You cannot blame the Labor movement for being suspicious of Liberal legislation.

The Hon. G. C. MacKINNON: The Labor movement had the Bill in front of it. The Labor movement is supposed to have amongst its members experts in the field of industrial arbitration and personal relationships as they apply to industrial law. We were not graced in those days with the presence of Mr Cooley, Mr McKenzie, and Mr Hetherington; but we had their equals. They were so appallingly wrong that it did not matter. They were as wrong as it was possible to be. Those same people who persuaded unionists to march with coffins and the like were so wrong in their predictions. I point out that the photographs of those struggles are in an exhibition of newspaper photographs currently displayed in Newspaper House.

None of it came about. We have operated under the Act for a number of years. There have been a number of minor amendments. Provisions for mediation were put into the Act with a great fanfare of trumpets by the Tonkin Administration; but we have had little else in the way of amendments.

Yet we are about to alter legislation which in 1963 was supposed to spell the death knell of happy industrial relations between employer and employee.

The Hon. D. W. Cooley: If it is so good, why are you changing it?

The Hon. G. C. MacKINNON: Times and circumstances change. No legislation can remain unaltered for too long.

The Hon. H. W. Gayfer: Even Mr Kelly said things had changed.

The Hon. G. C. MacKINNON: I am glad Mr Gayfer mentioned Mr Kelly. By the admission of the ALP—Mr Cooley has said this, as did other Opposition speakers—this Bill is predominantly a "Kelly" Bill. Commissioner Kelly drafted a Bill. We could give chapter and verse, not from speakers of the Government, but from the speakers of the Labor side who have cited the history of Commissioner Kelly and what he did with regard to a re-write which he considered to be essential; that is, a re-write of the industrial laws of this State. He produced a piece of legislation. Every party put submissions to the commissioner and he prepared a first draft of the proposed Bill. He then had consultation with the Trades and Labor Council, the Confederation of Western Australian Industry, the Public Service Board, and the Department of Labour and Industry; and he also received objections from the TLC. Commissioner Kelly published his second draft to enable further public debate and ample time was given for everyone to consider it.

Let us imagine the Government happened to be, by some disastrous happening, the ALP, led by Mr Davies in the other place and Mr Dans in this Chamber and that it had a majority in both Chambers. By the admission of the Hon. Don Cooley who is a self-confessed expert in industrial relations, the Labor Party would not have accepted that Bill in its entirety. The Hon. Don Cooley said so and the Hon. Des Dans said so. I do not know which other member said so. I just remember those two members. In other words, they would have made some alterations to the Bill. Of course they would have done so, to conform with their own policy.

If members have any lingering shadow of doubt about that they should read the Hon. Don Cooley's speech—it will not say anything about the Bill—because it will demonstrate that the Labor Party did not accept Commissioner Kelly's final draft in its entirety, no more than did the Liberal Party, the Country Party, or the coalition.

The Government made some modifications—and this was not by my say so and not by the word of the Government but by the word of the ALP—and the modifications constituted something less than 10 per cent of the Bill. So by the Opposition's own admission, 90 per cent of the Bill is as agreed to by Commissioner Kelly, and 10 per cent of it constitutes the direct policy, in perimeter, of the coalition. We happen to be the Government by a fairly resounding majority so we have every right to put our policy into effect.

The Hon. Robert Hetherington said this Bill will probably do little harm. I felt like interjecting at the time and saying, "For goodness sake let us pass it and go home." It seemed to be a reasonably cogent reply to such a comment and I realised that after we heard the Hon. Don Cooley's comment that Senior Commissioner Kelly is the best man in Australia on industrial legislation. Commissioner Kelly wrote 90 per cent of it and the Hon. Robert Hetherington said it will do little harm.

The Hon. R. Hetherington: We hope it does little harm.

The Hon. G. C. MacKINNON: It seems to be forgotten that the major architect of the 1963 Bill was the same Senior Commissioner Kelly except, on that occasion, he was not Senior Commissioner.

I can recall sitting in a room with four or five people—having always taken an interest in industrial legislation—whilst Commissioner Kelly explained the Bill to us. He knew the Bill right down to its final comma, and I would suggest that for a little light reading members turn back to *Hansard* to ascertain what the ALP thought about Commissioner Kelly in those days. It thought no greater ignoramus ever walked this earth. I exonerate the Hon. Don Cooley and the Hon. Robert Hetherington and the Hon. Fred McKenzie from that statement because none of them were in this House at the time. Indeed, I had been here only seven years at that time but I happen to be blessed with a fairly good memory and I can recall the attacks on Mr Kelly's propriety. He has learned much in 16 years because he now happens to be the best in Australia. No-one becomes that good in 16 years. He was a pretty smart fellow in 1963. One had only to talk to the gentleman for a quarter of an hour to realise that when it came to the law of industry—the real law and not the sort of airy-fairy stuff we have been listening to—to know he was a master. The Hon. Don Cooley has acknowledged the extensive research and investigation carried out by Commissioner Kelly and that research has been reflected in this piece of legislation because in the main 90 per cent is Commissioner Kelly's work. Ten per cent is the Government's policy and that seems to me to be proper.

The Hon. D. W. Cooley: Very improper. Did you have any consultation with any of those people?

The Hon. G. C. MacKINNON: I will read the introduction to Commissioner Kelly's report again. It states—

> As far as the review is concerned, all parties put submissions to Senior Commissioner Kelly and he prepared a first draft of the proposed Bill and had further discussions with the Trades and Labor Council, the Confederation of Industry in Western Australia, the Public Service Board, and the Department of Labour and Industry.

Then we adopted 90 per cent of the report. This legislation seems to be much fairer than any legislation I have seen put forward by the Labor Party when I sat in Opposition in this Chamber. I have sat in Opposition in this Chamber for longer than the Hon. Don Cooley has.

The Hon. D. W. Cooley: I know that.

The Hon. G. C. MacKINNON: There is nothing in this Bill which is inconsistent with the policy of the Liberal Party and my friend the Hon. Robert Pike proved that point when he read from the book. There is nothing inconsistent in it so anyone who wished to know what is likely to be in the Bill would only have to read the policy. We do not charge for it, we give it away.

The Government's policy is to provide more democratic control of the unions. I am tremendously interested in this because in 1962-63 I was the chairman of the Industrial Legislation Policy Committee of the Liberal Party. At that time I put forward a proposal that we ought to do what we have done in this Bill; that is, to make strikes legal in certain situations. So, I am highly delighted to think that after seventeen years the party has come around to that point of view.

The ALP says, generally in regard to homosexuality and that sort of thing, "If it is done, why not legalise it?" Surely it makes some sense if we legalise strikes within the machinery where we can get into and out of a situation. We can get into and out of a strike situation with a secret ballot or even a show of hands.

The Hon. R. Hetherington: I pointed that out.

The Hon. G. C. MacKINNON: I may have missed the point whilst listening to the Hon.

Robert Hetherington. I sometimes miss the substance of his argument, because of the series of words he uses, I sometimes become tied up.

The Government supports responsible unionism and recognises the important role that unions play in the industrial relations system. I must admit that unlike many of my colleagues I am not as aware of the essentiality of unions as many people are. I believe we have come to the stage under our system where so much is done by courts and by the laws of the land, that it may well be that unions are to some extent a hindrance. If there is any way of improving unions then this legislation will do it because unions will have to perform better to attract membership.

The Hon. D. W. Cooley: In Queensland, in four years they lost 50 per cent of their membership.

The Hon. G. C. MacKINNON: That may well be the case there but it will do a little more towards being sensible about keeping unions here.

My experience of the unions was under a secretary named Jones a long time ago. When I was a member of a trade union what it did for me seemed to be precious little except I remember it charged a levy of £5 which I had to contribute to the Labor Party. Having been to war, I took a dim view of being caught, by compulsion, to contribute to a political philosophy for which I had no time whatsoever.

If that is the nature of the democracy of which Mr Cooley boasts so much, I want no part of it and I have wanted no part of it ever since, but there was no way I could get out of that levy and £5 was half a week's wages in those days.

The Hon. Lyla Elliott: I have never heard you complain about the Labor shareholders whose money is paid to the Liberal Party.

The Hon. G. C. MacKINNON: Nobody makes them do that. They can sell their shares at any tick of the clock. There was no way I could get out of the union. I think I have recounted in this House how I put up a motion that we ought to take a vote on democratic principles, listing the names of the parties—the Liberal Party, the Country Party, and the Labor Party—putting a tick alongside one, counting the votes, taking the £5 levy from everybody, and distributing it to each party *pro rata*. I did not get a seconder but out on the pavement I had a great deal of support. That is the nature of people.

Members know the way union meetings are run. I have been to many union meetings in Collie. Mr Pike was in Collie when I was there. Who ran the union there? Bill Latter. How did he run it so strongly? Because he had a microphone. The only time I won a point was when I leaned over and took the microphone from him. The man with the microphone runs the meeting. That is how union meetings are run today. There is nothing very democratic about that. That is the advantage of modern technology. One has to be able to use it; on one occasion in Collie I used it. Mr Pike will remember the occasion. It was in 1961.

The Hon. D. W. Cooley: Was he a member of the Liberal Party or the Labor Party then?

The Hon. G. C. MacKINNON: He was a citizen then. I do not think he knew on which side of the road one drives a motorcar.

The Hon. Lyla Elliott: He was member of the Labor Party and you know it well.

The Hon. G. C. MacKINNON: The Bill also supports the right of the individual and protects the right of the community. Mr Pratt and Mr Baxter made that point. A man's right to work is fundamental and should not be made subject to an obligation to belong to an association. There should be freedom of association and not compulsion.

I was interested to note Mr Hetherington did not take up the challenge of Mr Pike in regard to the protection of human rights and the ILO. Surely it must be obvious to everyone now that Mr Cooley's interpretation takes a narrow view and is quite wrong. The right to association carries with it—

The Hon. D. W. Cooley: You have not the convention in your hand.

The Hon. G. C. MacKINNON: —the right to dissociate.

The Hon. D. W. Cooley: That is not the convention you have there.

The Hon. G. C. MacKINNON: Of course it is not.

The Hon. R. G. Pike: He has Conventions Nos. 97 and 98 in his hand.

The Hon. G. C. MacKINNON: This is Convention No. 98—

> Convention 98—the Right to Organize and Collective Bargaining Convention—is a supplement to Convention 87, protecting workers in their jobs against anti-union discrimination: workers cannot be punished or penalized for organizing or participating in unions, or for engaging in collective bargaining. This text does not formally recognize closed or union shops, but it is so drawn as to be acceptable to countries that have such institutions.

The Hon. D. W. Cooley: How is the document headed?

The Hon. G. C. MacKINNON: It is *The ILO and the Protection of Human Rights.* Mr Cooley had quite the wrong interpretation. He said everyone must have the right to associate but no-one must have the right to dissociate.

These principles are endorsed in the United Nations' Declaration on Human Rights and in relevant International Labour Organisation Conventions and recommendations. Mr Cooley interprets them in his own way.

The Hon. D. W. Cooley: I have the document and you have not.

The Hon. G. C. MacKINNON: It happens, as in so many other things that he is wrong. He should not take it to heart.

In particular, Australia has ratified ILO Convention No. 87, Freedom of Association and the Right to Organise, and No. 98, The Right to Organise and Bargain Collectively. These ILO conventions support the right to associate and by implication support the right to dissociate; that is, freedom of choice. This is supported in the Bill and nothing interferes with the rights of unions to organise.

The majority of submissions received by Senior Commissioner Kelly related to preference and to compulsory unionism. Mr Cooley did not tell us that, although he told us everything else about Commissioner Kelly. These people believed that freedom of choice should prevail.

Senior Commissioner Kelly in his report actually referred to and agreed with the philosophy of freedom of choice but recommended exemption payments as a test of a person's belief. The ALP would support that; it did not support it in 1963 but apparently it has had a change of heart since then. The Government believes, however, that the basic philosophy of freedom of choice should be supported. The payment for exemption from union membership has elements of compulsion and many people feel strongly about this.

If unions are worth while people will see the benefit of joining them and union strength will be maintained. I am inclined to believe that the phenomenon of which Mr Cooley spoke will be comparatively short-lived. Unions have to prove themselves now.

Mr Cooley mentioned the lack of support from the Confederation of Western Australian Industry, and he is wrong about that. I must admit in trying to keep a note of all the matters about which he was wrong, I thought my speech would become a little tedious.

The Hon. D. W. Cooley: Tell us what Australian Mines and Metals and the Australian Hotels Association say.

The Hon. G. C. MacKINNON: One sees how difficult these members are to pin down.

The Hon. D. K. Dans: I have seen you up a creek before but not without a paddle as you are tonight.

The Hon. G. C. MacKINNON: Mr Cooley said—

> The Confederation of WA Industry believes it is unlikely that the State Government's new industrial legislation will cause a wholesale reduction in union membership.
>
> The Confederation's labour relations director, Mr W. J. Brown, said yesterday that a drop in numbers was not expected because the community supported responsible trade unionism.

He is quite in favour of the legislation, so Mr Cooley is wrong again.

The Hon. D. W. Cooley: The confederation supports uniformity. It does not like the unions to be strong.

The Hon. G. C. MacKINNON: The whole system is geared for those who wish to abide by it. Those who do not are free to leave. At that point in Mr Dans' speech he was spot on with the Bill.

Much fuss was made about deregistration. Deregistration is left to the commission to decide on the merits of the case. The Attorney General is empowered only to have the commission serve a summons, where the public interest is affected, for the union to show cause why it should not be deregistered. The final decision is left to the commission. Several speakers implied that the Attorney General could order it to be done.

One had to concentrate so hard to find out where reference was actually made to the Bill that one became misled and carried away.

The Hon. D. K. Dans: I said I would be talking about the detail of the Bill in the Committee stage.

The Hon. G. C. MacKINNON: The Leader of the Opposition did not even talk about the general principles of the Bill.

The Hon. D. K. Dans: Yes I did.

The Hon. G. C. MacKINNON: It is the commission which decides whether deregistration should take place within a short period and this principle is no different from the Kelly proposals.

The consultation with union management has been removed where public interest is affected, but the union still has the opportunity to present its case. The responsibility for deregistration lies with the commission. It is incorrect to say, as Mr Cooley did, that the Attorney General can deregister a union.

A number of other points were made by other members. For instance, it was said some people would lose pay when they received make-up pay under their award. However, the Bill will remove workers' compensation to its proper jurisdiction; that is, the Parliament. In any event, employers and their employees could agree to extra payments through informal arrangements. Nothing in the Bill will prevent that.

Much was said about a closed shop. The Government recognises the problems associated with this area. It is not possible to deal by way of legislation with the implied threat. We accept that proposition. The Leader of the Opposition made great play on that as though it were the end of the world and we should give up any prospect of industrial law because of it.

The Hon. D. K. Dans: Just a moment! You must be truthful.

The Hon. G. C. MacKINNON: The Bill provides the means for a person to bring a matter to the commission if there is sufficient evidence and the person is prepared to do it.

The Hon. D. K. Dans: I know of only two closed shop organisations and neither of them falls within the ambit of that.

The Hon. G. C. MacKINNON: That is proper and ought to be allowed. Surely some of the closed shops of which Mr Dans is aware are quite harsh. I have heard stories about one closed shop, and if the ALP can indulge in fairy tales perhaps I can. I have heard of one particular union that if one is not a member it will throw one overboard. I would not like to name the union.

The Hon. D. K. Dans: That closed shop exists by legislation passed in the Commonwealth Parliament. That is what I pointed out. I know of only two closed shop unions and I should imagine if one did not belong to the union one might be thrown overboard. I would not doubt that.

The Hon. G. C. MacKINNON: It did not strike me as being very democratic. There is probably no truth in the story, anyway.

The objects and the machinery available make it clear that disputes are to be resolved by conciliation. Paragraph (f) of clause 6 states—

(f) to promote and encourage the use of conciliation in preference to all other means of resolving industrial issues;

Mr Dans said this was all pie in the sky and cliches.

The Hon. D. K. Dans: I did not say that.

The Hon. G. C. MacKINNON: Perhaps Mr Hetherington said it.

The Hon. D. K. Dans: I said you had not created the position of conciliator.

The Hon. G. C. MacKINNON: Everybody is a conciliator, which is better still.

The Hon. D. K. Dans: That is how we get into so much strife.

The Hon. G. C. MacKINNON: Mr Dans commented that the Bill would be a happy hunting ground for lawyers and that this would complicate the system, as has occurred in the Federal jurisdiction. The Bill does not change the position in that regard.

The Hon. D. K. Dans: Yes it does.

The Hon. G. C. MacKINNON: Lawyers may appear only on legal questions, with the consent of the commission, or by agreement of the parties. The only difference is that it is restricted to practitioners registered in Western Australia. That is the only difference between this Bill and the existing Act.

The Hon. D. K. Dans: We will talk about that later on.

The Hon. G. C. MacKINNON: In regard to secret ballots, they will be used by the commission only where it feels they are warranted. Another ballot to return to work is not necessary. This can be decided as it is now, by a show of hands.

The Hon. D. K. Dans: What about a show of hands to stop work?

The Hon. G. C. MacKINNON: A similar power for the commission to call secret ballots exists in the present Act but some confusion exists because it was placed in the division dealing with union elections. However, it was used by the commission in respect of the strike action at the Midland Junction Abattoir in the early 1970s. Incidentally, it might be of interest to members to note that the vote was to strike.

The Hon. D. W. Cooley: Yes, 85 per cent.

The Hon. D. K. Dans: That was a case of the terrible union leaders pressuring the poor slaughtermen.

The Hon. D. W. Cooley interjected.

The Hon. G. C. MacKINNON: Mr Cooley has been wrong so consistently, that I will stick to the

Midland case. I would even put a bob or two on myself, if I were a betting man. Mr Dans is interjecting as I speak; he should not be so crude. I am sure Miss Elliott does not approve of that sort of language.

Australia is still amongst the worst in the world in respect of industrial disputation, and Western Australia is the worst in the country. Our trading partners are extremely worried about the reliability of supply as a result of industrial disputation. The employment of our people depends to a large extent on our ability to supply our trading partners.

The matter of hours worked in the agricultural and pastoral industry was raised.

The Hon. D. K. Dans: Why don't you wait until we get into Committee?

The Hon. G. C. MacKINNON: Mr Dans has just beaten me to it; sometimes we do operate on the same wave length. I was about to say many of these matters should be left until then. However, I must deal a little further with the speech made by Mr Dans who, although he was not the lead speaker for the Opposition, is the Leader of the Opposition and, therefore, tremendously important.

What worries me is that somebody might read his speech and think we did not notice that he used the age-old trick of taking parts of paragraphs and sentences and placing them in a different context, and mixing them up.

The Hon. D. K. Dans: I did not do that.

The Hon. G. C. MacKINNON: Once one recognises the trick, of course, one realises it is a clear indication that the person concerned is bereft of ideas. Mr Dans quoted extensively from the second reading introductory speech. He said the Attorney General said that the present legislation has been incapable of dealing effectively with the major industrial issues of our time and, unfortunately, today the decisions of our industrial court are all too frequently ignored. Mr Dans claimed that was a sweeping statement which simply is not true.

The Hon. D. K. Dans: That is right.

The Hon. G. C. MacKINNON: Yet the fact is that much of our present legislation is incapable of dealing with major issues, and we have many examples of that.

The Hon. D. K. Dans: Yes, but that is not what you are answering.

The Hon. G. C. MacKINNON: Mr Dans makes sweeping statements about quotations taken out of context. However, there are many instances of where the present legislation has not been capable. Take, for instance, the Co-operative Bulk Handling Limited dispute and the Wanneroo Hospital dispute. The legislation is also incapable of dealing with the Moore-Doyle situation.

The Hon. D. K. Dans: How could you deal with that, because the Commonwealth has not yet passed complementary legislation?

The Hon. G. C. MacKINNON: That is the sort of remark—

The Hon. D. K. Dans: You answer the question.

The Hon. G. C. MacKINNON: I will answer it with an analogy—

The Hon. D. K. Dans interjected.

The Hon. G. C. MacKINNON: Will Mr Dans please let me finish? If we follow Mr Dans' argument, then we could say that because there was a murder at Esperance we should not have laws to deal with that murder, because the law did not prevent it from taking place. That is the whole nub of his argument. It is absurd, and quite ridiculous. Anyhow, if complementary legislation is necessary, it is a bit like the chicken and the egg: whether we will have this Bill or whether we will have the complementary Commonwealth legislation.

The Hon. D. K. Dans: When?

The Hon. G. C. MacKINNON: When we can persuade the Federal Government to pass it.

The Hon. D. K. Dans: That is right, and you had a joint sitting in respect of the bulk handling dispute because all the parties agreed to it.

The Hon. G. C. MacKINNON: Mr Dans said the decisions of the industrial courts are too frequently rejected. By his own comments he confirmed that statement; yet he put it forward as a vacuous argument in the second reading speech of the Attorney General and said it meant absolutely nothing.

The Hon. D. K. Dans: What was the comment?

The Hon. G. C. MacKINNON: If Mr Dans is interested, let him listen.

The Hon. D. K. Dans: I am not really interested.

The Hon. G. C. MacKINNON: Then just sit back and relax. Mr Dans referred to other sections of the speech. Members may recall that he took the Attorney General's second reading speech and plucked a sentence from here and one from there. In the main his comments were extremely ill informed.

The Hon. D. K. Dans: I am a good plucker.

The Hon. G. E. Masters: And a pleasant one.

The Hon. D. K. Dans: I am a pheasant plucker.

The Hon. G. C. MacKINNON: Such crudities ill-become this place, even if only implied.

Mr Claughton complained that the Bill prohibits the commission from limiting the laws of employees in the pastoral industry. I have commented on that matter, and Mr Claughton is well aware, along with all other members, that it would be quite impractical to regulate the hours of the pastoral and agricultural industry during harvesting and seeding times. He complained that the Bill denies the right of association. There is ample scope in the Bill for freedom of association in unions and easy access to people who wish to join them. The Bill provides for the democratic control of unions by their members, through democratic rules and processes.

The Hon. R. F. Claughton: I can only exclaim, like Mr Dans, that is not something I said.

The Hon. G. C. MacKINNON: Yes it is. Mr Claughton also complained that the Bill will remove conditions from awards with which the commission can no longer deal.

The Hon. R. F. Claughton: I think you should speak to your speech writer.

The Hon. G. C. MacKINNON: These are notes I made from Mr Claughton's comments.

The Hon. R. F. Claughton: Those were not comments I made. When I dealt with the right of association I was dealing with the remarks made by Mr Williams and Mr Masters in respect of ILO conventions.

The Hon. G. C. MacKINNON: Most of the other comments made by members probably would be better handled in the Committee stage. However, I come back to the note I made with regard to Mr Hetherington's comment that this Bill will probably do little harm. I will live the rest of my life wishing I had interjected and said, "Why are you opposing it; let's go home."

The Hon. R. Hetherington: Had you said that, I would have explained why we should not do that.

The Hon. R. F. Claughton: Why bother to have a Parliament?

The Hon. R. Hetherington: The Bill could do considerable harm; I hope it does not.

The Hon. D. K. Dans: The person who wrote your notes did a worse job than the person who wrote the second reading speech.

The Hon. G. C. MacKINNON: Tonight we heard the Leader of the Opposition going on in a very angry vein about convention. He made a great fuss about it. I would like him to read some comments made by a man for whom I am sure he ought to have some respect; I refer to the Hon. Frank Wise. If he were sitting in this place and heard that comment by the Leader of the Opposition today he would have been on his feet, irrespective of who had the floor, to object most vehemently. I make my own speech.

The Hon. D. K. Dans: That was a long time ago when he was here. It is now a different ball game.

The Hon. G. C. MacKINNON: It is not. I was in this House for many years with Mr Wise. When I was in the Opposition he sat in the seat I occupy now. Irrespective of who writes the speech, the convention is that the Minister is responsible for what he utters; that has always been the convention in the Westminster system. I used to object when I sat where Mr Hetherington now sits and Mr Dolan used to say, "I hope this is right, it is what was given to me" because a Minister is responsible for what he says. I am responsible for what I utter.

The Hon. D. K. Dans: I am glad you are.

The Hon. G. C. MacKINNON: The unfortunate situation may occur one day when Mr Dans occupies my seat.

The Hon. D. K. Dans: And I will have to be responsible for what I say.

The Hon. G. C. MacKINNON: That is right; and if I happen to be sitting on the other side I promise Mr Dans faithfully I will never imply that anything he says has not been written by himself.

The Hon. D. K. Dans: All right, I will keep to that convention.

The Hon. G. C. MacKINNON: I will admit Mr Dans is an expert in industrial matters on the Federal scene, but with regard to State industrial law, I will stand and debate the matter with him in this place at any time he likes.

I have debated State industrial law with Mr Dans on innumerable occasions; he is not such a great whizz on it. However, while I am in this place I will stand by what I say. I will not sit back and snipe at some officer who happens to be somewhere else and who cannot answer. I regard that convention as most important in this place.

The Hon. D. K. Dans: If you are taking responsibility for your speech, I think you have written a lousy speech.

The Hon. G. C. MacKINNON: I do not mind Mr Dans saying that; I make no bones about that.

The Hon. D. K. Dans: If you wrote the speech, it is as lousy as the second reading speech.

The Hon. G. C. MacKINNON: If Mr Dans is apologising, he is taking the long way around. The gentlemen who advise the Ministers of this Government with equal efficiency and sincerity will advise members of the Opposition if by some unfortunate circumstance they should become the Government.

The Hon. D. K. Dans: I am very much aware of that.

The Hon. G. C. MacKINNON: Mr Dans does not seem to be aware of it. I suggest that he ought to think of more than the one convention.

The Hon. D. K. Dans: Both the speeches are lousy.

The Hon. G. C. MacKINNON: The are not; they are first-class speeches.

The Hon. D. K. Dans: And your reply to the debate is full of inaccuracies with which I will deal in the Committee stage.

The Hon. G. C. MacKINNON: The debate has been lively enough; my only disappointment with it is that members opposite have read the Bill in a superficial manner to cloud it with prejudice. They made a devil of a fuss about 10 per cent of the Act which was passed in 1963, and which was carried in the face of such violent opposition as would almost create a situation of revolution. It was a dreadful time in the House; Mr Baxter would remember it.

The Hon. D. W. Cooley: I was here in the gallery.

The Hon. G. C. MacKINNON: Then Mr Cooley should be thoroughly ashamed of himself; the behaviour of people in the gallery was absolutely disgraceful.

The Hon. D. W. Cooley: I was proud to be with them.

The Hon. G. C. MacKINNON: Members opposite carried on about 10 per cent of the Bill. They said there was no consultation yet there was complete and total consulation in respect of about 90 per cent of the Bill.

The Hon. R. F. Claughton: That point was made.

The Hon. G. C. MacKINNON: No it was not. It was said no consultation took place about the Bill.

This was a very poor debate indeed. It is a pity that Mr Cooley, the lead speaker for the Opposition, relies so much on his historical association with industrial arbitration and union matters, and has not kept up with modern trends.

The point made by Mr Baxter was very good, and I thank members on the Government side who supported me in the presentation of this case.

THE HON. H. W. GAYFER (Central) [1.00 a.m.]: I have not spoken to this stage on this Bill because, like a few other members—

Point of Order

The Hon. G. C. MacKINNON: I would like a ruling. I know what can happen, but I would like to have a ruling on record. As everyone in this House would be aware, I had to be absent on parliamentary business last Thursday—

The Hon. R. F. Claughton: I seem to recall very similar circumstances during the time of the Tonkin Government.

The Hon. G. C. MacKINNON: Because of a desire to put this Bill on the notice paper, I arranged for the Attorney General to read the second reading speech on my behalf. It must be appreciated that if we are to have speakers following on, as would appear to be the case, the practice will have to stop. Bills will have to be introduced by the responsible Ministers. In other words, we would have to wait for the return of a Minister to introduce the Bill.

The Hon. D. K. Dans: On this point, I am in complete agreement with you.

The PRESIDENT: What is the ruling you seek?

The Hon. G. C. MacKINNON: I want to have recorded whether or not you accept that another Minister or person can, in the circumstances, read a Bill into the record on behalf of the Minister who was to handle that Bill. In short, that would mean if you said it was possible, Mr Gayfer would be unable to speak now. I want the situation clarified for future record.

The PRESIDENT: In order to give this matter some consideration, it is my intention to leave the Chair until the ringing of the bells.

Sitting suspended from 1.03 to 1.38 a.m. (Thursday).

The PRESIDENT: In response to a request by the Leader of the House for a ruling I wish to advise that in conformity with Standing Order No. 80 I rule that the Hon. H. W. Gayfer is permitted to speak at this stage and that the Leader of the House did not close the debate.

In explanation I advise the House that there does not appear to be any precedent for the situation that has occurred, but it is an area which could bear investigation by the Standing Orders Committee and I will ensure that the item will be on the next agenda.

THE HON. H. W. GAYFER (Central) [1.39 a.m.]: Mr President, I support the Bill.

The PRESIDENT: The question is that the Bill be read a second time.

The Hon. D. W. Cooley: Divide!

Point of Order

The Hon. G. C. MacKINNON: On a point of order, I should like to point out there was one voice only.

The PRESIDENT: The member is not sitting in his own seat.

Debate Resumed

The PRESIDENT: The Ayes have it.

Question thus passed.

Bill read a second time.

House adjourned at 1.41 a.m. (Thursday).

QUESTIONS ON NOTICE

RAILWAYS: FREIGHT RATES

Increases

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

Since the 1st July, 1976, will the Minister advise—

(a) on what dates have increases occurred; and

(b) what was the percentage increase in each case, charged by Westrail for goods traffic?

The Hon. D. J. WORDSWORTH replied:

(a) and (b) Increases in gazetted goods rates since the 1st July, 1976, were as follows—

18.7.77	17.5 per cent
17.7.78	10 per cent

Wool was excluded from the latter increase.

WATER SUPPLIES

Agaton

359. The Hon. M. McALEER, to the Leader of the House:

(1) Would the Minister advise me if the Commonwealth Government has requested further information concerning, and evaluation of, the Agaton project from the State Government?

(2) Is the Government aware of the concern of those areas which are not included in the original proposal?

(3) Will it be possible to include these areas in the ultimate proposal that will come under joint consideration?

The Hon. G. C. MacKINNON replied:

(1) Further information has been supplied at the request of several Commonwealth Government departments.

(2) The Government is aware that some persons believe the project should include additional areas.

(3) The areas included in the scheme are considered to be those having the highest priority. Areas not included will be considered for inclusion in future ongoing schemes.

EDUCATION: HIGH SCHOOLS

Rockingham

360. The Hon. I. G. PRATT, to the Minister for Lands representing the Minister for Education:

As local sources indicate that at least 33 children at present attending primary schools in the Rockingham area will warrant special class placement in high schools in 1980, will the Minister consider the introduction of a special class in high schools within the Rockingham area in 1980?

The Hon. D. J. WORDSWORTH replied:

A special class has been established at Kwinana Senior High School and it is to serve the general area.

The situation in Rockingham will be closely monitored for 1980, but information available to the Education Department does not support another secondary special class in the area at present.

BUSES AND RAILWAYS

Periodical Tickets

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

(1) Is the Minister aware that advertisements appearing in *The West Australian* titled, "Suburban, Bus, Rail, & Ferry Information" advise that a 28-day periodical ticket is available from the three Metropolitan Transport Trust offices at 125 St. George's Terrace, Perth, the Central Bus Station and 15 Cantonment Street, Fremantle?

(2) As these periodical tickets are also available at the city, Armadale, Midland and Bassendean railway stations will the Minister ensure that they are also included in any future advertising?

The Hon. D. J. WORDSWORTH replied:

(1) The Minister for Transport is aware of the advertisement now that it has been brought to his attention.

(2) The Minister advises that periodical tickets are not available at Bassendean railway station.

They are available at various railway stations and other MTT controlled outlets with certain restrictions on the hours of availability but not advertised because the cost of detailing all restrictions would be out of proportion to the actual and potential sales.

Future advertisements will include main suburban railway distribution points such as City and Midland.

EDUCATION

Gifted Children

362. The Hon. Neil McNeill (for the Hon. I. G. PRATT), to the Minister for Lands representing the Minister for Education:

(1) Has the Education Department made studies to identify and assess the specific difficulties facing gifted children within the education system?

(2) If the answer to (1) is "No", will the Minister consider instituting such a study?

The Hon. D. J. WORDWORTH replied:

(1) and (2) The Education Department has, for a number of years, been involved in the provision of support services for gifted children.

Currently the department has a number of pilot programmes running and special attention is being given to the development of a number of additional and more comprehensive programmes to be implemented in 1980.

RAILWAYS

Armadale-Byford

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

Referring to question 352 on Thursday, the 15th November, 1979—

(1) Would the Minister advise the date on which the last suburban passenger rail service operated to Byford?

(2) Will he be more specific and advise when the extension of the service beyond Armadale to Byford will be reimplemented?

The Hon. D. J. WORDSWORTH replied:

(1) The 2nd August, 1975.

(2) The Minister for Transport has advised that reimplementation of passenger train services beyond Armadale is expected to occur as the patronage demand so warrants.

RAILWAY STATION

Perth City

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

(1) Is the Minister aware of the report on page 17 of the Review of Business and Industry Section of *The West Australian* of Tuesday, the 20th November, 1979, where, *inter alia* it is stated—

Both gallery director Frank Ellis and Mr Cann have told me at different times that the Perth Railway Station must go?

(2) What position does Mr Cann hold in the State Public Service?

(3) In view of the statement will the Minister refute the rumour currently circulating that Government departments or the Central Area Technical Advisory Committee is giving consideration to the relocation of Perth City railway station to a point east of Barrack Street by supplying a categoric answer similar to that given to question 352 on Thursday the 15th November, 1979?

The Hon. D. J. WORDSWORTH replied:

(1) The Minister for Transport is aware of the article.

(2) Principal Architect, Public Works Department.

(3) The Minister states: "No. This is one of the options being considered by the Central Area Technical Advisory Committee for possible adoption in the long term."

QUESTION WITHOUT NOTICE

WATER SUPPLIES

Agaton

The Hon. M. McALEER, to the Leader of the House:

Further to my question 359 on notice, does he consider that the Shire Councils of Coorow, Moora, and Dalwallinu can be described simply as "some persons"?

The Hon. G. C. MacKINNON replied:

The shires are represented by persons, certainly, and already visits have been made by certain members of the Dalwallinu Shire Council who put the proposal that part of their shire ought to be included in stage 1.

I am not sure what the honourable member means. She asked whether I considered those places to be persons. No; their representatives are persons. It was people who came to see me about it. I do not know whether any elaboration is required. Money is provided by joint arrangement, as the honourable member is probably aware, and we have to cut our coat according to the cloth we receive. I explained to the people who approached me with regard to other areas, such as the northern section of the Dalwallinu Shire, that it could well be done at a subsequent stage.