Legislative Council

Tuesday, the 8th November, 1977

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

BILLS (13): ASSENT

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

1. Flour Bill.
2. Wildlife Conservation Act Amendment Bill.
3. Railways Classification Board Act Amendment Bill.
4. Appropriation Bill (Consolidated Revenue Fund) (No. 2).
5. Administration Act Amendment Bill.
6. Criminal Code Amendment Bill.
7. Offenders Probation and Parole Act Amendment Bill.
8. Securities Industry (Release of Sureties) Bill.
9. Justices Act Amendment Bill.
10. Tourist Act Amendment Bill.
11. Legal Representation of Infants Bill.
12. Suitors' Fund Act Amendment Bill.
13. Veterinary Surgeons Act Amendment Bill.

QUESTIONS

Questions were taken at this stage.

TAXI-CARS (CO-ORDINATION AND CONTROL) ACT AMENDMENT BILL

Second Reading

Debate resumed from the 2nd November.

THE HON. D. K. DANS (South Metropolitan—Leader of the Opposition) [4.46 p.m.]: The Opposition supports this Bill, which sets out to do four things. It tidies up the Act to allow for a full-time driver. Previously, as the Minister mentioned in his second reading speech, a full-time driver could at the same time be an owner. The Bill will remove that possibility.

Secondly, the Bill provides for staggered elections. The Act at present provides for simultaneous elections, which means the expertise which has been acquired by members of the board could be lost. The Bill will rectify this situation by providing for the election of one member each year. The Bill also makes provision for the filling of a casual vacancy

Lastly, the Bill tidies up a section of the Act which has caused some controversy. It clearly sets out in simple terms the meaning of the expression "like commercial interests". This should clarify for taxi drivers and owners what is meant by the expression "No two board members having like commercial interests".

THE HON. D. J. WORDSWORTH (South—Minister for Transport) [4.48 p.m.]: I thank the Leader of the Opposition for his support of the legislation. It is fairly elementary and I commend the Bill to the House.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

Third Reading

Bill read a third time, on motion by the Hon. D. J. Wordsworth (Minister for Transport), and transmitted to the Assembly.

MARKETING OF EGGS ACT AMENDMENT BILL

Second Reading

Debate resumed from the 1st November.

THE HON. R. T. LEESON (South-East) [4.51 p.m.]: We support this Bill. However, I would like to make a couple of observations in respect of the measure.

The Bill allows for the Western Australian Egg Marketing Board to retain one per cent of its gross sales for the year, which amounts to $100 000 to $120 000, as a carryover for the next financial year to enable the board to run more efficiently. It makes provision for eggs to be sold perhaps more cheaply in the springtime when there is always an abundant supply, and to be sold at perhaps a slight increase in the autumn when they are fairly scarce. It also encourages producers to make some alterations to their flocks so that there is a more plentiful supply of eggs in the autumn season.

It makes provision for the Minister to issue a special licence to producers in remote areas of the State, south of the 26th parallel. I remember that five or six years ago a great deal of controversy arose in respect of this provision, because people in remote areas were unable to obtain fresh eggs from the metropolitan area without going to a great deal of expense. I know in many cases small producers were operating without such a licence,

and possibly the board turned a blind eye, thus enabling them to supply eggs to certain people. The Bill allows the Minister to issue licences to producers in cases such as this, and I am sure the people in the areas concerned will be grateful for it.

We support the Bill.

THE HON. N. E. BAXTER (Central) [4.53 p.m.]: It would be rather remiss of me if I did not make some comments in respect of this Bill, particularly as over the years I have been associated with the Poultry Farmers' Association, the Western Australian Egg Marketing Board, and the egg industry of Western Australia. Also, I was the chairman of a committee which deliberated on whether we in Western Australia should have hen quotas for egg production. After some years of struggling this principle was finally accepted in Western Australia, which was the first State in Australia to accept the policy of hen quotas to reduce the number of eggs produced, and to overcome the position of having large surpluses which had to be sold overseas at uneconomical prices. When that policy was introduced we were the envy of the other States for quite some time until one or two other States decided to follow our example.

That was the situation leading up to this Act; and we have now reached the situation where the board wishes to alter to some degree the method of payment to producers, although I believe the board has been acting along these lines for some time. This matter is tied up with the equalisation scheme and is based on the home consumption egg price and the price paid on the overseas market for surplus eggs.

In his second reading speech the Minister for Transport said that the board considers this measure of control of prices may, by price incentive, encourage producers to produce more in line with the local demand curve. I feel this will be helpful to the industry.

A further provision in the Bill is in regard to the financial operations of the board, and this deals with administration expenses. Members of the National Country Party support this provision.

It is proposed that the carryover of funds from one year to the next will be a great deal less than is the case at present under the 10 per cent proviso, and this will be to the advantage of the dealings of the board.

Another amendment provides that a licence may be issued to prospective producers in remote areas of the State, and I think this provision is long overdue. There are areas in the north of the State, particularly around the goldfields, and also in the south of the State, such as the Esperance area, in which there are no producers because it would be a very expensive proposition to try to deliver eggs all that distance in good condition to the board in Perth. The provision enables the Minister to issue a special licence to producers in certain remote areas.

In his second reading speech the Minister for Transport said that the Minister for Agriculture had informed him that only pastoral areas would be recognised as "remote" and declared as such. I do hope that Esperance will be recognised as a pastoral area, because it is one of the areas in which it is very necessary to apply this provision.

I support this Bill.

THE HON. G. W. BERRY (Lower North) [4.57 p.m.]: I rise to support the measure. The only matter to which I wish to refer is the issuing of licences in remote areas. Mr Leeson said that these would be issued south of the 26th parallel; however, I think this provision applies to all remote areas, whether north or south of that parallel.

From memory, the provision was brought about because a licensed producer in the Carnarvon area sold his licence to a producer in the south, and at that time there was no provision to enable the Minister to withdraw that licence. We finished up without any licence at all in the Carnarvon area.

I think this is a good provision to enable licences to be issued in specific areas, and to prevent the transfer of licences out of remote areas. However, I would like the term "remote area" to be defined a little more clearly. The Minister referred to pastoral areas. Was he referring to the iron ore towns of the Pilbara, the irrigated areas of the Gascoyne, the general pastoral areas, or established towns such as Esperance? I feel some little clarification is needed so that people will know where they may establish a poultry farm.

THE HON. D. J. WORDSWORTH (South—Minister for Transport) [4.59 p.m.]: I thank members for their support of the Bill and, more particularly, for their kind words about Esperance. As it happens, I fought for this amendment from the back benches of this Chamber as a result of difficulties being experienced in my electorate by a certain Mrs Knox who used to complain regularly about the problems in respect of egg licences in Esperance. I am now acting on behalf of the Minister for Agriculture in this regard, and I am sure he has the ability to decide what is a remote area.

I cannot help feeling that the Minister added to his second reading speech the word "pastoral" just to impress upon me that the provision does not refer to Esperance. In fact it is almost designed to exclude it and I was thinking of moving an amendment to include Esperance, but the Minister assures me that such an amendment would be moved in the other place. However, I can assure members that due consideration has been given to what is meant by "remote", and the term will not be confined to pastoral areas.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

Third Reading

Bill read a third time, on motion by the Hon. D. J. Wordsworth (Minister for Transport), and transmitted to the Assembly.

LIQUOR ACT AMENDMENT BILL (No. 2)

In Committee

Resumed from the 2nd November. The Deputy Chairman of Committees (the Hon. R. J. L. Williams) in the Chair; the Hon. G. C. MacKinnon (Leader of the House) in charge of the Bill.

Clause 4: Section 36A repealed and re-enacted—

The DEPUTY CHAIRMAN: Progress was reported after the clause had been partly considered.

The Hon. G. C. MacKINNON: It is with a great deal of trepidation that I have brought this measure back onto the notice paper. Nevertheless, I think we ought to have one more shot at it. I shall endeavour to explain one or two matters which were causing some concern. I have been in touch with the Chairman of the Licensing Court and he thinks that for the sake of about a quarter of a teaspoonful of liquor we should not really place the vigneron at risk; and the court is quite happy to accept the amendment that we proposed; namely, 738 millilitres in a bottle.

The other question, which was raised by Mr Withers, was why the phrase "on or off the premises" was used. I refer members to the parent Act. Section 6(1)(h) talks about the sale of liquor by the occupier of a vineyard of not less than two hectares; he does not need any sort of licence and can sell wine for consumption off the premises. The original section 36A provides—

> A vigneron's licence authorises the licensee to sell and supply on or from the licensed premises only, during ordinary trading hours, wine manufactured by the licensee on the licensed premises, in sealed containers in quantities of not less than twenty-six ounces for consumption on the premises.

When instructions were being taken with regard to this amendment, bearing in mind that it is being widened to include people at places such as Cowaramup and Mt. Barker, consideration was given to the possibility of individuals travelling en route to Albany, calling in at vineyards, and having a picnic after buying a bottle of wine to consume at the picnic on or near the grounds. So the court thought that the words "on or off" should be included instead of requiring people to take the wine home.

The Hon. D. K. Dans: It actually means what it says?

The Hon. G. C. MacKINNON: It actually means what it says. Bearing in mind the locality of the places the court expects to utilise this amendment—and to be quite frank we are talking of Cowaramup, Mt. Barker and such places—the court thought that people might want to buy a bottle of wine and drink it with their lunch. That seems reasonable to me. I hope the Committee will agree with the court's consideration of this matter.

The Hon. D. K. DANS: The Minister is now telling us that the amendment means what Mr Masters thought it meant and what I thought it meant. It concerns a vigneron who puts a small kiosk at the front of his property. This would concern winegrowers in the south-west of the State whose main scene of operations may be right off the road, and it will bring them into line with the growers in the Swan Valley. But it poses some questions because the Minister has spelt out the matter quite clearly. At some future stage there may be questions regarding a person moving the place from which he is going to sell liquor and which is quite diferent from his vineyard in terms of selling it from his cellar. I suppose one could engage in an argument as to whether he was putting a shop on his boundary line.

Although I am not opposing this clause I make that observation for the future because I think the Liquor Act is not political in nature but deals mainly with commonsense matters. But we seem to be creating another hurdle to get over.

The Hon. G. C. MacKinnon: In which case we will probably amend it again.

The Hon. D. K. Dans: We shall probably keep on amending it. Perhaps the Hon. Gordon Masters was correct when he said that the Liquor Act should be burnt.

Clause, as amended, put and passed.

Clause 5: Section 59A added—

The Hon. LYLA ELLIOTT: I have not yet heard from the Minister a logical and reasonable explanation for the apparent contradiction between subsections (1) and (3) of proposed new section 59A. Proposed new subsection (1) states quite clearly that the court shall not proceed to hear an application for a licence unless and until the applicant produces to the court a certificate of the responsible local authority. It does not say "may"; it says "shall". Proposed new subsection (3) says that if the court is satisfied that the applicant has endeavoured to obtain a certificate, but it has not been furnished, the court may proceed.

I think the Minister should explain just how we can say in one new subsection that the court shall not proceed and then two subsections later we can forget what is said and say, "It is all right, the court can proceed to hear the application."

The Hon. G. C. MacKINNON: I shall explain it although I would rather not do so. The situation is that there have been times when people on local authorities have been not as disinterested as people in public life perhaps should be, and applications have been delayed for one reason or another. In order to protect the individual, it is not an uncommon practice for a court, whilst demanding that a licence for something or other shall be produced, to accept proof that every endeavour has been made to obtain a certificate on an equal basis as proof of the actual certificate. It is one of those things for which reputable businessmen have fought for many years in order to ensure that the rights of the individual are protected and that he cannot be subjugated by people in authority.

The Hon. LYLA ELLIOTT: I accept that and it is not a bad thing to include a provision to protect the applicant if it can be shown that there is unreasonable delay. My point is that this is confusing and untidy drafting.

The Hon. G. C. MacKinnon: It is perfectly normal drafting.

The Hon. LYLA ELLIOTT: Would it not be better to say in new subsection (1) that the court shall proceed and then have a proviso stating that what is contained in subsection (3) may happen?

Clause put and passed.

Clauses 6 to 11 put and passed.

Title put and passed.

Bill reported with an amendment.

WORKERS' COMPENSATION ACT AMENDMENT BILL (No. 2)

Second Reading

Debate resumed from the 1st November.

THE HON. TOM McNEIL (Upper West) [5.15 p.m.]: In speaking to this amending Bill I would like to bring to the attention of the House several of the statements made by the Minister when he introduced the second reading. It seems to me that the poor old football player is the butt of all the problems. In his second reading speech the Minister said—

> . . . football players or other paid competitors did not realise that they might validly claim under a Workers' Compensation Act for injuries sustained at sport. Players have assumed risks voluntarily and have been responsible themselves for injury cover . . .

What the Minister failed to do was to take us further into the Bill, and give the reasons that these amendments have come before us.

The need for this legislation was precipitated in New South Wales in 1972 when two footballers were injured while playing rugby. In one instance the player concerned, Wayne Peckham, sued the Canterbury-Bankstown Football Club. He ran into a problem, because that club was an unincorporated body, and he had trouble in getting his claim through.

Eventually a decision was made whereby he could sue firstly the committee of the club that had taken him on as a contract player, and subsequently the committee which was in office at the time he was injured. Judgment was finally given in his favour, and he was awarded $1 920 for a partial disability, or a 20 per cent disability in the use of his right leg. From the 8th August to the 10th December, 1972, he was entitled to $69 per week; and from the 10th December, 1972, to the 24th April, 1975, he was entitled to $20 per week. At that time he was employed as a part-time football player. He was also employed by the New South Wales Water Board.

The Canterbury-Bankstown Football Club appealed against the judgment, but the appeal went in favour of the original decision making the award to the player concerned.

The second instance was a much more tragic one. This player was Paul Brown, and at the time he was playing for the Kiama Football Club in

the Wollongong League. Brown was a professional fisherman, and he was receiving only $7 for every game he played. While he was receiving that payment he was injured in a game, and eventually became a quadraplegic. This man was married with two children. For that injury he was entitled to $43 per week for himself, $16 per week for his wife, and $8 for his children.

Because in New South Wales there is no limit to the amount which can be claimed, judgment was given against the Kiama Football Club, which also was an unincorporated body. The judgment was made against the governing committee of the club at that time.

An amount of $39 000 was obtained from that club, and eventually the claim finished up with the State having to possibly underwrite an amount upwards of $600 000; since this man was reasonably young, this is the amount it could reach up to the time of his ultimate death. That was the amount which this injury could finally cost the Government.

Looking at the situation as it is, the main thing as far as I, and perhaps a number of other members, are concerned is that the Western Australian National Football League is the party most concerned. In his second reading speech the Minister said—

> The Western Australian National Football League is most concerned with the position in which all sporting clubs are placed, and in a recent deputation urged an amendment to the Workers' Compensation Act in this State to follow the action taken in New South Wales and South Australia. I am assured that the majority of, if not all, sporting clubs—and this extends to all types of sports—are unable to find the necessary funds to afford insurance, and if the position remains unaltered it could stop many sporting activities.

This is the bone of contention. In the case of sporting clubs they all ensure that their regular and ordinary employees, such as trainers, masseurs, and bar staff, are covered by workers' compensation. No doubt, the position is satisfactory where the clubs have done that.

I assume that anyone who attends a football match on a Saturday goes there to see the football players in the middle of the arena, and not the person serving drinks behind the bar, or the person collecting the tickets at the gate. If anyone intends to supplement his income, he should not become a football player; he should take a position as a barman or as a ticket collector at the gates of a football club. A person who plays football and takes his chances is not covered by workers' compensation. In the case of Australian rules football, I cannot recollect an instance of a person suing a football club because of his inability to receive payments under workers' compensation.

Evidently certain amendments are to be held back, because in his second reading speech the Minister said—

> In the meantime, both States will conduct an inquiry to examine the needs of sportsmen and the feasibility of setting up a compensation scheme. Contestants, of course, can still obtain personal accident policies.
>
> The Workers' Compensation Act in Western Australia is to be amended similarly to what has been done in New South Wales and South Australia. As those two States are both conducting an inquiry into the need for a suitable compensation scheme for sportsmen, Western Australia will await those reports and examine the proposals therein before considering what may be appropriate to this State. Latest information is to the effect that both committees are about to report to the Government of their respective States.

I am sure members recall the case of Neil Sasche who played for the Footscray Football Club in the VFL. He was a full-time employee, and unfortunately through an injury in a game he became a quadraplegic. Such injuries are likely to occur in high-risk sports such as rugby, Australian rules football, and to a lesser extent soccer.

As this player who became a quadraplegic received $100 000, it might seem to be a very magnanimous gesture on the part of the VFL to make the payment. However, of that amount, $50 000 was raised from the general public who paid 50c extra on every ticket for the 1975 Grand Final. The VFL had a policy which enabled it to provide another $50 000, thus making up the $100 000 which went to Neil Sasche.

I put this to the Leader of the Opposition: if we are to pass an amending Bill which takes away the right of a player to receive workers' compensation when he is injured, we should look at the case of Mal Brown. Hopefully the spectators will not hurl billiard balls at him, because we do not know what this player might receive in respect of workers' compensation.

The Hon. D. K. Dans: He is not a worker within the meaning of the Act.

The Hon. TOM McNEIL: Barry Cable has returned to Western Australia. A statement has

been made by the Perth Football Club that no sentiment will be shown in his application for a clearance to East Perth. If he asks for a clearance to East Perth, the transaction will be carried out on a strict business basis. If he intends to be covered by workers' compensation it will have to be done through his contract with the East Perth Football Club to this effect, "If I am injured can I expect a certain amount?" He will not be placed in the situation where he has no redress. He will be able to negotiate his own contract.

I do not intend to speak against the amending Bill. Whilst the second reading debate is taking place, different points of view might be expressed, but we have to be fair. We should ensure that justice is done. I do not think that an unincorporated body or a committee of a football club should be liable for a player who takes his chances on the football field to play the sport of his choice and becomes injured.

In putting forward this assessment of what I regard as justice, I should point out that committee members of football clubs are free to join the club of their choice to serve as barmen or as ticket collectors at the gates, so that they will receive workers' compensations when they are injured. However, I hope that the same justice will be available to the football players themselves. Players who assume risks voluntarily by changing from a recreational pastime to a type of work should be covered.

I have already referred to the Western Australian National Football League. This body is very quick to point out that it is most concerned with the position in which all sporting clubs are placed. I expect that comment of the WANFL was made with tongue in cheek. The WANFL is covering its own commitments, and it does not care one iota about any other sporting organisation. It is covering itself.

If we take the case of Ron Barassi, we find he was under a contract of service to the North Melbourne Football Club. That club would say to him, "We intend to win this year's premiership, and we want you to bring that flag to us." That is a contract of service.

However, in the case of a person who wants to play with North Melbourne, it also would be a contract of service. It would not be a case of that player being able to do as he pleased; it would be a case of that player being told by Ron Barassi how he should operate. So, we have two different types of contract.

The Hon. D. K. Dans: A national compensation scheme would take care of all this.

The Hon. TOM McNEIL: I agree with the Leader of the Opposition that a national compensation scheme would take care of this; but that has not come about although it would be the answer to the problem.

The earnings of Australian rules football players and rugby league football players are taxable. They have to include their earnings from the sport in their taxation returns, and the Government extracts its share of the earnings. So, on this occasion the Leader of the Opposition and I are in complete agreement.

I do not intend to delay the passage of the Bill, except to point out that justice must be done. Committees of football clubs should have the right to carry out their duties without being held responsible for injuries to the players.

I support the Bill, and I hope the day will come when that justice is also meted out to the footballers.

THE HON. D. J. WORDSWORTH (South—Minister for Transport) [5.28 p.m.]: I thank members for their support of the legislation, and in particular I thank Mr Tom McNeil who spoke on behalf of the footballers. If it is any news to him, he has joined the ranks of another group of people who are not covered by workers' compensation; I refer to members of Parliament. The honourable member seems doomed to be living amongst the uninsured in the community!

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 Transport) in charge of the Bill.

Clauses 1 and 2 put and passed.

Clause 3: Sections 5A, 5B and 5C added—

The Hon. D. W. COOLEY: I raise a question to put Mr Tom McNeil's mind at rest to some degree. I do not expect the Minister to be able to give an answer to my comment at this stage, but perhaps he will be able to obtain the information before the third reading stage.

Proposed new section 5A states that a person shall be deemed not to be a worker while—

(a) participating as a contestant in any sporting or athletic activity;

(b) engaged in training or preparing himself with a view to his so participating; or

(c) engaged on any regular journey, daily or other periodic journey, or other journey in connection with his so participating or being so engaged,

It goes on—

if under that contract, he is not entitled to any remuneration other than remuneration for the doing of those things.

I pointed out during the second reading debate that a number of people in this State—in both cricket and football, to mention two sports which come to mind—are players in every sense of the word, but are also required to promote the game with which they are involved during the time they are not engaged in playing. I think it was Mr Tom McNeil who referred to Barry Cable, and said that when he was appointed to East Perth he would not be engaged only in coaching. His duties will take him to country areas and to schools to promote the game, while actively preparing himself for the game.

If a person in that category does take part in the sport for which he is under contract to the club and is injured, would he be entitled to compensation under this Act? Will he be a worker within the meaning of the Act?

I do not expect the Minister to have a ready answer at his disposal, but perhaps he could obtain some expert advice which might be of assistance to people engaged in this capacity.

The Hon. D. J. WORDSWORTH: My interpretation is that while such a person was participating in other activities he would be insured, but while playing sport he would not be insured. The note from the Minister reads—

A new section 5A will exclude from the definition of "worker" a person who is participating as a contestant in a sporting or athletic activity or engaged in training or preparing himself to participate, including travel to do so, if his contract makes provision to remunerate him for doing those things only. This will free sporting clubs for liability for such competitors. This would not preclude a sporting body from including in a contract an additional obligation as an employer to remunerate a participant for doing things additional to participating, and he could then be classed as a worker under the Act.

I think that note may clarify the situation.

Clause put and passed.

Clause 4 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by the Hon. D. J. Wordsworth (Minister for Transport), and transmitted to the Assembly.

TRANSPORT COMMISSION ACT AMENDMENT BILL

Second Reading

Debate resumed from the 2nd November.

THE HON. F. E. McKENZIE (East Metropolitan) [5.35 p.m.]: The Opposition supports this Bill and it is not necessary for me to go into any great detail with regard to the reasons.

The measure is long overdue and had it been introduced into Parliament prior to the recent dispute it might well be that we would not have witnessed the hostility which erupted during the dispute, and we would have avoided the friction and confrontation which occurred between the small businessmen and others interested in getting the freight moving.

The provisions of this Bill will provide some form of control in the industry, and this augurs well for the future if the procedures outlined are carried through. Many people suffered as a result of the recent dispute, and as I said previously the dispute involved small businessmen and prime contractors. From what one was able to understand from reading the newspapers, the bulk of the prime contractors were prepared to accede to some of the demands of the owner-drivers because they recognised the owner-drivers were experiencing difficulties following increased costs, and also from the fact that many of them were paying off their vehicles. Many of the owner-drivers were working on such fine margins that if an operator had trouble, such as a tyre blowing out, he would have difficulty in meeting the payments on his vehicle for that month. We do not want to see that situation continue.

We can only hope that during the 12 months this matter will come under consideration the position will resolve itself. The legislation will provide an opportunity for the Commissioner of Transport to inspect the records of the firms involved, and to make recommendations with regard to rates. That should help to overcome some of the problems of the past.

The Opposition believes this legislation ought to be persevered with. There may be some teething

problems, but certainly nothing could be worse than what has transpired over a long period of time. We witnessed owner-driver after owner-driver going to the wall because they were simply unable to meet their commitments on their vehicles, and because of the other costs associated with the running of their businesses.

Many owner-drivers have been able to move into the industry on very low deposits. They have obtained the necessary equipment to become small businessmen. It was very attractive to many of them, but after a short period of operation they realised they had overlooked certain facts and, as a result, they got into difficulties and many of them went into bankruptcy. Hopefully, this Government legislation will provide some protection in the future for those people who have not come from the business field, and who run into difficulty after establishing themselves as road transport operators.

The Opposition supports the Bill and, in fact, welcomes the introduction of it into this House.

THE HON. J. C. TOZER (North) [5.40 p.m.]: I think members will recall that on the 5th October I rose to speak on the subject of the transport dispute, after having attended a meeting at the Perth Entertainment Centre. On that occasion I was on my feet for 18 minutes and touched on a number of things. Very briefly, they included the disruption of supplies to the north; the confusion of owner-drivers at the Perth Entertainment Centre meeting; my support for the Minister for Labour and Industry on four separate times; my doubt regarding Government intervention in commercial negotiations; competition in the north-west road cartage business; the toughness of prime contractors; criticism of the Bell Group and its chairman; the absence of industrial status for owner-drivers; permit fees and consequential cost to the remote consumer; road maintenance charges, with the same result; the nonexistence of any relationship between permit fees or road charges and freight rates; and the State Shipping Service to the Pilbara.

The only item which the Press found noteworthy on that occasion received the following comment—

> A Liberal back-bencher in the Legislative Council criticised the Government's intervention in the dispute.

My criticism was in the following words—

> I have a personal feeling that this was the place where the Government maybe should not have been. There was no way in which the Government could really enter into this discussion. There was one set of businessmen on the one hand—the Road Transport Association—and on the other hand there was another set; that is, the owner-drivers. Clearly, these people had to negotiate a settlement.

The newspaper saw fit to state I had criticised the Government. I hope the Press is not as unkind as that tonight, and if it is not I hope representatives will talk to my leader about the matter and get me off the hook this time.

Since then many things have happened and, of course, this Bill is before us tonight as a direct result. It will be noticed I was critical of Mr Holmes a'Court of the Bell Group, but I subsequently withdrew that criticism. Probably, many people wondered why. I will quote briefly from two letters. The first is signed by P. C. R. Cowles, the Secretary of the Transport Workers' Union of Western Australia, and under the letterhead of that union he wrote—

> I am writing to express my opinion that the Minister for Labour, Mr Grayden's accusations which were recorded by the press that you refuse to negotiate and are the bogey of the dispute.
>
> I must stress that on each occasion I have requested negotiations with your company you and your staff have been most co-operative. But I add that we are disappointed with the results of the negotiations with your company over Owner Driver rates.

The other letter is from the West Australian Road Transport Association, and under that letterhead the Executive Director (Mr W. Pellew) wrote—

> At today's General Meeting numerous members expressed their concern over statements that your Company had not been involved in negotiations with ourselves and the T.W.U.
>
> We advise that the Association disassociates itself from these statements and we have written to the Minister for Labour & Industry accordingly (copy attached).

As I have said, I feel it is important to put the record straight. If I was wrong I should be told, and I have to withdraw. I realise I made an error.

I still agree with the general principle that it was undesirable for the Government to move in between two groups of businessmen. But, in any event, on this occasion it seems the Government and the Minister for Labour and Industry knew more about the matter than I did, and if I did Mr

Grayden an injustice I apologise to him, although I must say my general approach in principle will probably be the same next time. However, he has proved me wrong on this occasion.

I would like to refer very briefly to the three things the Minister said this Bill will achieve, and Sir, these are identical with what has been published widely in the Press and also referred to in a leading article by the Editor of *The West Australian.*

Firstly, the Minister referred to the Commissioner of Transport having confidential access to the records and freight-rating systems employed by the long-range transport operators both large scale and self-employed. Quite frankly, as a member of the Liberal Party, this is the sort of thing I would not seek to have included in any legislation whatever. However, we must recall that in the State Transport Co-ordination Act, section 22(1)(b) reads as follows—

> . . . has the powers, authority and protection of a Royal Commissioner, under the Royal Commissioners' Powers Act, 1902, and the provisions of that Act apply, *mutatis mutandis,* to any investigation and inquiry that he may make for the purposes of this Act.

In other words, the powers being given to the Commission of Transport under this Bill are identical with what already exists in the legislation covering the position of Mr John Knox.

The second thing that will be achieved by the legislation according to the Minister is as follows—

> Recommend rates per tonne or proportion of the master freight rate in the case of a subcontractor, which should be paid to the subcontractor.

I will refer to this briefly again in a moment. The Minister's third point was as follows—

> Undertake such studies of the industry from time to time necessary to make recommendations to the Government about the control of the industry to ensure greater operational and economic stability.

Those are the three objectives, and I will refer to the latter two in just one moment. The Minister went on to say—

> The Government has also given an undertaking to review the operations of the new legislation within 12 months.

This particular statement by the Minister pleases me. When I referred to this working party while I was on my feet on that previous occasion, I pointed out this was something offered by the Minister and it was quite specific: there would be this working party which would consist of two representatives from the Road Transport Association, two representatives from the Transport Workers' Union and/or owner-drivers—ideally one from each—and of course two Government nominees; one from the Department of Labour and Industry and one from the Transport Commission.

I have a letter from one of the principal members of the Road Transport Association, Thomas Nationwide Transport System, which states that it firmly believed and would have liked to think that the working party could have been convened and operating before the legislation was introduced. Secondly, TNT feels that instead of leaving the way open for a working party, as the Minister has done, statutory provision for such a working party should have been included in this legislation. I am not going to belabour that point but I am simply referring to what one member of the Road Transport Association has had to say about it.

Finally, the Minister had this to say—

> An integral part of ensuring that those needs—

The needs to which the Minister referred are the supply of the materials to the Pilbara which will be brought about by the surge of development we will see in the next year or so. The Minister continued—

> —are met is the existence and maintenance of a stable and diversified road transport industry, which will embrace large companies, company-employed drivers, and owner-driver subcontractors, who wish to invest their capital and play their part in providing that service.

We certainly hope that the sentiments expressed there will in fact be achieved as time goes on.

I support this legislation, and I congratulate Mr Grayden on its preparation and Mr Wordsworth on introducing it here. However, it is important to consider the actual expectations of the owner-drivers. As Mr McKenzie just told us, these were the men who were working themselves silly and still going under. They were working long hours, overloading their units, and risking being picked up by inspectors, but that was the only way they could keep in front. This was the sad state of affairs.

I think it is important to recognise that we are considering two groups of people; not only the people who own their own rigs—whether they be road trains, semitrailer units, semitrailers with dog trailers, or whatever—but also the owners of

the prime movers, the power units that pull the trailers belonging to the companies to the northern destinations.

It is also worth noting at this stage that the legislation before us tonight relates only to road operations to destinations north of the 26th parallel. From my talks to owner-drivers, including members of the negotiating committee, it is quite clear that their expectations are far greater than what is actually written into this Bill.

For example, the owner-drivers talk freely about the determination of rates, but nowhere in this Bill is there provision for the determination of rates. The Bill provides only for the recommendation of satisfactory rates.

The owner-drivers collectively have the impression that penalties can be imposed either on the prime contractors on the one hand, or on the subcontractors—the owner-drivers—on the other hand if they do not toe the line. However, when they are questioned as to how this can be possible, it is not easy for them to explain. Presumably, the only way this disciplinary action can be taken is by withholding permits, and I for one do not want to vest in the Commissioner of Transport the right to withhold permits arbitrarily in order to flex his muscle to ensure that the aims of this Bill are enforced.

The Hon. F. E. McKenzie: The only way you can overcome that is by giving them power to fix the rates. Would you agree with that?

The Hon. J. C. TOZER: This Bill provides also for the licensing of prime movers. In reading this Bill members must understand that the trailer units, the units carrying the load, are licensed already. When we see red plates on a vehicle, we know that is the authority to carry. However, the prime movers carry no such transport licence and this Bill provides for that to happen. We have been told that it will not involve a high fee but there is an expectation on the part of the owner-drivers that this provision will put a value on such plates. In other words, the owner-drivers are looking to the day when carting to the north-west will be a closed industry. These men are talking of the time when their plates will have a value of $15 000 or $30 000 in much the same way as has evolved under the taxi control legislation. Again there is nothing to this effect in the Bill; it is an expectation that has developed amongst certain owner-drivers on this route.

While referring to the expectations of subcontractors, I will mention cases where substantial contracts are involved—and by the term "substantial contracts" I mean contracts entered into between, say, the Mt. Newman Mining Company and the Bell group to cart nitrates to the Mt. Whaleback mine site. Large sums of money are involved in contracts of this type. When the Commissioner of Transport recommends a rate, a portion of that rate will be paid to the subcontractor. However, when he goes to the prime contractor and it is found the figure for which he is carting is cut so tight that there is no way the subcontractor can get a bigger share, it is expected that the Commissioner of Transport will be able to go to the Mt. Newman Mining Company to say, "Look, you have to put up the price." I hope the Commissioner of Transport can and will do that, but certainly he has no powers anywhere in this measure to do so and it will only be through the use of his good offices that an increase in price can be achieved. It will certainly be a concession on the part of the company in the north that has entered into the contract. I referred to the carting of nitrates, but I could just as well have spoken of a contract between Brambles and Coles New World. When those contracts have to be renegotiated on a co-operative basis, all that happens is that the customers—my constituents in South Hedland—have to pay more for their goods. It worries me to think that we will have this difficulty in sorting out how the legislation can be applied so that it is effective.

The men believe it is implicit in this Bill that there is a right of appeal if there is no agreement between two parties. The question then is: appeal to whom? Presumably this right of appeal has to be to the Commissioner of Transport, and I wonder whether a decision made by the commissioner can be binding on one or both parties.

The men involved in this industry have my complete sympathy, as they did when I spoke after the meeting at the Perth Entertainment Centre. These men expect that a workable system can be established. I am hoping that with goodwill on both sides this will be achieved, but it will not be a statutory provision. I hope it will work out well. These owner-drivers expect an ongoing beneficial stabilising effect and also that the conflict will virtually disappear.

One of the major results may well be that the owner-drivers will no longer wish to be dependent on the Transport Workers' Union. This has been an unhappy marriage and it could not be of real value to those small businessmen to have a secretary of an industrial union representing their point of view. It seems to me that there are too many areas where there will be a conflict of interests and therefore, if in fact this legislation does have that effect—and I see it having that

effect provided it is successful—well that is fine by me.

The two main matters that influenced these men to withold their services for this long period were a lack of sufficient monetary return and the fact that they wanted stability in the industry.

There was a small step forward in the way of monetary returns, although this is very difficult to see. Many drivers in fact were working for as much before the stoppage as they finally got when they resumed work. However, at least there seemed to be uniformity through the industry from that point on; that is, until the drivers started undercutting one another again.

I think a recommendation of rates by the Transport Commission could have a desirable effect, and I certainly hope it will. I also hope that stability in the industry will be achieved. It will be achieved only by ready co-operation between all levels in the industry, from the Commissioner of Transport under the Minister, through the Road Transport Association, or the prime contractors, and the owner-drivers, down to the customer at the other end. I have great hopes for this piece of legislation. I support the Bill.

Sitting suspended from 6.01 to 7.30 p.m.

THE HON. W. R. WITHERS (North) [7.30 p.m.]: When I first heard the contents of this Bill I had the thought that if I had been a socialist I would have jumped for joy; I would have grabbed the intent of this Bill and held it close to my chest and said, "At last I have made it. At last my party is moving towards the takeover of transport in Western Australia." If this Bill is placed in the Statute book it will be the end of the owner-driver and it will mean eventually the nationalisation of transport in this State.

I do not believe it will do what the owner-drivers think it will. If passed I think it will decrease the number of owner-drivers in Western Australia, and this thought does not appeal to me at all as a believer in free enterprise. I cannot see how this Bill will assist the owner-driver in the long term.

The Minister did say in his second reading speech that the short-term objective was to bring an end to a dispute which was causing major disruption, and I agree this was achieved. The second objective, however, is a long-term one. It is to ensure that owner-drivers have a role to play in the road transport system of Western Australia, which they already have, and as far as possible have a measure of economic stability, which they do not have.

The reasoning for the Bill seems to be just, but unfortunately, if it is placed in the Statute book it would be contrary to the philosophy in which I believe. If we look at some of the things the Commissioner of Transport is empowered to do we find that one is—

> Have confidential access to the records and freight rating systems employed by the long-range transport operators both large scale and self employed.

As I see this section, it would open up a tremendous number of opportunities for graft. Clause 42F offsets this with a fine of $1 000 for anyone who contravenes the provisions of the Bill when it becomes law. That sort of fine usually does not deter people who are interested in self-motivation brought about by breaking the law by means of graft. I consider this Bill could corrupt.

My colleague, the Hon. John Tozer, attended meetings with owner-drivers and I questioned him about these attendances. He explained to me that the owner-drivers really wanted the sort of legislation this House is now considering. I have made further checks and found that my colleague is perfectly correct, and that the Government is also correct in meeting the immediate requirements of the owner-drivers. They consider they are getting a good deal and on the surface it would appear to be a good deal.

In his second reading speech the Minister said—

> Within the space of a few short years the north-west will undergo unprecedented change as a result of resource development, mineral processing, and such huge undertakings as the North-West Shelf gas.

I would like to point out that not only will the north-west be expanding in this way but the Kimberley also will undergo similar expansion. In fact, although the shelf is called the North-West Shelf, it is closer to the Kimberley than the north-west. It is quite understandable for people to be confused. But the Kimberley is not in the north-west; it is a separate region.

It would appear from what I have said to date, even though I have agreed with some of the Government's actions, that I am opposing this Bill. If it were not for the fact that it is what the owner-drivers want—which is important in a democracy—I might not have supported the Bill. However, as it is the owner-drivers' wish, I will vote for the Bill. I have to do that as an unbiased legislator, but if I were to vote on my own conscience without the next provision I would have to vote against the Bill. My conscience is salved by the fact that the Government is giving an undertaking to review the operations of the

new legislation within 12 months. That is the major reason for my supporting the Bill.

If the legislation were to remain on the Statute book beyond that period I could not vote for it even though the owner-drivers want it. With those words I support the Bill.

THE HON. R. THOMPSON (South Metropolitan) [7.37 p.m.]: I support the Bill. Members know what led to its introduction in this Chamber and therefore we do not have to go into the history of it.

I have two criticisms of the Bill. I notice the Bill is to be reviewed after a 12-month period. In proposed section 42C I believe there are some wrong determinations inasmuch as it says—

> Notwithstanding anything contained elsewhere in this Act, on and after the appointed day a person shall not, for hire or reward, operate a commercial goods vehicle from south of the twenty-sixth parallel of latitude to the north thereof unless he is the holder of a Certificate. . .

I thought it would be appropriate if that section had been worded to cover owner-drivers and transporters going to destinations or areas of the State to be prescribed by regulation. This would allow for much the same as we had under the Liquor Act for some years where we had prescribed areas for Sunday trading and other benefits extended to people in remote areas.

The Hon. J. C. Tozer: Doubtful benefits.

The Hon. R. THOMPSON: Yes, but this is a different category which I give as an illustration. It is possible to draw up legislation in such a way that such a provision could be prescribed by regulation. As the Bill stands, I think this section is a failure in that currently we are looking only at the north-west and not the whole of the State.

The other query I have concerns the functions and powers of the commissioner as set out in proposed new section 42D(1). Here again I believe the Bill is weak inasmuch as the commissioner can only make recommendations; there is no determination or authority for anything to happen other than the making of recommendations and the imposition of penalties.

I would hope that when this Bill is reviewed the Government will look at the operations of prime contractors and subcontractors, etc., with the object of bringing in—as mentioned in the previous section—different rates for different commodities. This would mean that anyone in the industry would know what percentage he was entitled to for each category of goods carried.

Admittedly, this is hurried legislation and I do not say it is the best legislation, but at least it is a start. We rely heavily on the transport of goods throughout Western Australia and I am happy to see this legislation introduced. I have some reservations and I trust after a 12-month period a more thorough look at the aspects of this legislation I have queried will be made. This Bill is the first of its kind in Australia.

Perhaps the other thing I would like to see in the legislation is a section dealing with the performance of trucks, and the ability and availability of the necessary people to do the right job. Currently, we find very slow trucks on our country roads that hold up traffic; they stay in the middle of the road and will not pull over to let other motorists pass. I think the performance of trucks should be taken into consideration.

If we are to have an efficient transport system we need people who will comply with what the legislation sets down. Currently they are not because there is no restriction on the performance of their vehicles. I support the Bill.

THE HON. D. J. WORDSWORTH (South—Minister for Transport) [7.42 p.m.]: I thank members on both sides of the House for their support of the Bill. I know that some members, particularly some on this side of the House, are a little diffident about the powers to be given to the Commissioner of Transport which are those of a Royal Commissioner, and this can in no way be taken lightly. These powers will certainly make his task a lot more onerous.

He himself has requested this penal provision, so there is a greater amount of force or penalty to ensure if he does ever receive any information that is secret it will not in any way be bandied about or sold. I think Mr Withers was somewhat frightened that it might lead to graft, but I do not think for one moment that it will. If one reads the Act concerning Royal Commissioners one will realise these powers would not be taken lightly, particularly when the Commissioner of Transport holds such a high Government position. I do not think he would jeopardise his position in any way, and quite apart from that I think we are fortunate to have a person such as the present commissioner. There need be little worry about secrecy or privacy.

It is very disappointing that a working party did not get off the ground and that we had to introduce this legislation. It is frequently argued by certain groups that if the Government had not interfered with private enterprise, the dispute would have been resolved without the Government taking part. It is all very well to look back and say that now when we know the dispute

was resolved; but at that time the whole transport system was in jeopardy, particularly the cartage of goods to the north-west, and I believe the two members representing the people who live in the north-west indicated the very great concern which was felt in that area. The people who live in the north-west felt the transport problem had to be resolved; food and essential items were required in the north and it was essential that they should be transported there.

The people who live in the north-west are very dependent on road transport. One of the difficulties—and Mr Thompson has raised this matter—is that the commissioner can only make recommendations under this legislation. It remains to be seen whether other powers are found to be necessary over the next 12 months. It has been pointed out that this is a trial period and the situation will be reviewed in 12 months' time. Members must appreciate that we might be able to set a higher price, or recommend a higher price; but if we are not careful we will extinguish the owner-driver. The larger companies will find it more profitable to buy their own trucks and use them on the road. A point of balance must be reached, and no-one appreciates this more than the owner-drivers themselves. I draw attention to that.

The Hon. R. Thompson: I think you are missing the point. The large companies, and particularly one company, would not negotiate in the last dispute and they may not accept the recommendations. There is nothing to force them to accept the recommendations.

The Hon. D. J. WORDSWORTH: The point I am making is: If the commissioner set a price which was too high, which was above the figure those companies were prepared to pay, and the companies decided to use their own trucks, the commissioner could change the whole form of the industry. This will be a very delicate situation. The commissioner will obviously get as close to that figure as is possible when he lays down the recommended price.

The Hon. R. Thompson: But if the commissioner recommends a higher price, the companies would say, "We will not accept your recommendation."

The Hon. D. J. WORDSWORTH: That is right. Therefore, the figure must be as high as is possible and it must be delicately balanced.

The Hon. R. Thompson: It has to be reasonable; but it has to be high enough.

The Hon. D. J. WORDSWORTH: It must be high enough; but not so high that it will drive the companies to buy their trucks, because I think that is the last thing the owner-drivers want.

One of the unfortunate aspects of this is—and this was certainly the case during the dispute—the companies started to order trucks again. If one looks at the whole dispute, I am afraid a certain amount of it was brought about because there were more trucks working in the industry than there was work available for them. We have seen a slight lowering in the amount of work which is available and this has precipitated a certain number of our difficulties.

However, Mr Grayden is to be congratulated on at least getting the parties back to work. The commissioner will have a very difficult task, and the manner in which he exercises his powers will indicate the future of the whole legislation, and the future of the whole industry. I have a great deal of confidence in the commissioner and in his ability to exercise his powers with discretion.

It is obvious Mr Tozer and Mr Withers are very concerned about this legislation. That concern was evident from the study they had undertaken. Mr McKenzie raised the matter of the owner-driver being a small businessman, not fully aware of the economics of his industry. I think that is an important point. One may buy a unit with a deposit a little larger than one would raise on a house and enter this industry. As a result, people enter the industry and are not fully aware of the consequences of their action. They are not aware of the number of trucks already in the industry and they are not familiar with the pricing situation.

The Government has produced a booklet called "Cab Talk". It is designed to train and teach these owner-drivers some of the economics of owning a truck and working in this business. I think the Government must be commended for publishing this booklet. It has proved to be helpful to the industry.

I need say no more, Mr President. We have received the support of the House for this Bill. I commend the Bill to the House.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

Third Reading

Bill read a third time, on motion by the Hon.

D. J. Wordsworth (Minister for Transport), and passed.

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 2)

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) [7.55 p.m.]: I move—

That the Bill be now read a second time.

The amendments to the Local Government Act which are proposed in this Bill include two very important innovations so far as local government in Western Australia is concerned. These relate to long service leave for municipal employees and deficit budgeting by councils.

At present, the long service leave conditions for council employees are prescribed in the by-laws of the individual councils. These conditions therefore vary from council to council.

Although each council is an autonomous body, the whole of local government employment is very much a career service and there is therefore a regular movement of officers and employees from council to council.

The development of this career aspect in local government employment can do nothing but strengthen local government administration. It allows officers to gain adequate experience and develop the expertise required for this specialised field of employment and thus better equips them to serve individual councils.

In order to foster the career opportunities in local government, this Bill provides for the application of uniform long service leave conditions right throughout local government in Western Australia. But by far the most significant feature of the proposed long service leave scheme is that it provides for portability of service from council to council.

Under the provisions of the Bill, long service leave schemes which are presently contained in council by-laws will cease to apply and councils will no longer be able to make by-laws for this purpose.

Instead, standard long service leave conditions for all municipalities will be prescribed by regulation. However, where employees of particular councils are currently entitled to long service leave after a lesser qualifying period than that prescribed in the regulations, the regulations may allow those present employees to continue to enjoy these more advantageous conditions whilst they remain in the employ of the council concerned.

It is intended that the regulations will provide for 13 weeks' long service leave after each 10 years of continuous service. It is intended also to provide for *pro rata* long service leave for a person who leaves local government after the initial 10-year qualifying period or after the first seven years of continuous service if the employee's services are terminated by death or retirement at age 65 years.

This standard scheme has been agreed to by the Local Government Association and the Country Shire Councils' Association, as well as the Municipal Officers' Association which is the industrial body representing local government officers. It is pleasing that the associations of local government have acknowledged the advantages to local government in encouraging employees to become part of a career service.

The Bill also deals with another important matter of principle. The Local Government Act presently obliges a council to impose a rate each year which is sufficient to balance the budget. In other words, a council may not budget for either a surplus or a deficit.

The requirement that councils adopt balanced budgets is soundly based. It ensures that the impost on ratepayers in a particular year will be no more or no less than is necessary for the works and operations of the council for that year. Moreover, the prohibition on deficit budgeting safeguards against the financial instability which might occur if the position were otherwise.

Whilst it is believed that the principle of balanced budgeting should be preserved, the need for some flexibility to be written into the Act has become obvious. In recent years, a few councils have found themselves in a situation where it was impossible to prepare a realistic budget which was in balance.

In these circumstances, it is of course highly undesirable that councils should cover this problem by adopting a budget containing unrealistic revenue or expenditure items; but, under the present provisions of the Act, a few councils have on occasions had little alternative.

The Bill therefore proposes that, in special circumstances, a council may impose a rate which will yield less than the amount required to balance the budget. This action will be subject to fairly stringent controls to ensure that the practice of deficit budgeting is not encouraged

and that councils take all possible steps to recover from any financial difficulties.

Other amendments contained in this Bill are not so much related to new matters of principle. They are intended to remove anomalies which have come to light in the existing provisions of the Local Government Act and to meet the need for refinement in certain municipal procedures.

These matters cover—

(1) the appointment of multiple deputies for a member of a council committee;
(2) the continuation in office of a mayor or president who is elected by the council, until such time as his successor is so elected;
(3) the inclusion of the Australian Postal Commission and the Australian Telecommunications Commission, in place of the Postmaster-General's Department, amongst the authorities which must be served with notice of intention to close a private street;
(4) the correction of an incorrect cross-reference in provisions relating to building control, and the updating of the 27th schedule to the Act and a consequential amendment relating to audit fees.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. R. F. Claughton.

DOG 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) [8.00 p.m.]: I move—

That the Bill be now read a second time.

The provisions of the new Dog Act which was enacted last year, require dogs to be individually registered with a municipal council. The only exemptions from the registration requirements are dogs under the age of three months, those kept by the Royal Society for the Prevention of Cruelty to Animals, the Dogs Refuge Home, veterinary surgeons, and the Police Force.

The previous Dog Act provided a concessional fee for the registration of dogs kept in kennel establishments in lieu of the individual registration of those dogs. This concession was not included in the new Dog Act, and therefore as the law stands at the moment, the owners of kennel establishments must register each of their dogs separately.

It is considered that the individual registration of dogs kept in licensed kennels would place an unreasonable financial burden on a kennel owner and also a significant administrative work load on municipal councils.

The Bill provides for the Dog Act to be amended to permit the regulations to prescribe a concessional fee for the registration of dogs kept in licensed kennel establishments in lieu of the separate registration of those dogs.

As kennel owners effecting registration under this provision will not be issued with registration discs for their dogs, the Bill also provides for such persons to be exempted from the requirement that a dog must have a valid registration disc attached to its collar whenever it is in a place to which the public has access.

The proposed concessional kennel registration fee will be optional, so that kennel owners who would be disadvantaged by the fee—initially it is intended to prescribe a fee of $50 per annum—can elect to register their dogs separately at the normal registration rate.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. F. E. McKenzie.

OFF-SHORE (APPLICATION OF LAWS) BILL

Second Reading

Debate resumed from the 2nd November.

THE HON. I. G. MEDCALF (Metropolitan—Attorney-General) [8.02 p.m.]: The debate on the Bill was adjourned last week to give any other member who wished to speak an opportunity to do so; but, in the absence of any other member wishing to speak, I will answer the query raised by Mr Berry who desired clarification of the reference to the general laws of the State which apply in the territorial sea.

The reference is to the general civil law of the State as distinct from the criminal law. The Criminal Code Amendment Bill (No. 3), a corollary to this Bill—and it is still on the notice paper—deals only with the criminal law concerning a distance of 100 miles offshore, whereas the general civil law will apply, under the Bill, for a distance of up to the extent of the territorial sea which at present is approximately three miles, but which it is anticipated will be extended at some future date when Australia

adopts the recommendations of the Law of the Sea conference.

I commend the Bill to the House.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

Third Reading

Bill read a third time, on motion by the Hon. I. G. Medcalf (Attorney-General), and transmitted to the Assembly.

CRIMINAL CODE AMENDMENT BILL (No. 3)

Third Reading

Bill read a third time, on motion by the Hon. I. G. Medcalf (Attorney-General), and transmitted to the Assembly.

MAIN ROADS ACT AMENDMENT BILL

Second Reading

Debate resumed from the 3rd November.

THE HON. F. E. McKENZIE (East Metropolitan) [8.06 p.m.]: The Labor Party supports the Bill, but I wish to comment on some aspects of it. I hope the Minister will clarify the situation when he replies to the debate. On page 7 of his second reading speech the Minister said—

> The total funds provided in this Bill for annual grants to country local authorities amount in rounded figures to $9.685 million representing an increase of 5.1 per cent on the sum of $9.213 million in the last financial year. However, in the proposed distribution of this sum between individual local authorities, it was appreciated that because of anomalies in the previous statutory grants scheme, the annual roads grants previously received by country local authorities did not reflect the road needs of individual councils and therefore it was necessary to evolve a new system which more realistically reflected the relative road needs of councils and changes in development occurring throughout the State.
>
> In the metropolitan area, a formula has been used successfully for the past four years to distribute statutory road grants to urban local authorities and much research work has been undertaken by a committee consisting of representatives of the Country Shire and Town Councils' Associations and Main Roads Department to arrive at distribution formulas to provide a more realistic indication of the road needs of country councils within clearly identifiable groupings or zones within the State.

One accepts that, in respect of country areas, that situation prevails.

I realise that not all shires will be happy with the new system, but we must accept that, and we do not take issue on that point. However, I am not sure of the situation in relation to the metropolitan area and this is where my concern arises because I represent a metropolitan province. One notices that in the shortfall of funds the urban arterial roads have suffered the greatest cut-back. On page 15 of his notes, the Minister stated—

> As it will be necessary to utilise State funds which are in short supply, to make good the severe shortfall in Commonwealth allocations for urban arterial roads, it will be necessary for the base grant to metropolitan local authorities to be allocated from Commonwealth urban local road funds. While these funds are to be used for construction purposes and not for maintenance, provision has been made in the Bill for some easing of this requirement where a local authority can show that special circumstances exist. The proposals have been fully discussed with representatives of metropolitan local authorities.

The Minister stated that discussions took place, but he did not mention the result of those discussions or whether the metropolitan local authorities were satisfied.

The Hon. D. J. Wordsworth: Just that the Government would consider, under certain circumstances, allowing them to do maintenance with that money.

The Hon. F. E. McKENZIE: That is with regard to moneys out of the special grants, but they can make up only the shortfall, at the best. I appreciate that some $590 000 has been allowed to make provision for this area.

The Hon. D. J. Wordsworth: It is not only the money in the shortfall account which can go to maintenance. It is any money.

The Hon. F. E. McKENZIE: I see. I appreciate the Minister's reply in respect of that particular matter.

The PRESIDENT: Order! There is far too much audible conversation and I cannot hear the honourable member.

The Hon. F. E. McKENZIE: Coming back to the Bill itself, and having a look at the situation in this State, I notice that the Minister said—

> Although the State has made strong representations to the Commonwealth authorities for an increase in our grant, these were not successful.

I wish to refer to that aspect, because it is not only in respect of road funds that we have not been successful in our approaches to the Commonwealth Government. We have had an increase of 3.6 per cent in the Federal allocation in respect of roads, but in related areas there has been a cut-back. For instance, in the grants for transport planning and research the cut-back has been 13 per cent and the cut-back in the urban public transport assistance programme has been 25.5 per cent. Therefore, allowing for the inflation rate, in real terms we have lost 10 per cent in moneys for roads; but we have lost far greater amounts in respect of the other related areas, because they have been minuses.

The big concern expressed by the Minister is in relation to the cut-back of $9.7 million for urban arterial roads, and I can understand that concern because the reduction has been somewhere between 45 and 50 per cent. which is a drastic amount. Looking at the estimated payments for roads under the specific purposes payments scale in the Federal sphere it is the only area where there has been any cut-back at all. There have been marginal increases in some areas, but the only cut-back has been in the funds for urban arterial roads.

This is the aspect in regard to which I wish to take issue with the Government. I have always believed that, under a Federal Labor Government, Western Australia has done better than it has done under a Federal Liberal Government. I think that is borne out to some degree when we look at the situation which prevailed at that particular time. Despite the Minister's statement that strong representations had been made, the increase in road funds for Western Australia was 3.6 per cent whereas the average increase throughout the rest of Australia was 8 per cent. So we have fallen far below the national average.

When we consider that New South Wales received a 12 per cent increase, we wonder how strong were the representations by Western Australia. If Western Australia is missing out to that degree—and there is no question that it is, when we consider the national average of 8 per cent as against our 3.6 per cent—the Western Australian representatives should have taken their Federal colleagues to task, instead of glossing over the situation and complaining that in one area we have suffered a severe cut-back.

While the Opposition supports the Bill—because it is a new system which must necessarily be introduced—I think we should have some answers from the Minister, when he replies, in respect of the matters I have raised.

Finally, although we have received $61 million, the Federal Bureau of Roads recommended that the allocation for Western Australia be $87 million. So there are two matters which require answers. Firstly, the position of Western Australia is much worse when compared with the national average. Secondly, although the Bureau of Roads recommended that we get $87 million, the Federal Government allocated only $61 million. So we have missed out in two areas, despite the strong representations which have been made, if one takes note of what the Minister said in his second reading speech.

THE HON. H. W. GAYFER (Central) [8.16 p.m.]: On Wednesday, the 24th August, I raised several factors which I believe are within the realms of the Bill now before the House. I do not intend to reiterate at great length the subject matter of that speech, except to say I was not out of order then in speaking in the manner I did but I feel these Bills somewhat overlap each other in that they have common verbiage which ties in one with the other.

Trying to keep away from figures as much as I can, it is the principle to which I mainly object, in the allocation of the funds as agreed by the Country Shire Councils' Association, the Main Roads Department, and others. I am not speaking so much about the principle of how those funds should be allocated, because I realise anomalies were pointed out and accepted by the Country Shire Councils' Association. Nevertheless, the previous speaker said some shires did not receive as much as they received last year and some received a little more, and perhaps that is the source of my argument, because I believe no shire should have received less.

I will quote from the speech of Mr Aitken, the Commissioner of Main Roads, in August, 1976, when expounding on the problem he had. In other words, he put to the Country Shire Councils' Association the problem he was experiencing in trying to bring about an allocation towards road funding, generally, and he said—

> In order to gain acceptance of the proposal it may be necessary to introduce a proviso that no local authority should receive a formula grant which is less than its present statutory grant.

This meant that under the new formula, whatever the outcome of that formula, no shire was to receive less than it received the previous year.

Although this principle is adhered to generally, somewhere along the way those shires which did receive less under the formula were not brought up to the same amount as they received in the previous year. In other words, the money was put into a supplementary fund, which amounted to approximately $590 000. At the time I suggested the moneys in that amount been allocated back to the shires, and I was informed—either in answer to one of my numerous questions on the subject or by the Minister direct—that was only a proportion of the total amount which would be needed in a supplementary fund if all the shires were to receive the same amount as they received last year.

Yet I note that in his second reading speech the Minister said—

> The proposed new system, as contained in this Bill, provides for a supplementary grant fund which is an aggregate of all the shortfall amounts by which individual local authorities receive less under the new system compared with the old.

Therefore, I think my assumption, that the $590 702 does in fact aggregate the whole of the shortfall which would be due to the shires suffering under a disability from the new formula as compared with the old one, is well founded.

One cannot win this argument, generally, out in the country areas, because approximately 50 per cent of the shires receive more and 50 per cent receive less than they received last year, and they are not running around to help each other—frankly, I think it is the old "Jack" story. Nevertheless, in my opinion those shires which have received less could have received the same amount as they received last year.

In the long term, if this system had been adopted there would not have been the necessity for some of the shires to cut back on their work force and staff and go to the trouble of establishing a need under the statutory grant in order to obtain something from the supplementary grant provision. It would have saved a great deal of paper work and it would have meant in the long term that if we always followed the principle that no shire should receive less than it received in the previous year, in two or three years' time—staying on that set figure and still adopting that criterion—the situation would be ironed out.

It might take three or four years but there would not be that initial setback. In the country areas, where there have been drought conditions and so on, and rates and taxes have had to be lifted to counteract the deficiency, there are some associated problems.

Mr McKenzie mentioned the fact that last year, when Western Australia was down $3.2 million, the Government went cap in hand to the Federal Government and said, "Why should we be $3.2 million down when it has been an established practice that no State should ever receive less than it received the year before?" The Premier and the Minister's predecessor were successful in gaining the $3.2 million on that very argument, and it supplemented the road funds for that year to the total of $58. million which eventually came in.

Under the same argument, I firmly believe no shire should receive less than it received last year. In addition, in his own words, the Minister expressed doubt as to where the funds which were left would finish up if they were not allocated from the supplementary grant according to needs. This has not been spelt out in the Bill, and I am somewhat intrigued to know that if the shortfall figure is not completely taken up there will be a suplus to go somewhere—I am not sure where.

As the Commissioner of Main Roads seems to suggest that all shires should receive as much as they received last year, it seems somewhere along the line somebody has stopped that little run and said, "No, we will put all the shortfall into a supplementary fund; then we will have a committee to run that fund and ask the shires to apply for what they need in order to get their portion of the cake and bring them up to the amount they received last year."

As a Government, we did not like having to go to the Federal Government, yet we are asking the country shire councils to do the self-same thing. I believe this is a wrong principle which should be rectified to the extent that if any of the shires are having difficulty in stating their needs in order to get the shortfall, they should be assisted to the maximum in filling in all the forms and answering the questions, in order to make it possible for them to reach it.

I believe that if the principle were adopted over the next two or three years that no shire should receive less than it received the year before, the whole problem would iron out. It is not a question of providing any more money, because the Minister said in his speech that all the money is available in the fund. I refer to his comment on page 3025 of *Hansard*.

The other matter that concerns me is that we talk about the total amount available for

expenditure by the State and the supplement the State has to make in order to provide sufficient road funds to the tune of some $108 million to bring up the spending within this State to somewhere in the vicinity of the amount spent last year, which from memory was $110 million—in round figures, $60 million from the Commonwealth and $40-odd million provided by the State.

Not so long ago we passed a Bill which increased drivers' licence fees to enable these funds to be accumulated, and I still do not know where half the amount to be collected from those increased fees is going. Only half the amount could be used for main road funds. I would like to know exactly where $450 000 of the $900 000 to be collected from the increased drivers' licence fees is going and for what it is earmarked.

That Bill is related to this Bill in an important way, and in his second reading speech the Minister mentioned the Commonwealth-State aggregate which forms part of it. It is important that I know exactly what is happening to the $450 000.

The formula which has been accepted by the Country Shire Councils' Association—without much consulation with the shire councils themselves, but that is a matter between the councils and the association—is two-thirds population and one-third road length for the more densely settled shires, half population and half road length for the agricultural shires, and one-third population and two-thirds road length for the less densely settled shires.

I understand that in no case has it been decided to include the secondary roads in the distribution formula. Although according to one of the Minister's letters the Main Roads Department has in the past provided most of the funds for the construction of these roads and has contributed to their maintenance, I do not believe that is entirely correct. I believe those shires which have built up secondary roads over the years—and some of them have taken 20 and 30 years to bituminise their main secondary roads and are now receiving no consideration at all for the length of secondary roads in the total scheme—are suffering for the very good work they have done.

It is all very well to say the Main Roads Department made contributions to those shires for the secondary roads. That is true, but in most cases the shires also contributed by way of extra rating and by contributing to the cost of bituminising. I believe this formula penalises a shire which has done so much on its own behalf to provide roads of a secondary nature and quality, because it is now virtually disregarded. I am aware the Premier himself has been asked on several occasions why this particular matter has been circumvented.

The other point I would like to mention in respect of the combined total collections is that some of the shires will be in dire straits in the near future in respect of their road work machinery pools and their work force, and in respect of the general problems of rating if they are to keep their roads up to the standard they have kept them in the past. There are not too many shire councils that will weather readily and easily the situation of being forced to sit and remain where they were three years ago, speaking in terms of today's inflation rate.

When we consider the supplementary grants to places such as Harvey, the shire in Mr Withers' province, and a few more I could name, we see they will be very short of funds while they are waiting to catch up to the new formula. This concerns me because it will put some shires out of proportion. I know the Minister will say those shires have had the same for the last few years and this measure is only ironing them out; nevertheless, this ironing-out process will be a rather hurtful experience. In the next three years these shires will be put on their mettle and will be severely short of funds, especially bearing in mind that the Commonwealth will increase funds over the next three years only by a percentage of the base figure of $60.2 million. The percentage increase will be made available to the shires on a *pro rata* basis of the base grant they currently receive under the schedule to the Bill.

I will not go into further detail at this stage. There are many other aspects on which I could talk and on which I would like to speak; however, they are not covered by the terms of the Bill. I see you are very observant tonight, Mr President, so I had better not try to sneak around the place and talk about vehicle inspections and a few other matters.

I will leave the matter at that and simply repeat that I am disappointed in the terms of this arrangement, and also in respect of the agreement between the Country Shire Councils' Association and the department. I do not believe we should go into that latter matter although I feel it was wrong in the first place and it is still wrong that all shires were not given at least the amount they received last year, simply to keep faith with them in the same way that we expected the Commonwealth Government to keep faith with us.

THE HON. D. J. WORDSWORTH (South—Minister for Transport) [8.35 p.m.]: I thank members for their support of the Bill, and I will endeavour to answer some of the points they raised.

Mr Gayfer referred to a statement made by Mr Aitken in 1976, in which he said it may be necessary to ensure that no shire received less funds. Mr Aitken was most concerned that Mr Gayfer said he had expressed that thought, and he went through the speech that he made in 1976 during Local Government Week. He could not find the comment, and came to me most concerned about it. I think finally Mr Gayfer gave him the hint that the comment was made the year before.

I have to admit that it was not until I was listening to Mr Gayfer that I appreciated the reason for the shires not receiving as much as they received the year before. When he said he was referring to the commissioner's speech made to the Country Shire Councils' Association on the Main Roads Act in June or July of 1976, I now realise it was after that date that we received the additional $3.2 million.

When I first assumed responsibility for the Transport portfolio I asked Mr Aitken to try to explain to me the principle of the Main Roads Act and the grants to the States. Frankly, I think very few people in Western Australia can follow the system, because it is most complicated indeed. This system does not occur in the other States because I do not think any of them have a schedule to the Act so that the shires know what they will receive. It is not done in this form in other States, and certainly local authorities in other States cannot be sure of what they will receive from year to year. However, it is a good thing that local authorities in this State know what they will receive.

As Mr Gayfer would know, negotiations occur whenever a new formula is introduced. Under the old formula, over the last six years whenever the Federal Government has given us a 5 per cent rise that amount has been reflected in the total amounts made available to the shires. The schedule to the Act was used as the base, and the shires received 5 per cent more than was indicated in the schedule, or whatever was the appropriate percentage rise.

When we go back to the time to which Mr Gayfer was referring we find that the Main Roads Department always allocated to the shires the additional percentage it received from the Commonwealth Government; and in some cases we were actually ahead of the percentage increase we received from the Commonwealth. That applies to June of the year in which Mr Aitken made that speech.

The Hon. H. W. Gayfer: It was on the 3rd August, 1976.

The Hon. D. J. WORDSWORTH: That would be correct, and the shires were quite happy with the percentage they received. In that year Western Australia received no more from the Federal Government than it had received in the year before, yet I think the shires received something like 2 per cent more. Then the State received a bonanza of $3.2 million. If one wishes to be caustic, one could say this grant was made to Western Australia because we were facing an election. However, the Minister negotiated for additional money, and the negotiations were successful. We received an amount of $3.2 million in December, just before the State election. So an added amount was given to the shires as a bonus; and this was a grant which more than reflected the additional percentage we received from the Federal Government.

I may stand corrected, but offhand I thought we gave the shires an additional bonus of about 5 or 6 per cent over and above their normal grants. However, it was agreed that it was a once-only grant which was the result of the additional $3.2 million.

I can see why Mr Gayfer said that the shires are now getting less than they received in the previous year; that is so when one takes into account the once-only grant. Is that correct?

The Hon. H. W. Gayfer: No.

The Hon. D. J. WORDSWORTH: I think I am right; but, in any case, I will endeavour to present the figures to Mr Gayfer on paper.

The PRESIDENT: Order! Will the people in the public gallery who are reading newspapers please refrain from doing so as it is not permitted.

[Hissing from the gallery.]

The PRESIDENT: Order! If I do not have total quiet the gallery will be cleared. I call on the Minister for Transport.

The Hon D. J. WORDSWORTH: I get back to the point that I have suddenly realised what Mr Gayfer was referring to. When he says there is a shortfall in the case of many shires, it is because of the bonanza which we received at election time halfway through the year.

The Hon. H. W. Gayfer: Now they are getting less than they received last year.

The Hon. D. J. WORDSWORTH: The honourable member could be quite right, because if we add the total for that year the amount would be greater than that for the present year; and this

presents difficulties to shires especially in view of the inflation that has occurred in respect of road building.

One of the problems a Minister faces when he attends IAC conferences is that when a comparison is made of the amount of money each State raises by way of shire rates, Western Australia does not fare well. While we think our rates are high—from memory 22 per cent of the total funds spent on roads in Western Australia comes from local government rating—the amount raised in at least two or three other States is well over 30 per cent. That is one of the reasons that the Act contains matching provisions. I hope they are not too onerous, and I do not think they will be.

Mr McKenzie referred to the total funds received. We would like to see some percentage increase in the total funds made available for roads every year. Going back, not through the years, but through the Governments, one finds that when R. D. Fadden was Treasurer the States received 92 per cent of all sales tax or fuel tax on petrol, whereas now the percentage is down to 40; and, as has been pointed out, there is a difference between the amount of funds recommended for Western Australia by the Bureau of Roads and what we actually receive.

It appears that if we get 60 per cent of the sales tax on petrol we would get the amount recommended by the Bureau of Roads. This is one of the methods we are using to try to lift the percentage allocated for roads because undoubtedly Ministers for Transport feel that although we received a big cut of the cake—and $450 million is a lot to spend on roads compared with railways, which is one of the points Mr McKenzie raised—there is a need for more money. We are looking at new ways by which Western Australia can present a case for collecting a greater portion of the cake.

Our allocation has fallen from about 17 per cent of the total grants given by the Federal Government to about 12¾ per cent today, so our percentage of the cake is falling because of the new systems under which the Bureau of Roads has recommended that allocations be made.

We consider that not enough recognition has been given to the export areas of Western Australia; that is, the areas we are opening up in the north-west. We are unique because of the number of new roads we have to build, the money that is coming out of those areas, and the amount of export income they are earning for Australia. There is a category of "export road" in the categories in which the Bureau of Roads calculated the entitlements of each State, but strange as it may seem the Bureau of Roads does not consider roads serving the iron ore towns in the north-west to be export roads. The bureau claims that the material exported goes by train and not by road, and that there is no need for road funds to be allocated to those areas and the towns being served by the roads. I think many people would quickly appreciate that there is a fallacy in the way that is calculated.

I do not think enough provision is made for the fact that Perth is the fastest growing capital city in Australia. I assure members that we are presenting a different case to the Federal Government and I have hopes that a greater percentage will be granted to us.

I assure Mr Gayfer that no shire will suffer a shortfall of funds because it has not been able to prepare its books. If any shire is having difficulty in preparing its balance for shortfall funds I shall ensure that it has another crack if that is the reason it is not receiving the funds. The Main Roads Department has tried to keep out of this field by allowing local authorities to solve their own difficulties through their own organisations. But local authorities are very hard taskmasters, particularly amongst themselves; they set very high standards for themselves. Often in a case in which I should like to be lenient to a local authority, the local authorities themselves believe that if a shire cannot present a suitable case it should not receive funds. While I can reverse a decision by such a body, it is very difficult to do so in the face of such a recommendation.

The Hon. H. W. Gayfer: Where does the money go in that case?

The Hon. D. J. WORDSWORTH: I am coming to that. The provisions of the main roads legislation say that it must go back to the Main Roads Department. The Main Roads Department does not want to be associated with a particular local authority that is not receiving any shortfall funds. We do not wish to appear to be ruling out a shire's application for shortfall funds so that the Main Roads Department can receive those funds. The Main Roads Department is purposely trying to keep out of the committee which allocates the money. We are going to give the committee the ability to utilise those funds, but if it cannot do so obviously the money must come back to the Main Roads Department to balance the books.

The Hon. H. W. Gayfer: You have attached no strings to it?

The Hon. D. J. WORDSWORTH: We have tried to keep as far away from it as we can. I thank members for their support.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

Third Reading

THE HON. D. J. WORDSWORTH (South—Minister for Transport) [8.51 p.m.]: I move—

That the Bill be now read a third time.

THE HON. H. W. GAYFER (Central) [8.52 p.m.]: I noticed that it was the desire of the Committee to take the short way through the Committee stage. It was not my intention to hold up the Committee then and neither is it my intention to do so for any length of time at this stage except to raise with the Minister one more point. In the speech by Mr Aitken to which I referred of the 3rd August, 1976, which is only just 12 months ago, he said—

> Whilst the bureau's recommended grants for the current year—that is 1976-1977—were as shown in the foregoing table, the Federal Government has severely cut back the bureau's recommendation and the Western Australian grant will be less than the amount we received in the previous year. We are the only State to be allocated less than the amount we received the previous year.

This substantiates what I say, that we cannot blame the shires when some shires received less than they did last year, any more than we can blame the Commissioner of Main Roads when he was complaining of exactly the same thing in this speech to the shire representatives. I reiterate that point; it is in black and ink, as one of my friends would say.

The Hon. D. J. Wordsworth: Point taken.

Question put and passed.

Bill read a third time and passed.

BILLS (2): RECEIPT AND FIRST READING

1. Metropolitan Water Supply, Sewerage, and Drainage Act Amendment Bill.
2. Legal Aid Commission Act Amendment Bill.

Bills received from the Assembly; and, on motions by the Hon. G. C. MacKinnon (Leader of the House), read a first time.

ELECTORAL ACT AMENDMENT BILL (No. 2)

Second Reading

Debate resumed from the 2nd November.

THE HON. R. HETHERINGTON (East Metropolitan) [8.56 p.m.]: I regard this as a scandalous Bill. It is a Bill that has produced a wave of outrage and revulsion throughout the community. It is a Bill that I predict will be regarded by future historians as a shameful era in the history of this State. The Opposition is utterly and implacably opposed to this Bill.

When introducing the Bill the Minister said in the second reading speech that the Government was worried that a phrase in the present Electoral Act may still leave room for doubt, and the presiding officer may have genuine difficulties in interpreting such instructions in the absence of any further direction in the Electoral Act or any official advice from the Electoral Department. The Government claims it is just trying to tidy up the Act. This is not the case. In fact the interpretations of the Act are quite clear. They have become clearer since the last election, and what the Government is trying to do is write into the Act an interpretation which it tried to force on presiding officers in the Kimberley during the last State election and which was rejected by the Chief Electoral Officer and by His Honour Mr Justice Smith who sat as a Court of Disputed Returns. I shall come back to that later.

What I want to do now is point to the genesis of this Bill. Before last year section 129 of the Electoral Act read as follows—

> 129. At the request of any elector who is blind, or who satisfies the presiding officer that his sight is so impaired, or that he is otherwise so physically incapable that he is unable to vote without assistance, or is unable to read or write, the presiding officer shall permit a person selected by the elector to retire with the elector into an unoccupied voting compartment and there mark the paper according to the instruction of the elector and on behalf of the elector comply with the requirements of paragraph (b) of section one hundred and twenty-seven of this Act, after having done which the elector and the person so selected by him, if not an electoral officer, shall quit the polling place.

In other words, any elector who was incapable of voting for himself for any reason could take a friend in to vote for him, and this worked well. It has been done in other States and it has always worked well, but the Government in its wisdom

last year decided to amend the Act, changed section 129, and divided it into three sections, two of which deal with people who are blind or physically impaired.

We should look into this Act and know what we are voting on. Subsection (3) of section 129 of the present Act reads as follows—

> If any elector satisfies the presiding officer that he is so illiterate that he is unable to vote without assistance, the presiding officer, in the presence of such scrutineers as are present, or, if there are no scrutineers present, then in the presence of—
>
> (a) another electoral officer; or
>
> (b) if the elector so desires, in the presence of a person, other than an electoral officer, appointed by such elector,
>
> shall mark the elector's ballot paper according to the instructions of the elector, and fold and deposit the ballot paper for him, after which the elector and any person appointed by him, shall quit the polling place.

Here was the nub of the question. How was a presiding officer to know how the elector wanted to vote? It had become the custom for illiterate electors to present the how-to-vote card, or a list marked with their preferences. This list would have been drawn up for them by someone else and it would say, "This is how I want to vote." This is what the Government is determined to prevent.

It was all right in the past when members of the Liberal Party could manage to organise illiterate voters in its own way, as the Liberal Party has managed to do.

The Hon. D. J. Wordsworth: We have never endeavoured to do that.

The Hon. R. HETHERINGTON: That is not what I have heard. The Liberal Party did not object to it then; but when it looked as if illiterate electors were voting against the Liberal Party, it decided it should do something about the situation.

The Hon. G. C. MacKinnon: When we saw others organising the electors.

The Hon. D. K. Dans: You have not read the transcript of the court proceedings.

The Hon. G. C. MacKinnon: Of course we have read the transcript. We had more workers up there than you did.

The Hon. D. K. Dans: I know how many you had up there.

[Interruption from the gallery.]

The DEPUTY PRESIDENT: It is a privilege to listen to the debates in Parliament and people are very welcome to do that. It is a privilege we guard jealously. It would be appreciated I am sure by everyone if people could listen to the debates in silence, as is their wish and ours. We will be happy to proceed in that way, but I must counsel everyone to respect the privilege of Parliament, and that applies to members and to the public. The Hon. R. Hetherington.

The Hon. R. HETHERINGTON: Mr Deputy President, during the election the Minister for Justice instructed the Chief Electoral Officer to send a telegram to presiding officers in the Kimberley in order to bring about an interpretation of the Act. The text of the telegram reads, and here I am reading from the transcript of the judgment given by His Honour Mr Justice Smith last Monday—

> "TO ALL PRESIDING OFFICERS IN THE KIMBERLEY, PILBARA, GASCOYNE AND MURCHISON-EYRE ELECTORATES:
>
> Because of the recent amendments to Section 129 of the Electoral Act it is suggested that when taking instructions from illiterate electors it would be advisable to avoid—
>
> 1. Asking the elector to indicate his preference by reference to a party named by you.
> 2. Asking the elector whether he desires to vote for a particular candidate named by you.
> 3. Marking on the Ballot Paper any preference not specifically indicated by the elector."

This sorry story is best told in the words of His Honour and I will continue to read from his judgment. It continues—

> The evidence disclosed that the Hon. the Attorney-General instructed the Crown Solicitor to draft the telegram and that its text was settled jointly by them. The text of the settled draft was then forwarded to the Chief Electoral Officer by the Hon. the Minister for Justice, being the Minister to whom the Chief Electoral Officer was responsible, under cover of a memo in the following terms:
>
> "CHIEF ELECTORAL OFFICER:
>
> I am attaching a form of advice addressed to all Presiding Officers in the Kimberley, Gascoyne, Pilbara and Murchison-Eyre electorates.

> This has been examined by the Crown Solicitor, and I request that this be conveyed to all appropriate officers prior to the commencement of the Poll on Saturday, 19th February.
>
> Minister for justice
>
> 18th February, 1977.
>
> The draft was received by the Chief Electoral Officer at approximately 9.30 a.m. on the 18th February 1977, i.e. the day preceding the election. Mr MacIntyre was opposed to the despatch of the telegram, being apprehensive of the possible confusion which its contents would cause presiding officers.
>
> He sought advice from the Crown Solicitor, as to whether he was obliged to send it. He was advised that he had no alternative other than to obey the instruction of the Minister, and the telegram was sent at approximately 11.00 a.m. on that day. To my mind it was not only an instruction which Mr MacIntyre was not obliged to obey but one with which, in the circumstances, he should not have complied. It was no part of the Minister's function to usurp the exercise of the statutory discretion . . .

This is the genesis of this Bill; the Government found its instructions which had been improperly sent through the Chief Electoral Office were rejected. The instructions were rejected by the returning officer and by the Chief Electoral Officer; therefore, the Government brought in this amendment. I will come back to this clause of the Bill in a moment, because in bringing in this amendment the Government has decided to tidy up the Act by depriving handicapped and disadvantaged people, who hitherto have had a vote, of their vote.

We need to look at this Bill very closely and we should also look very closely at the parent Act which the Bill amends. The Bill begins by amending section 90 of the principal Act. It amends section 90 subsection (3)(a) and it deletes a certain passage. The subsection reads as follows—

> The application shall be in writing—

That is referring to postal votes; but there shall be an application.

> —signed by the elector and may be in the form prescribed by the regulations on which it is based.

The Act as it now reads continues, but it will not continue in this manner because this passage will be deleted—

> . . . if an elector is blind or his sight is so impaired that he cannot sign the application or he is unable to write or he is otherwise so physically incapable that he is unable to sign the application, then on satisfying an authorised witness that he is unable to write the elector may make his distinguishing mark on the application which shall be witnessed by the authorised witness.

If this Bill is passed that paragraph will be deleted. Therefore, anybody who cannot sign his name will in future be unable to apply for a postal vote, although people have been able to and have done so quite successfully in the past. As far as I have heard, they have done this without any allegations of impropriety; or perhaps there have been such allegations but I have not heard of them.There has not been a great deal of noise made about the situation. I do not know of anybody being prosecuted for malpractice under this section so I wonder why it is necessary now to introduce this amendment.

The Hon. D. J. Wordsworth: To bring it into line with the Federal legislation.

The Hon. R. HETHERINGTON: I was not aware that this Government regarded it as desirable to bring all its legislation into line with Federal legislation. I thought this Government claimed when Federal legislation was inferior that it would do better.

This is one case when quite reasonable legislation which helped disadvantaged electors is available, and the Government is now going backwards in order to be in line with Federal legislation. I do not care whether the Minister—

The Hon. D. J. Wordsworth: That is your opinion.

The Hon. R. HETHERINGTON: Of course, it is my opinion, Mr Deputy President. Unless I quote someone else's opinion, everything I say here is my opinion. What else could it be? But my opinion is not the opinion of the Minister. If the Government intends to bring the legislation into line with the Federal legislation, that is very nice I suppose; but it seems rather an odd action to be taken by a Government which talks so much about decentralisation and independence of the State Government.

The Hon D. J. Wordsworth: You can hardly use decentralisation as an argument there.

The Hon. G. C. MacKinnon: You are wandering around a bit there.

The Hon. R. HETHERINGTON: I will wander around a lot more before I finish.

The Hon. G. C. MacKinnon: I am sure you will.

The Hon. R. HETHERINGTON: It is then proposed to delete two long paragraphs from the Act. I will read these so we know what we are trying to delete. Section 92, subsection (5)(a) reads as follows—

> Where an elector is unable to vote without assistance or is unable to read or write or he is otherwise so physically incapable that he is unable to sign the declaration then the elector may make his distinguishing mark on the declaration which shall be witnessed by the authorised witness and may appoint another elector to mark the ballot paper in accordance with his instructions who shall comply with the directions prescribed by subsection (2) of this section . . .

It then says that the elector appointed to mark the ballot paper shall give his full name and address. In other words, in this Bill we are making sure that the blind, the physically handicapped, the people who for various reasons are incapable and who cannot sign their names are no longer able to exercise a right they have had under the laws of this State up to the present time. They are no longer able to apply for and exercise a postal vote. It would seem to me this is a retrograde step.

I shall now move to the main part of the Bill. That was just a little tidying up exercise. The Bill seeks to add to section 129 the following subsection—

> (4) In any case to which subsection (2) or (3) of this section applies the presiding officer shall take the following action—
>
> (a) if requested by the elector, state the names of the candidates, but in so doing shall state those names in the order in which they appear on the ballot paper; and
>
> (b) mark the ballot paper as provided...

In other words, the illiterate elector is to lose the advantage that the literate elector has of being able to follow a how-to-vote card.

The Minister by way of interjection in the debate on a Bill I was introducing for putting party names on ballot papers, when the Hon. Lyla Elliott was speaking, said, "How would that help illiterate electors?" It might help the electors if we had the party designations on the ballot paper and presiding officers read not only the name but the party designation, because then the illiterate elector would be able to check and he would know whether the person did in fact belong to the party for which he wished to vote. Let us not pretend that people do not vote for parties—

The Hon. A. A. Lewis: Can you explain to me if he is illiterate and cannot read the name, how he is going to the read the party?

The Hon. R. HETHERINGTON: I just suggested that if the presiding officer read out the name he might be able to read out the party name also if it appeared on the ballot paper and that might help the elector.

The Hon. A. A. Lewis: It might, too.

The Hon. R. HETHERINGTON: And that would mean the Bill which I introduced the other day would have been passed instead of being rejected out of hand.

The Hon. G. C. MacKinnon: Except that it is not on the ballot paper.

The Hon. R. HETHERINGTON: I suggest that this clause is not necessary anyway, because we now have an interpretation of the Act which I am quite prepared to follow, and which I am told from remarks attributed to the Premier in the Press— of course they may not be true, but I have not heard them denied—is only the opinion of Mr Justice Smith. Well, it may be only His Honour's opinion, but I think it is an opinion worth listening to. Mr Justice Smith said—

The Hon. G. C. MacKinnon: What page is it?

The Hon. R. HETHERINGTON: Page 48 of the judgment

The Hon. G. C. MacKinnon: Thank you.

The Hon. R. HETHERINGTON: Mr Justice Smith said, with reference to Mr Monger, the returning officer for the district, as follows—

> The instruction which Mr Monger had given to presiding officers as to the attitude which such officers were to adopt when an illiterate elector presented the How to Vote card as the medium of his instruction, met with the prior approval of the Chief Electoral Officer. To my mind, the presentation of a list or a How to Vote card by an illiterate elector, is a proper direction by such an elector, both as to the marking of his first and his subsequent preferences, provided that the presiding officer takes the precaution of reading what is written on the list or card to the elector and by that or other means satisfies himself that the card reflects the wishes of the elector before he marks the ballot paper.
>
> The ability to read or indeed a full and complete knowledge of the preferential voting system, are not among the qualifications of electors. It is trite to observe that a literate voter is at liberty to take the How to Vote card of the candidate of his choice with him to the polling booth when he

> or she is marking the ballot paper to ensure that he or she completes a formal vote. It is worthy of note that polling booth workers for the respondent—

The respondent was Mr Alan Ridge, the former member for Kimberley. To continue—

> —were enjoined to ensure that every voter had the respondent's How to Vote card when he entered the polling place in the following terms: There is only one way to simplify the issue; by getting our supporters to follow the how-to-vote card EXACTLY. So please, take the trouble to greet every voter, and then ask the voter to follow the card—
>
> e.g. "Good morning. To vote Liberal, please follow this card exactly".

The Hon. A. A. Lewis: You do not think that has been happening in elections?

The Hon. D. K. Dans: We are dealing with this election.

The Hon. A. A. Lewis: We are not dealing with any other election. We are dealing with a Bill, not with what the Deputy Leader of the Opposition is saying.

The Hon. D. K. Dans: Mr Hetherington is making the speech.

The DEPUTY PRESIDENT: The Hon. R. Hetherington.

The Hon. R. HETHERINGTON: I will continue to read from the judgment.

The Hon. A. A. Lewis: But you will not answer the question.

The Hon. R. HETHERINGTON: The judgment continues—

> I can see no reason in logic why a like privilege should not be afforded to an illiterate elector, provided that the safeguards of which I have spoken are observed.

I can see no reason that this should not be done.

The Hon. A. A. Lewis: How about dropping the emotionalism, and answering the question.

The Hon. G. C. MacKinnon: It seems reasonable to me that if a man cannot read he should use something which has to be read out.

The Hon. D. K. Dans: You did not think that in 1976, when you amended the Bill.

The Hon. G. C. MacKinnon: Yes, I did.

The Hon. R. HETHERINGTON: It seems reasonable to me that when Aboriginal people—as happened, I understand, at Turkey Creek, from my reading of the judgment—listen to all the candidates, have a conference, decide in their wisdom that they will vote in a certain way, ask somebody who has a how-to-vote card for that particular card, and then take that how-to-vote card to the returning officer and say, "That is the way I want to vote", this should be accepted as an instruction. I see nothing sinister about that.

The Hon. W. R. Withers: That did not happen.

The Hon. R. HETHERINGTON: Well, Mr Justice Smith seemed to think it did.

The Hon. G. C. MacKinnon: On the evidence he might have had reason to think it did, but he did not get the whole of the evidence because it was not acceptable.

The Hon. D. K. Dans: He made the decision.

The Hon. G. C. MacKinnon: Quite right, on the evidence presented to him.

The Hon. A. A. Lewis: That is a totally different question. The judge had to make his decision on what was put before him.

The Hon. D. K. Dans: The member opposite is usurping the duties of the judge.

The Hon. R. HETHERINGTON: When the honourable members have finished their discussion, I will continue.

The PRESIDENT: I suggest the honourable member direct his comments to the Chair.

The Hon. R. HETHERINGTON: Unfortunately, when I look at you, Mr President, to avoid the interjections, I cannot be heard at the back. I suppose honourable members might suggest I am talking through the back of my neck.

The Hon. G. C. MacKinnon: You said that; we did not.

The Hon. R. HETHERINGTON: I think what we are doing in order to solve the problem of the Liberal Party in the north, is to try to make sure it wins the by-election when it comes up, to make sure it keeps its grip on the north, and to make sure that the people who can organise votes against the Liberal Party do not get that opportunity.

Several members interjected.

The Hon. R. HETHERINGTON: We are bringing in a Bill which is going to disadvantage people who cannot write and speak English; people of ethnic groups—migrants—who have come to this country and helped to make the State a prosperous one. This Bill is bringing about a direct attack on the voting rights of people of various ethnic groups and migrants who have come into this country, and Aborigines.

[Interruption from the gallery.]

The PRESIDENT: Order! I will not tolerate any interference from the gallery. I will issue this

last warning. If there is any repetition of interference the galleries will be cleared. The Hon. R. Hetherington.

The Hon. R. HETHERINGTON: There is no doubt about what spokesmen for the Aboriginal people think about this Bill; they are strongly against it. There is no doubt there is strong criticism from people of all ethnic groups in this community, and there is no doubt in my mind that they have no doubt that this Bill takes away the basic rights of those people.

The Hon. G. C. MacKinnon: It does not, you know.

The Hon. R. HETHERINGTON: The Leader of the House may interject that it does not; in my opinion it does.

The Hon. G. C. MacKinnon: Your opinion is wrong.

The Hon. R. HETHERINGTON: We quite often disagree, but if the Leader of the House quite categorically tells me my opinion is wrong I can only say to him, through you, Mr President, I do not think much of his opinion either.

On this matter I am quite convinced that I am right, and he is wrong. I think not only am I convinced, but a great number of other people in this community are convinced.

I was rung up this afternoon by a person who normally votes for and supports the Liberal Party. That person expressed his repugnance of this Bill and he hoped we might possibly prevent it passing through this House. I told him I thought we had no hope, but there might be enough members opposite who would vote against the Bill. Unfortunately, I do not expect that to happen but I would be glad if it did happen, because it seems to me this is a highly undesirable Bill.

This Bill has been introduced in order to bring about a short-term political advantage. It will get rid of what seems to me, and what seems to the Chief Electoral Officer, and the returning officer, and his Honour Mr Justice Smith, to be a recent interpretation of the Act as it now stands—on the principles of the Act as it now stands. I prefer the Act as it was before the amendments were passed last year.

I have myself on occasions gone into polling booths to vote for other people, and follow their instructions. I have no doubt that anybody who did this would follow the instructions properly. I have perhaps more faith in people than some of the members opposite, but I would argue that this is a highly undesirable Bill from that point of view. This Bill discriminates against certain classes of people. It will prevent polling officers from helping, as they might well help people who are under special difficulties. A person who is under special difficulties, will have a harder task when voting under this Bill. Even if a person is not under special difficulties the same will apply.

We see literate voters—people who can read and write—going into polling booths clutching how-to-vote cards because of the confusion of preferential voting. Even people who can read and write are confused with the preferential voting system, so members can realise how confusing it will be to illiterate voters who will have to walk into a polling booth and publicly state to the polling officer, in front of scrutineers, how they want to vote. They have to pick out their preferences from the names which they may not fully know or fully understand.

We should be looking to trying to help those people, not to putting hindrances in their way, as this Bill will. What we should do and what I would be glad if the Government would do, is introduce optional preferential voting into the electoral system so that electors have only to vote for the number of candidates who need to be elected. Then, if somebody goes into a polling booth and says—as I am told somebody did say—"I want to vote for that black bastard Ernie Bridge".

The PRESIDENT: Order! I ask the honourable member to refrain.

The Hon. R. HETHERINGTON: I am sorry, Mr President, I was merely quoting somebody else.

The Hon. R. G. Pike: Address the House, and not the gallery.

The PRESIDENT: Order! I suggest the honourable member proceed, and ignore the interjections.

The Hon. R. HETHERINGTON: A person who expressed his wish in that manner would make it quite clear who he wanted to vote for, and I would think there are many people in this community who want to vote for one candidate whom they know, or know of, or who belongs to a party they know of. In many cases those people do not want to put down preferential votes.

The Hon. R. G. Pike: The Labor Party introduced preferential voting.

The PRESIDENT: Order!

The Hon. R. HETHERINGTON: Preferential voting was first introduced in this country, federally, on the motion of a National member in the Federal Parliament in 1919. It was introduced federally when the Country Party stood a member

against Stanley Melbourne Bruce in the electorate of Flinders.

The Country Party said it would play dead if preferential voting was introduced, so it was introduced by a back-bench National member. Who introduced it in this State, I do not know, but I know how it was first introduced in this country. I would suggest to the honourable member, if I might, that he has a look at what happened when the only time optional preferential voting was used in this country. It was used in 1974 in the Northern Territory when the Labor Party won no seats out of 19, and where the one independent lost his seat, when the Labor Party and the Liberal Party candidates swapped preferences. In other words, it can work but it does not have to work. If the honourable member wants to give me a lecture on the electoral system I suggest he does a little more homework.

The Hon. D. J. Wordsworth: It appears you are lecturing.

The Hon. A. A. Lewis: Will the Labor Party use optional preferential voting in the election of its officers?

The Hon. D. K. Dans: It does now.

The Hon. A. A. Lewis: I am talking about the Labor Party in this State.

The PRESIDENT: Order! I suggest the honourable member proceed.

The Hon. R. HETHERINGTON: I suggest the Government would do well to introduce optional preferential voting which would make the obnoxious provisions of this Bill less obnoxious. An illiterate voter could then go into a polling booth and be confused by a long and complicated list of people he would not want to vote for. He would know those he wanted to vote for, and he could tell the returning officer.

Of course, this Bill would allow for all sorts of ways of getting electoral advantage out of the electoral system. This method allows dummy candidates to be put up to draw votes. People who are nominally independent are put up between the major parties, so that the illiterate voters are faced with a long list and they do not know who to vote for.

I suggest in the Kimberley election it was rather confusing enough that the electors had to vote between two people, one named Ridge and the other named Bridge. Add more names to those, and there would be unutterable confusion for people who are not literate, people who are not often involved in our civilisation, people who have special difficulties, and people who I have suggested need special help. I think the Government would do well to withdraw this Bill and think about it again. It should think the whole matter right through.

I have suggested before that the Government should withdraw Bills, and I think the Statute book is the worse off because the Government has not always taken my advice. However, in this matter it would seem that perhaps what we need is a thorough inquiry into the problems not only of illiterate voters—people who are illiterate in any language—but also into the problems of people who are illiterate in their own language, illiterate in English, or who do not speak English well. Migrants from foreign countries are settling here and they will be utterly confused in the polling booth by the provisions of this Bill.

Mr President, I think the Act as it stands, and as interpreted by His Honour, Mr Justice Smith, sitting as a Court of Disputed Returns, is now quite clear. By reading His Honour's judgment, no returning officer would have any problem in working out how to treat illiterate voters. How-to-vote cards could be accepted, and voting could be done quietly, respectably, and with dignity. If this Bill is passed we will have a succession of confused illiterate voters who, among strangers, have names read out to them and who will have to choose between these names. Already we have seen the sorry spectacle in the Kimberley of illiterate voters being asked questions under section 119 of the Electoral Act. Orginally I presume this section was to get rid of illiterate white people and it is now being used to throw out illiterate Aboriginal voters.

We should try to educate people in regard to our electoral system. We should try to assist the people who find it difficult to vote. We should not be trying to multiply their difficulties, and I suggest that is what this Bill does. For this reason I find the Bill utterly obnoxious and I suggest the House should throw it out.

THE HON. W. R. WITHERS (North) [9.32 p.m.]: There is one very important point that the last speaker made with which I wholeheartedly agree; that is that we should educate many of our illiterate people regardless of their ethnic background, and we should help them to understand our electoral system. It is rather unfortunate that the Press has done nothing to aid us, and when I use the word "us" I mean the legislators, the members of Parliament who endeavour to bring forward laws for the good of the State, regardless of the party to which they belong.

I agree with the content of the Bill and the true reasons for its institution and presentation in this

House. I believe basically the Bill is to bring the conditions applying to the illiterate voter, who would normally obtain a postal vote, into line with the provisions applying under Federal legislation.

The Hon. R. F. Claughton: I thought the Leader of the House would have told us the true reason.

The Hon. W. R. WITHERS: The Leader of the House told us the true reason; if the honourable member would like to look at his second reading speech he will find it there. This change will bring us into line with Federal legislation and it will prevent the manipulation of the postal vote by persons unknown.

The Hon. Lyla Elliott: There was no evidence provided about this during the hearing by the Court of Disputed Returns.

The Hon. W. R. WITHERS: No, this Bill has nothing to do with the Court of Disputed Returns.

The Hon. D. K. Dans: The way the court case was going did not influence the introduction of this Bill at all!

The Hon. W. R. WITHERS: Here is another misunderstanding. This Bill has nothing at all to do with the Court of Disputed Returns, nothing at all.

The Hon. D. W. Cooley: That is stretching a long bow.

The Hon. R. Thompson: What did Mr Ridge say? He said he would not be a candidate unless there was an alteration to the Act.

The Hon. W. R. WITHERS: I would not know about that.

The Hon. D. K. Dans: You read the Press, Mr Withers.

The Hon. W. R. WITHERS: I am presenting the facts as I know them; I am not presenting conjecture. I would like to say that the second part of the Bill allows an illiterate voter to approach a presiding officer with some pride and we would not see, as happened at the last election, illiterate voters standing in one queue and literate voters in another queue. Of course, because of the number of illiterate Aborigines in the Kimberley, these people had to stand in the queue for a long time. They stood with their heads down, and they did not look a pretty sight.

The D. K. Dans: That was part of the plan—the plan involving five lawyers.

The Hon. W. R. WITHERS: It certainly was not part of our plan. Under the provisions of the Bill before us, an illiterate person will be able to approach the presiding officer and state the names of the persons he wishes to vote for in the order he wishes. A person who cannot understand that would not be able to understand very much at all.

The Hon. R. F. Claughton: But a literate voter does not have to understand that.

The Hon. W. R. WITHERS: Just because a person is illiterate, does not mean he is not intelligent. The provisions in the Bill would reduce the manipulation of illiterate persons by these political animals of any party who have no regard for illiterate people other than to obtain a vote for their party. This is despicable action on the part of anyone.

It is rather unfortunate in a debate such as this that we are usually divided along party lines because each of us believes that our party's philosophy is the truth and we cannot believe that a person who is a member of our own party would try to manipulate illiterate people. Unfortunately this is done by all parties, and I have no truck with any individual who would do it, regardless of his party.

The Hon. Lyla Elliott: Why did not the Liberal Party produce evidence to the court. Tell me. It was because it had none.

The Hon. W. R. WITHERS: I deliberately did not approach the Court of Disputed Returns because I was not asked.

[Interruption from the gallery.]

The Hon. W. R. WITHERS: At times one makes a statement like that and then reflects on what one has just said.

The Hon. R. Thompson: You were mentioned though.

The Hon. D. K. Dans: Yes, quite regularly.

The Hon. W. R. WITHERS: I was mentioned, but I was not asked to give evidence. I have been appalled at the number of rumours that have been spread about this particular measure and those rumours have been aided and abetted by an irresponsible Press.

[Interruption from the gallery.]

The Hon. W. R. WITHERS: Mr President, I know comments of that sort may call for laughter, but I will now give the reasons for those statements, and they are quite valid ones.

Firstly, we find that through the Press it has been spread through the State that an illiterate person will not be able to take a how-to-vote card into a polling booth. I have been asked questions about this in the Kimberley by Aboriginal people, by Caucasian people, by people of European origin, and by old Australians.

The Hon. R. F. Claughton: What does he do with it when he gets inside?

The Hon. W. R. WITHERS: This has been reported in the Press. The second point is that there has been conjecture in the Press that the Bill has not been canvassed, and that the opinions of people and illiterate people particularly have not been canvassed. That is totally untrue. Regardless of any discussions with my party, as a member for the North Province, I initiated inquiries with Aboriginal groups and with other individuals. I went to the Mirrawun Council and I sought the opinion of the Aboriginal elders as to how we could assist them, as legislators, to vote in elections without the embarrassment they suffered earlier this year when they had to stand in a queue for illiterate voters.

The people in this queue had two of their voting cards taken from them, physically, by a person who was employed by the Labor Party. This person went along systematically and took the two cards from the illiterate voters. I saw that person and I can swear to it on oath. However, as I was a candidate on that particular day I could not say anything because we all know that on an election day a candidate cannot offer advice and cannot even answer questions.

The Hon. R. F. Claughton: Of course you had no helpers there you could talk to!

The Hon. W. R. WITHERS: I had this meeting with the Mirrawun community. I then wrote to the Moongoong Darwin community. This group did not offer any suggestions, and in fact at the weekend I was approached by one of the group concerning this matter. It was said that the people were sorry they had not answered my queries which I had put to them in March of this year.

I now come to my third point about the irresponsible Press, and on this one I am afraid I will get very emotional because it was the sickest most irresponsible thing I have seen any member of the media do to Aboriginal people. I am referring to the cartoon which appeared in *The West Australian* on Friday, the 4th November. As members know, this was a cartoon with no caption. It showed an Aboriginal male with a shocked look on his face and a white man's implement—a pen, symbolically—protruding and quivering from his chest. Pinned to his chest were the words, "Electoral Act Amendment Bill", and of course these words referred to the Bill before the House.

The Hon. R. F. Claughton: Illiterate people would not be able to read that.

The Hon. W. R. WITHERS: I would like members to consider what this cartoon did to illiterate people. They could not read what was on the sticker, but they could see that a white man's implement had killed off an Aboriginal person. I spoke to a member of *The West Australian* staff (Mr Ted Barker) and I said to him that the man who drew that cartoon was mentally sick and that he did not know—

[Interruption from the gallery.]

The Hon. W. R. WITHERS: —the irreparable damage he had done to the Aboriginal community. I would ask people who think this is funny to look at themselves and to do a little play-acting. I am sure many people have not attempted to put themselves in the position of a Caucasian going into an Aboriginal community. In that case it is then the Caucasian who belongs to a minority group, he is not quite sure of the language, and he does not read the signs of the Aborigines. This Caucasian would not know the customs or the way of living of the Aborigines, so he would feel a little strange. Because he feels a little strange, he is not completely at ease.

Let us imagine then that an Aboriginal cartoonist with his own sense of humour sketches a white person with a broad blade spear protruding and quivering from his chest with a note attached saying, "Aboriginal law". The Caucasian who experienced that in an Aboriginal community would be frightened; he would be horrified just as I was horrified when I saw this cartoon in the Press.

Whoever drew that cartoon should look at himself and his sense of humour honestly. He should look at the damage he has done to the community, and particularly to the Aboriginal community I represent.

The Hon. Grace Vaughan: Your Government should look at the damage it is doing.

The Hon. W. R. WITHERS: I cannot invite that cartoonist to come with me in January to attend a bush meeting across the Kimberley Gulf, but I have been invited myself by the Oombulgurrie community.

The Hon. Grace Vaughan: If you got what you deserve you would get more than a pen in your chest.

The Hon. A. A. Lewis: That is the sort of comment we expect.

The Hon. W. R. WITHERS: We get these facetious comments from city people who have not lived in the bush. It is the sort of ignorant comment one expects from a city person who has not gone amongst the bush Aborigines and enjoyed their confidence.

The Hon. Grace Vaughan: Very misplaced!

The Hon. W. R. WITHERS: I have received invitations to live with these people; I am sure the honourable member has not done so. I ask her not to be facetious.

The Hon. D. K. Dans: You should have thought of this in 1976.

The Hon. W. R. WITHERS: I have spoken of it continually; I am always thinking of it.

The Hon. A. A. Lewis: The Leader of the Opposition never thinks!

The Hon. W. R. WITHERS: I represent an area that has 43 per cent of Aboriginal people. There are 34 per cent of the Aboriginal people of this State living in the Kimberley. I have enjoyed the company of some of the elders; I have not played politics with them.

The Hon. Grace Vaughan: You have enjoyed—past tense!

The Hon. W. R. WITHERS: If the member will get up to tell me of any Aboriginal group or individual in the Kimberley who considers I have told lies or played politics, then I will be more than surprised; I will be absolutely shocked.

[Interruption from the gallery.]

The Hon. W. R. WITHERS: I will ask the cartoonist whether he would like to come up to the Kimberley to meet these people. If he displays an interest in doing so, I will ask the Oombulgurrie community to extend an invitation to him. These people may not want him, but I will ask whether they will consider extending an invitation so that he can attend the bush meeting in the Kimberley in January of next year.

I was so revolted by that cartoon that I became emotionally upset.

[Laughter from the gallery.]

The Hon. W. R. WITHERS: Mr President, you will notice the laughter comes from city people. I cannot see any bush people who are laughing. If members are so insensitive as not to understand the analogy I gave when I asked them to look into an Aboriginal community and pretend they were one of a minority group, I suggest they get to know some of the bush Aborigines—namely, the Kimberley Aborigines—a little better. If they did, I believe they would have a different concept of those Aboriginal people.

I met with a group of people outside Parliament House last Thursday. The group was predominantly Aboriginal, and Mr Ken Colbung was the introductory speaker. He introduced me as the biggest mouth in the Kimberley for the Liberal Party. I am sure he did not mean it as a compliment, but I would like to think he did.

The Hon. D. K. Dans: Maybe the scrutineer was the biggest mouth.

The Hon. W. R. WITHERS: I gained the impression Mr Colbung was not really—

The Hon. R. Thompson: A Liberal supporter!

The Hon. W. R. WITHERS: —interested in what I was being asked, or how I intended to reply. He was interested only in stirring up a group of people. However, I must say that the majority of the group was very responsible, and asked sensible questions, and I endeavoured to give them rational answers.

One point raised by this group was a point I had never considered. I was asked, "Could an illiterate person ask for assistance from an interpreter if he had trouble with the language?" I replied that it seemed a very fair question. It seemed reasonable, so I promised those people I would ask the Minister during the second reading debate if he would comment on this matter.

After that Thursday meeting, I thought I had better do a little research of my own. I was in the Kimberley from last Friday until last night, and I met with various people—Caucasians, Aborigines, people recently out from Europe, people of different political colours—and asked them whether they had ever considered this question. Frankly, nobody had, but they conceded it was something worth considering. I raised the subject in many conversations, but I could not get a clear picture. Some said that it was a good idea while others said it was definitely not a good idea, because it would cause too much confusion. Even those people who said it was a good idea commented that it could cause a tremendous amount of confusion, considering the number of different languages now spoken in Australia.

So, after speaking with these groups, I have thought about the matter and I do not see that I could move an amendment along these lines; in my opinion, it would be far too confusing, and would not assist any illiterate person.

[Hissing from the gallery.]

The Hon. W. R. WITHERS: I would ask the Minister to consider this matter and give me his considered opinion. I did give him warning prior to coming into the House, so that he could do a bit of research on the matter. So, I formally ask the question.

[Interruption from the gallery.]

The Hon. W. R. WITHERS: I do not know whether I heard an interjection from the floor of

the House. As I stated, generally it was felt that interpreters could cause confusion.

I should point out to the House, I had an illiterate person explain to me how he coped with the last election. Immediately after the last State election, I went to visit a small group I forgot to mention earlier. I refer to the Dingo Creek settlement, which is close to the Northern Territory border. I was making inquiries as to how to assist illiterates, and one of the illiterates from this small group of people living in the bush was a man I had known as a friend for 13 years; he showed me how he had learnt to vote.

He had gone to the trouble of determining for whom he would vote, and the order of preference. What he did then was to memorise the squares. He had two lots of squares to take into consideration—one set of three squares, which was the Legislative Assembly paper, and one set of two squares, which was the Legislative Council paper. Although he did not know the names of the candidates, he knew that certain numbers should be placed in certain squares in order for him to cast a proper vote. This illiterate person repeated the numerical symbols in the dust as I spoke to him.

[Hissing from the gallery.]

The Hon. W. R. WITHERS: Mr President, I hear some rather foolish people in the gallery hissing at a comment which has no political bearing, and shows the intelligence of Aborigines who wish to make a responsible effort to vote. It really makes me wonder what is in the minds of those people. Do they hate Aborigines so much that they will hiss because they cannot accept they are intelligent?

I implore this House to look at the real reasons for this Bill; namely, to allow the illiterate person to place his own vote in his own way, without any possibility of manipulation. I fear there will always be some manipulation, but this Bill will reduce it. Possibly I am being naive in asking members totally to disregard party considerations when viewing this legislation; it is quite obvious there is already party alignment, with our side of the House for the Bill and the other side of the House against the Bill. It is a great pity this should happen, and I hope the Bill will go through because I feel that any person who is beyond literary comprehension—if he really wants to vote—will do as that illiterate voter described to me and learn about the candidates and get to know the symbols.

I come back to my opening remarks: I agree with Mr Hetherington that the people do need training, and we should assist them in this. I support the Bill.

THE HON. R. THOMPSON (South Metropolitan) [9.52 p.m.]: I would not know what caption to put on the cartoon Mr Withers showed us. He seems to be an expert on bush natives.

The Hon. V. J. Ferry: He represents that area.

The Hon. R. THOMPSON: I think I would be the only person ever to have visited every Aboriginal community in Western Australia while Minister for Community Welfare. I learnt to love the people and to understand their intelligence. Despite the fact they are illiterate, they are still intelligent. I do not say it is in their best interests to become literate; I think they should be able to live the lifestyle they so desire. In fact, that is one of the United Nations charters on human rights.

This Bill places great stress on literacy, and follows 148 years of mismanagement of the Aboriginal people in Western Australia. Despite the fact that the United Nations charter stated that Aborigines in Western Australia should be permitted to vote, it was not until about 20 years later that legislation was introduced to give Aborigines the right to vote.

Now, simply because of what happened in the Kimberley, the Government is seeking to wipe away with a stroke of a pen all the progress which has been made in the field of Aboriginal rights; the Government is trying to set the clock back to the situation which existed before the United Nations human rights charter came into being. I believe it is a disgrace. It is the first sign of apartheid in Western Australia. Of course, we have seen apartheid in action in other States of Australia, but it is the first time we have seen it here. I believe the Government is striking right at the core of human rights; the legislation is a disgrace to the Government.

When one examines the immigration laws and the qualifications which are necessary for a person to become an Australian citizen, one sees that anyone 60 years of age or older does not even need to be able to speak English. This is because in southern Europe and in other parts of the world, such people did not attend school; it was similar to the situation in the Kimberley and other parts of Western Australia many years ago, where Aborigines were denied the right to an education. Therefore, this Bill discriminates not only against Aborigines but also against southern Europeans and other elderly people who have migrated to this country.

The Hon. D. J. Wordsworth: Do you know what test is applied in America?

The Hon. R. THOMPSON: I am not talking about America.

The Hon. D. J. Wordsworth: You are talking about countries of the world.

The Hon. R. THOMPSON: I am talking about people coming from other parts of the world to live in Australia. I do not give a damn about the electoral laws elsewhere in the world; I am principally concerned with the United Nations charter on human rights, and what the Government is trying to do with this Bill to bring a bit of Vorster and apartheid into Western Australia.

The Hon. G. C. MacKinnon: What rubbish!

The Hon. R. THOMPSON: The Government is denying the intelligence of Aborigines and elderly migrants who cannot speak English. These people know for whom they wish to vote, so what is wrong with them presenting a how-to-vote card to the presiding officer?

It is my opinion that some 95 per cent of highly educated people become illiterate when they are faced with about 28 candidates on a Senate ticket. I do not know of anybody who goes into a polling booth to vote in a Senate election without the assistance of a how-to-vote card. On one occasion, we had about 31 candidates on the ballot paper.

This Bill seeks to deny the basic, fundamental right of Aboriginal people to present how-to-vote cards to the presiding officers at the various polling places and say, "This is how I want to vote." Of course they should be entitled to vote in that fashion. However, because it did not suit Alan Ridge and the stooge lawyers sent up there for the purposes of creating confusion and upsetting the election, we see this Bill before us now.

The Hon. D. K. Dans: They denigrated the whole legal profession.

The Hon. R. THOMPSON: Only a week ago, the Labor Party introduced a Bill into this House to amend the Electoral Act. It was Bill No. 63, and we are dealing now with Bill No. 66. The Bill introduced by the Hon. R. Hetherington was quite simple. Clause 2 stated—

> Section 113 of the principal Act is amended by repealing and re-enacting subsection (1) as follows—
>
> (1) Ballot papers, including those ballot papers referred to in section ninety-nine B of this Act, may be in the prescribed form and shall contain—
>
> (a) the surnames of all the persons nominated as candidates, arranged in large characters in the order determined in accordance with subsection (2a) of section eighty-six of this Act; and
> (b) in brackets immediately after the name of each candidate, the name of the political party which the candidate represents. Provided that if the candidate does not represent any political party the word "Independent" shall be inserted in brackets after his name. .

It would suit me to have the word "Independent" alongside my name. But what happened with that Bill? The debate was not adjourned after the second reading speech; it was not given any thought by the Liberal Party or the National Country Party.

After the introduction of the Bill the Leader of the House rose to his feet, waffled on for 10 or 15 minutes without giving any explanation or reason why the Bill should be rejected, and in very short time we found the Bill was just thrown out. It would have brought a little more sanity into the situation and helped people with difficulty in deciding which representative they wanted to vote for and the how-to-vote cards would have assisted. That was rejected but three Bills after we find that we have this horrible piece of legislation which will disfranchise people.

I have taken thousands of people to the polling booths and delivered large numbers of postal votes—just as many as any member opposite. I would like to give an illustration of one person who though blind is still highly educated. He gets his wife to put his pen on the line where he has to sign, and then writes his name. He must sign the application form when it is for a Commonwealth vote; that is required by the regulations. He is one of the fortunate people still able to write his name even though he is blind. However, someone has to fill in his ballot paper for him and that person is usually his wife. When I pick up his vote it is sealed and witnessed; everything is in order and as far as I am concerned the Act has been complied with.

I know of another chap who had a very unfortunate accident in which he lost both his arms. He is a prolific reader and a very well read man generally. If this legislation is passed he will not be able to have a postal vote yet he is an intelligent man and certainly as intelligent as anyone in this Chamber. So with this Bill the

Government is taking from this man the human dignity he should have simply because he will not be able to sign his name.

These are some of the things the Government is doing. I do not go into institutions to collect votes from the sick but I have certainly seen a lady from the Liberal Party in many institutions voting for people. I think members know who I mean; she was a very keen worker for the Liberal Party for many years.

The Hon. D. K. Dans: I think she might have passed on to a higher place now.

The Hon. R. THOMPSON: I think the member might be right. The Government is degrading people by taking away their basic right to exercise a vote. The old adage is, "No taxation without representation." When people have to pay taxation they are entitled to representation; the only way they can get it is through the ballot box and that is what should be happening.

Another illustration I can give is of two brothers in Hilton Park who live not far from me. They both went to a college for something like 10 years and neither can read or write, yet one is a successful businessman. This man is very clever but he cannot sign his name.

The Hon. I. G. Pratt: He cannot sign his name?

The Hon. R. THOMPSON: No.

The Hon. D. K. Dans: If members knew their history they would know that Fremantle was founded by a man who could not read or write.

The Hon. R. THOMPSON:. Both these brothers will be disfranchised by this legislation which I oppose most vehemently. It is a disgrace for any political party to introduce such a measure. It is something the Liberal Party should not be proud of. It is intended for one purpose only and that is for the ex-Minister for Health to regain his seat in the Kimberley. This Bill is aimed at disadvantaging the Aboriginal people in that area.

This afternoon I was handed a bundle of letters from Mr Huelin, the principal legal officer of the Aboriginal Legal Service of WA (Inc.) and the immediate past president of the Good Neighbour Council of Western Australia. In case members are wondering, the envelopes they found on their desks were distributed by me.

Mr Huelin has set out a thorough case; it is a four-page document which I will not read out. It refers in part to the Declaration of Civil and Political Rights and refers to article 25 of the International Covenant on Civil and Political Rights which reads as follows—

> Every citizen shall have the right and the opportunity without any of the distinctions mentioned in Article 2 and without unreasonable restrictions:
>
> To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot guaranteeing the free expression of the will of the electors.

Of course, that is not going to happen.

The Hon. W. R. Withers: They have that now.

The Hon. R. THOMPSON: The people with physical ailments are to be disadvantaged and the illiterate people in our State whom we should be looking after will be disfranchised. Therefore, I cannot support the Bill.

THE HON. R. F. CLAUGHTON (North Metropolitan) [10.07 p.m.]: This is becoming known as the "Alan Ridge re-election Bill". If we give thought to what happens at elections it is worth while to give consideration to what precisely will take place after the introduction of this measure.

Candidates and parties in elections go to a great deal of time and trouble to put their points of view across to the voting public. Many hours are spent in campaigning and many of us are familiar with this because we are embarking on a Federal election now. There are thousands of volunteers involved in a campaign and many paid people also. Time is spent in door knocking and addressing various groups of people.

The preparation and publication of pamphlets which are then distributed at some considerable expense is becoming quite a problem for political parties. This is especially so as this will be the second election in Western Australia this year and there have been many elections in recent years. Advertisements in newspapers, over the radio, and on television involve considerable cost to candidates, parties, and the people they rely on for support.

Apart from that there is the cost to the State in the duties of the Electoral Office in appointing people to man the polling booths and the compilation of the material dealing with voting instructions and necessary advertising, etc. in bringing the election to the notice of the electors.

That is a considerable effort by a large number of people. It is designed to inform the people as far as is humanly possible within the limits of the political contestants, as to the policies of the particular parties. It is also designed to inform the electors who the individual candidates are and what they represent. As a result, when the voter

comes to the polling booth he is as well informed as it is possible for all these people to make him.

I could not envisage a business undertaking that sort of exercise to market a product, and then when it comes to the shop front making it as difficult as possible for the consumer to buy the product. However, that is what we are doing with this particular piece of legislation. This is being presented by a party which calls itself a believer in free enterprise; that is certainly astounding.

One would imagine such a party would be even more aware of the principles involved. Perhaps we should not criticise the Government for that. Perhaps it is fully aware of the implications contained in the piece of legislation presently before us. It should be made as simple as possible for the person, who has received all this information at great expense to large numbers of people and to the State, to record his vote. However, this legislation makes it as difficult as possible for a particular group or particular groups in the community. I do not think that is a very rational way for us as legislators to go about our business.

Rather than this legislation, I would have thought we would have other measures which would simplify the process instead of making it more difficult. As other members have already mentioned, the legislation affects a reasonably diverse group in the community, indeed a minority; but it is still a diverse group.

The most significant group affected is the Aboriginal people, because they are so readily identifiable. As we know, this legislation is aimed particularly at the election in the Kimberley where the Aboriginal vote will decide who the member will be. Not only are Aborigines affected, but there are also other ethnic groups and our own sons and daughters who are similarly affected. It could well be that members of this Chamber have children or relatives who are affected in this way. A particular group of people which, for some reason or other, has not been able to obtain throughout the years of its education the ability to read or write, will be affected by this legislation. Because people cannot read or write, it does not mean they are not intelligent. Very often, despite the fact a person is illiterate, he may be highly intelligent.

Eighteen months ago a survey was conducted in Sydney which indicated that approximately 15 per cent of the population of that city would be affected by this type of legislation. In other words, 15 out of every 100 individuals were illiterate. Fifteen out of every 100 people who go to the polling booth will be affected. That is not an insignificant group. I would not have thought members of this Chamber would want to disfranchise such a large number of the members of our community.

The Hon. G. C. MacKinnon: I would like to check your statistics; they sound outlandish to me. I cannot believe that 15 per cent of people are too illiterate to vote; that is ridiculous!

The Hon. R. F. CLAUGHTON: When that survey was conducted, 15 per cent of the people in that community were assessed to be illiterate. That does not mean they are not intelligent.

The Hon. G. C. MacKinnon: I do not believe 15 per cent of the community is illiterate.

The Hon. R. F. CLAUGHTON: The Minister does not have to believe me. If he sees me later I will provide him with a reference—

The Hon. G. C. MacKinnon: I was Minister for Education for some years and I know that is not right.

The Hon. R. F. CLAUGHTON: —so he can satisfy himself that that information is correct. Many people who live in Australia are illiterate; good, honest, hard-working citizens whom I would have thought members opposite would thoroughly admire because of their exertions in producing and adding to the State's productivity.

There are many such people in my electorate; market gardening people who have laboured for years to do the best they can for their families. However, 20 years later they cannot speak or write English. That is the point we are talking about; it is the inability to use the English language that is covered by this legislation. The fact that a person is not literate in English does not mean he is not literate at all. There are many people who fall into that category; people who may speak three or four, or even five languages, and yet they have never become literate in English. People have a much greater facility in literacy in diverse tongues than we are ever likely to attain.

The Hon. J. C. Tozer: Are you suggesting they could not cast a vote? Are you really suggesting that?

The Hon. G. C. MacKinnon: That is a ridiculous assertion!

The Hon. R. F. CLAUGHTON: By what process under this legislation would they cast a vote?

The Hon. G. C. MacKinnon: They are not marksmen.

The PRESIDENT: Would the honourable member direct his remarks to the Chair and ignore the interjections?

The Hon. R. F. CLAUGHTON: How is such a person to cast a vote without some form of assistance, if he does not speak or read the English language?

The Hon. D. J. Wordsworth: In the same way Mr Withers described.

The Hon. G. C. MacKinnon: He has only to memorise the name.

The Hon. R. F. CLAUGHTON: When Mr MacKinnon goes to the booth does he have to memorise the names of all those people on the how-to-vote card; or on the ballot paper? The Leader of the Government is not asked to do that; but he is a person who speaks the English language. It is his native tongue.

However, there are some other persons who are not literate, who do not speak English at all, but who are expected to memorise names which are foreign to their language. That is what the Government is asking people to do. The Government asks people outside this House to accept that it is doing this in the interests of the people; that it is really trying to be kind and thoughtful to the people. That is what Mr Withers would have us believe. He said he talked to these Aboriginal people and they understood he was trying to be sympathetic and kind to them. What utter rubbish! That is not the true situation. It is not reasonable for Mr Withers to put this story across in the Chamber. I also have spoken to the Aboriginal people.

The Hon. G. C. MacKinnon: Do you believe that is kind of you or something?

The Hon. D. J. Wordsworth: Condescending.

The Hon. R. F. CLAUGHTON: Mr Withers is not the only gentleman who talks to Aboriginal people. I do not have many opportunities to do this being a city member and with very restricted travel concessions. Members of Parliament are allowed one trip across the State in a parliamentary session.

The Hon. G. C. MacKinnon: That is a darned sight more generous than the concessions we received when your party was in office.

The PRESIDENT: That has nothing to do with the Bill.

The Hon. R. F. CLAUGHTON: It would help us to understand these people if we met them. Perhaps that would be of real benefit to members of the Government. They might have more opportunity to explain their policies to these people who I am sure do not understand what the Government is trying to do. As I have said, I have spoken to the Aboriginal people. I have sat on the ground with them and listened to them as best I can. When one speaks to them one must be very careful about one's understanding of what they say. The Aboriginal people have been downtrodden for a long time and they are well practised in saying the sorts of things they think one wants to hear, rather than what they really believe or want to say. I think that is a lesson Mr Withers needs to learn. There is a basic approach to people of which we should be aware.

We are talking about the people who are not educated and who do not have the ability to read or write English. They suffer a considerable number of indignities as a result of this. At the moment about 40 unemployed people are attending special classes, and they suffer the indignity of being labelled "dole bludgers" because they cannot get jobs, but it is very difficult in itself for them to get jobs when they cannot read or write. We should not be guilty of imposing this further indignity upon them. However, I have no doubt that the legislation will be passed just the same. People in the category about which we are speaking need to be given sympathy, understanding, and assistance to enable them to overcome the problems they face. They should not have further barriers placed in their way.

It is interesting to note that next Saturday there will be an election for the national Aboriginal council which recently has been established by the present Liberal Government.

The Hon. J. C. Tozer: It is the National Aboriginal Conference, not council.

The Hon. R. F. CLAUGHTON: I thank the honourable member for the correction. I am quite amenable to correction when I am wrong, and I thank Mr Tozer for that interjection.

The voting system for that election is first-past-the-post, so that a person has to put a mark only against the name of the person he wishes to be elected. To further assist voters, there is a photograph alongside the name so that if one cannot read, one is at least able to recognise, from the portrait, the candidate one wishes to elect.

The Hon. J. C. Tozer: You do not even have to be on the roll.

The Hon. R. F. CLAUGHTON: That is right.

The Hon. D. J. Wordsworth: Would they have seen those people?

The Hon. R. F. CLAUGHTON: It is almost the reverse of what is being proposed under the Bill before us. It is trying to make it as easy as possible for the person who is interested and who has informed himself about the candidates. When a voter gets to the booth, there are as few

obstacles as possible to his recording a correct and valid vote. That is what we should be doing, not introducing the provisions in the Bill before us.

I also draw attention to the information supplied by the Aboriginal Legal Service which has submitted very well the arguments in respect of the legislation. Mr Hugle has been sitting in the gallery this evening listening to the debate. I am afraid he will get very little cheer from the way the debate goes.

The Hon. G. C. MacKinnon: Or from your speech.

The Hon. R. Hetherington: That is a matter of opinion.

The Hon. R. F. CLAUGHTON: The main subjects in it were outlined by Mr Thompson and I do not intend to read them. Mr Hugle has done his best—

The Hon. G. C. MacKinnon: His name is Mr Huelin. Mr Hetherington forgot the name of your candidate and now you are forgetting Mr Huelin's name. He has been around too long for you to forget him.

The Hon. R. F. CLAUGHTON: I named him correctly the first time.

The Hon. G. C. MacKinnon: No, you called him Mr Hugle.

The Hon. R. F. CLAUGHTON: Mr Huelin has set out concisely the argument against the intention of the Bill. This State will earn the misapprobation of the national community when the legislation becomes law. The ALP opponents pretend to be in favour of democracy; but—

The Hon. R. Hetherington: They do not know what it is.

The Hon. R. F. CLAUGHTON: —seldom is it put into practice in this Parliament. They claim to be defenders and supporters of the rights of the individual, but when it comes to action and legislation we find them sadly wanting. I do not think Mr Huelin's argument will carry much weight with them in this instance.

It is a matter of great concern to me that more and more we are finding this type of legislation in the State. The Liberal Party is dominated by the extreme right at present and that is why we have had at least 18 per cent of the people voting for a new centre party as occurred in Victoria last Saturday. It is because the people are extremely dissatisfied.

This Bill would not have seen the light of day during the period of the Brand Government and I am sure Sir David Brand will be ashamed that his successors have introduced it. I hope that a sufficient number of members in this House will vote against it, and if not, I hope a sufficient number will vote against it in another place. The Aboriginal people do not deserve the treatment meted out to them under the Bill which, I strongly oppose as does the other member who has spoken from my side.

THE HON. J. C. TOZER (North) [10.27 p.m.]: I rise to support the Bill, but it does not make me particularly happy to discuss the topic we are discussing tonight. Some of the things I will say in introduction, will be similar to what Mr Withers has already said, but there has been no collusion; it is purely coincidental. We have obviously noted the same things.

In 1974, when I first became involved in seeking the vote of the people to elect me to Parliament, it immediately became apparent to me that the legislation relating to the voting of the community in the North Province, particularly the Kimberley district, required amendment. Over the last week, since our leader gave notice of the fact that he would introduce the Bill, the Opposition, all forms of the media, and Mr Huelin from the ALS, have been emphasising that we need extensive public discussion now.

For the 3½ years since 1974—but really I can say for 6½ years—this whole question has been under intensive scrutiny and review by the political party to which I belong, the Opposition party, and Mr Huelin himself, because he has spoken of this matter to me. It has certainly been under review and scrutiny by the ALS as a body.

The Press has canvassed the whole proposition loud and long over the period to which I have referred and certainly all northern electors of both political persuasions have debated the matter and spoken at length of the need to do something about the voting system and particularly about the illiterate voter. It is quite spurious to suggest that the legislation is being sprung on us at the last moment, as Mr Jamieson, the media, and Mr Huelin have suggested.

I think I would acknowledge that it would have been fine had we been able to introduce this legislation after Mr Justice Smith had handed down his judgment.

The Hon. R. Hetherington: The Government wanted to get it in before the by-election.

The Hon. J. C. TOZER: But it is also certain that there is no way that in Western Australia any district, including the Kimberley, could go to the poll again without straightening out the ridiculous and unworkable state of affairs which exists under the present Act.

The Hon. R. Hetherington: It is only unworkable because of the behaviour of the Liberal Party.

The Hon. G. C. MacKinnon: That is not true, of course. It is unworkable because of the bad behaviour of your party.

The Hon. J. C. TOZER: It was with a great deal of reluctance that the party meeting authorised the Government to go ahead with this legislation last Tuesday and thus, that same day, Mr MacKinnon gave notice of his intention to move for the introduction of the Bill. At that time it was not known when the judgment would be handed down, but it was known that if this legislation was to pass through this sitting of Parliament it had to be introduced at that time, otherwise it could not have gone through with full debate in the form we are having tonight; and of course, there would have been public awareness of the passage of this Bill.

The last day of the hearing of the Court of Disputed Returns was the 27th September. Last Tuesday it was not known when the judgment would be handed down. It did become known on Thursday, the 3rd November that the judgment would be handed down on the 7th November. In point of fact, having seen this document, there is no doubt at all about the fact that what is contained therein is quite irrelevant to the subject matter of the Bill we are discussing tonight.

The Hon. R. F. Claughton: That is what you would like people to believe.

The Hon. R. Hetherington: I do not find it irrelevant.

The Hon. J. C. TOZER: Speaking of public awareness, clearly the media in this last week have failed to make the public aware of the purpose of the legislation. There are two main purposes in this Bill, and any member who took the trouble to listen to the speech made by the Leader of the House last Thursday would have learned what those two main purposes were.

Firstly, the Bill relates to postal voting by illiterates. Secondly, it deals with the casting of votes by illiterates in polling places. In all the reports the second item has been described as an amendment. Well, it is not an amendment; it is a clarification. That is what the Minister told us and any member who takes the trouble to read his speech will understand it.

The Hon. R. Hetherington: Well, I read it and I do understand it in that way.

The Hon. J. C. TOZER: Perhaps I will take some trouble to try to explain to the honourable member. This point of view has not come through the Press, over the radio, or through television. That is despite the clear description of the Bill given by the Leader of the House, and the Premier's clear Press statement and the statement by the President of the Liberal Party in Western Australia.

Any member who listened to the ABC TV news, or who watched "TDT" on television last Thursday evening, would never have guessed what the nature of this legislation was. On those two occasions, most of the comments were that it was a brand new punitive, discriminatory measure to deprive people of their votes.

The Hon. R. Hetherington: It is a second bite of the cherry.

The Hon. J. C. TOZER: Instead of that, the Bill is explaining what already is accepted in the existing legislation. In addition to that, the television programme to which I referred actually gave the impression that this Bill was a *fait accompli*. Those programmes were made after the Minister made his second reading speech, and before the Bill had been subject to any debate.

The Hon. Lyla Elliott: Do not tell me that any Bill which is introduced into this House is not a *fait accompli*.

The Hon. G. C. MacKinnon; I wish I shared your absolute faith.

The Hon. J. C. TOZER: For the benefit of the news writers—and even the leader writers—and also for the benefit of the Hon. Bob Hetherington, I will read section 129 of the Act as it was amended last year.

The Hon. R. Hetherington: I have already read it so there is no need to read it again.

The Hon. R. F. Claughton: We can read.

The Hon. J. C. TOZER: I will read part of subsection (3) of section 129 of the parent Act as follows—

> If any elector satisfies the presiding officer that he is so illiterate that he is unable to vote without assistance, the presiding officer—

The subsection continues—

> —shall mark the elector's ballot paper according to the instructions of the elector.

Really, that could not be more explicit. The presiding officer shall mark the elector's ballot paper according to the instructions of the elector.

The Hon. R. Hetherington: It depends on how the instruction is given. That is what the judge was interested in.

The Hon. J. C. TOZER: The Chief Electoral Officer issues a book of instructions to presiding

officers. Every poll officer has one in his possession long before polling day, and he has it on hand on polling day. Again, I will read only part of the relevant instruction. By the way, the book contains 33 pages explaining the duties of the presiding officers in polling places.

With regard to section 129 of the Electoral Act, a new leaf was inserted into the booklet for the February election. The insertion indicates that the Chief Electoral Officer thought it necessary to give to his presiding officers an instruction that "the presiding officers shall mark the elector's ballot paper according to the instructions of the elector."

It was so clear that the Chief Electoral Officer thought it unnecessary to provide any explanatory notes. There are copious notes on almost every other section which the presiding officer has to follow. Not one item of explanation was presented by the Chief Electoral Officer to help the presiding officer interpret that clause. The reason is quite clear; because in fact the clause was so clear.

As I have mentioned, the Chief Electoral Officer did not find it necessary to go into any explanation and, quite frankly, I agree with his judgment. If this matter had been left to my own personal judgment I would not have thought it was necessary for any amendment to be presented on this occasion. However, experience has proved me to be wrong in this matter. The instruction states that "the presiding officer shall mark the elector's paper according to his instructions."

The only word even open to interpretation is "instructions". According to the *Oxford Dictionary* the noun means teaching, directions, or orders. The interpretation of "teaching", in the verbal sense especially is "directions"—directing, aiming, guiding, managing, and instructions what to do.

The verb transitive "instruct" means to teach (a person in a subject); inform (a person).

The Hon. D. K. Dans: *Roget's Thesaurus* gives a lot more information than that.

The Hon. J. C. TOZER: The verb transitive "instruct" means to give information to (a solicitor or counsel), direct, or command a person to do.

I think the meaning is quite explicit; the intention of the Act seems to be beyond question. The illiterate voter; the unlearned voter; the voter who is unable to read; the voter who is "ignorant of letters" was required to instruct the presiding officer how he wanted his ballot paper filled in.

That is what the Act says, not what I think. But if he was incapable of reading, he was not able to instruct that presiding officer in writing. Clearly, the Act as it now exists precludes any interpretation which permits a written instruction from a voter when he cannot even read such an instruction.

I am very sad that in 1977 we have people who cannot read, but as that is the case, the instructions can only be given verbally, according to the Electoral Act. I do not believe there can be any alternative to that. The Act has always said it and I think it has always meant it. This is really the only point in question. Had the Chief Electoral Officer given explanatory notes to make the matter clearer, the presiding officers would have been saved considerable embarrassment and the electors would have known where they stood.

On the 19th February, 1975, the young and relatively junior returning officer in Broome, without any guidance, ruled that a how-to-vote card if proffered could be accepted as an indication of how an illiterate voter wished to vote. I quite specifically requested Mr Ross Monger, the returning officer, to record and clearly register my objection to, and rejection of, his ruling. I did not believe then and I still do not believe that particular section of the Act can be interpreted in the manner the returning officer said it could.

I failed to mention that I was a scrutineer appointed by candidate Ridge and I spent 11½ hours in the polling place in Halls Creek on that day. Ironically, the main reason I insisted the returning officer report my objection to his ruling was that I thought should Bridge win that election, Ridge would have a valid case for taking the matter to the Court of Disputed Returns, because I believe votes were wrongly accepted when they were cast solely on the presentation of a how-to-vote card.

The Hon. Lyla Elliott: What about when you were elected?

The Hon. J. C. TOZER, It was about 8.40 a.m. when the returning officer gave that ruling, and the well-schooled illiterates who attended the Halls Creek polling place from that time onward thrust the how-to-vote cards under the presiding officer's nose and valid votes were cast.

The Hon. D. K. Dans: That is what the Chief Electoral Officer—not Mr Monger—said they could do.

The Hon. J. C. TOZER: The Chief Electoral Officer said no such thing.

The Hon. D. K. Dans: When I get up I will tell you what he said. It is on transcript.

The Hon. J. C. TOZER: The telegram—

The Hon. D. K. Dans: I am telling you it is on transcript.

The Hon. J. C. TOZER: The basis of the votes cast in Halls Creek on that day was that how-to-vote cards proffered by illiterates could be accepted by the presiding officer—quite improperly. I have said previously and I say again that on that day in the Halls Creek polling place a handful of dedicated ALP workers effectively cast something like 200 valid votes. Those unfortunate illiterate people, under instructions, marched straight across the road from the place where they were assembled, ignoring all people—everyone. They shunned Liberal how-to-vote cards—

The Hon. D. W. Cooley: So they should.

The Hon. J. C. TOZER: —presented to them even by people who had worked with them for decades.

The Hon. A. A. Lewis: A typical remark. As long as the unions are happy! You do not want freedom of choice.

The PRESIDENT: Order, please!

The Hon. D. K. Dans: Mr McIntyre must have been wrong.

The Hon. J. C. TOZER: Some of the people outside that polling place had known these Aboriginal voters for a lifetime and had worked with them, but the Aborigines were able somehow to be convinced that they were not to talk to or accept cards from the people at that gate, and they did not. They went into the polling place clutching their how-to-vote cards in their hands.

The Hon. Lyla Elliott: What is wrong with that? All other voters do that.

The Hon. J. C. TOZER: They had a piece of tape stuck on their shirt or dress with a name on it which matched a name on the electoral roll. They moved straight up to the poll clerk and without uttering a word pointed to the name on the tape.

The Hon. D. K. Dans: And do you think this was the ALP behaving improperly?

The Hon. J. C. TOZER: The tape reminded me of infants in a primary school who have a piece of tape on their shirts with their name on it, and this was probably indicative of the people who were conducting the campaign.

The roll was marked off with the name of the person who presented himself. The assistant presiding officer established literacy. He might ask the question. "Are you literate?" There would be a blank expression, as one would expect. He might ask, "Can you read and write?" Usually this was answered with a nod because the affirmative answer is normally received; but, obviously it was not a correct answer, so it had to be ignored. A ballot paper would be issued, after, one way or another, it was established that the voter was illiterate and he would be passed over to the presiding officer. The how-to-vote card was thrust, almost belligerently, under the nose of the presiding officer. The presiding officer would say something like, "Do you need assistance?" There would be a nod. He would ask, "Is this how you want to vote?"

The Hon. D. K. Dans: You would have been a good witness during the case.

The Hon. J. C. TOZER: There would be another nod, and the presiding officer would fill in the ballot paper and place it in the ballot box. Those people passed through the polling place without uttering a sound—

The Hon. D. K. Dans: That is what you call a really secret ballot.

The Hon. J. C. TOZER: —and they walked out again, having recorded a valid vote. That happened with the best part of 200 electors on that day. I have oversimplified it. Mostly those officers had great difficulty in extracting nods in answer to the most elementary questions. However, that is what happened.

It made a complete farce of the whole concept of a freely expressed democratic vote.

The Hon. D. W. Cooley: Why don't you tell us about that smart aleck lawyer?

The Hon. A. A. Lewis: How about Mr Cooley listening? It is hurting, isn't it?

The Hon. D. K. Dans: I would not be surprised if there is a case for conspiracy now.

The Hon. D. W. Cooley: Trained lawyers pitting their wits against Aborigines.

The PRESIDENT: Order! Will the honourable member at the back refrain from interjecting?

The Hon. J. C. TOZER: There is no question of those voters being aware of what they were doing or why, or what possible effect their vote would have.

The Hon. Lyla Elliott: That is an insult.

The Hon. J. C. TOZER: They permitted themselves to follow a course of action which made a travesty of our democratic principles. Mr Thompson referred to Mr Huelin's reference to the declaration of civil and political rights when he talks of the "free expression of the will of the electors". That is not what we saw in the Halls Creek polling place on that day.

The Hon. D. K. Dans: What you are saying is

that the ALP acted improperly. Why don't you say it?

The Hon. I. G. Pratt: He does not need to.

The Hon. D. K. Dans: I want him to say it.

The Hon. G. C. MacKinnon: He is actually proving it; he does not need to say it.

The PRESIDENT: Order! I only want to hear the member.

Point of Order

The Hon. R. THOMPSON: I seek your ruling, Mr President. I understand that the happenings that took place at Halls Creek on election day are subject to a libel action and the Hon. J. Tozer has been issued with a writ. That action will be heard early in December, Sir, and so I think the matter is *sub judice*. I would like you to rule on it, Sir.

The Hon. I. G. Pratt: If you want to shut him up.

The Hon. D. K. Dans: He can speak on as far as I am concerned.

The PRESIDENT: I know nothing of the writ, and certainly I was unaware of the fact that there is a court case pending. If that is the situation, I suggest to the honourable member that he should refrain from making any comment in connection with it.

Debate Resumed

The Hon. J. C. TOZER: I respect your ruling, Sir, and I will not comment—

Point of Order

The Hon. G. C. MacKINNON: On a point of order, Mr President, I wonder what you mean by the phrase, "any comment on it". Do you mean the happening at Halls Creek, or the specific item on which the writ of defamation has been issued?

The PRESIDENT: I refer to the specific item about which the writ has been issued. I have not been informed that there is such a writ. I have no prior information of the subject matter of the writ. I repeat my earlier suggestion that if there is such a writ the honourable member, and any other member who speaks subsequently, should refrain from mentioning the subject matter of that writ. I am not clairvoyant, and I do not know the subject matter. However, I ask the honourable member to advise me whether such a writ has been issued, and if it has been, he should refrain from mentioning the subject matter of it. The honourable member may proceed.

The Hon. J. C. TOZER: There is such a writ, and Mr Thompson is quite correct. The case will be heard in the Supreme Court on the 5th December. I respect your ruling, Sir, and I will not refer to the Halls Creek polling place further.

Debate Resumed

The Hon. J. C. TOZER: It is an unfortunate fact that our electoral laws are framed for a literate community with a few illiterates in it. Taken by and large, most of the illiterates in our generally literate community are quite articulate. They have firm opinions, and they are able to cast votes. Migrants, with few exceptions, come from countries with a history of elections. In most countries elections have been held for centuries, or at least for a decade or two, and the migrants are used to the concept of attending a polling place and casting a vote. It is not a disability to the migrant community to cast a vote under this system, but a different situation applies in regard to a completely unsophisticated community which has no such history or tradition of casting a vote at a polling place.

The Hon. D. K. Dans: You tell the House who else has a voting system like ours of preferential voting.

The Hon. J. C. TOZER: The objections that are part of the voting system we have in this country are not "foreign" to the migrant people to whom I referred. These people can and do cast responsible votes.

Before I went north I was at Harvey, and on many occasions I was a poll officer. At that time Harvey probably had a greater concentration of non-English-speaking southern European immigrants than any other place in Western Australia. Do you know, Sir, I cannot recall one single person ever coming to a polling place to seek assistance in casting a vote? These people were "cluey" enough, they understood enough to look at a how-to-vote card, to take a ballot paper, and then to fill it in. This is the usual case, so we are speaking of an exceptional situation with these unsophisticated Aborigines in a remote area like the Kimberley.

The Hon. D. K. Dans: This Bill does not apply only to Aborigines, though.

The Hon. J. C. TOZER: I happen to be talking currently of the unsophisticated Aboriginal electors in the Kimberley. In that electoral district the situation is completely reversed in many of the polling places. These are basically illiterate communities with a few literate voters; that is the other way around. The problems were clearly revealed in 1971. They cropped up again in a most unsatisfactory and unhappy way in 1974, but in 1977 they became quite insufferable and

the clarification of the intent of the Act became quite imperative. With the risk of another farrago like that we saw in Halls Creek—I beg your pardon, Sir—in certain places in the Kimberley on the 19th February, we realised it was quite unacceptable. It would be unacceptable to anyone in the Kimberley, and I repeat, to anyone, whichever way he thought. No-one ever wants to see a repetition of the polling day procedures of that day.

In an attempt to overcome this problem, our Government has introduced certain amendments. I can read the words of the Act and I question why the amendment was necessary. However, without specific instruction it has been made clear by experience that the particular amendment relating to procedures in polling places has become quite necessary. This amendment provides—and I am summarising what Mr MacKinnon told us the other day—that any illiterate voter can ask for assistance. He can ask for names to be stated, and the presiding officer can then mark the voting paper in the order of preference given by the elector. It is then stated that the mere presentation of a how-to-vote card is not and cannot be the means of expressing such preference.

The illiterate voter who presents himself to the presiding officer for assistance cannot now be prompted by the naming of a particular candidate. He cannot express the party for which he wants to vote, and the presiding officer cannot prompt him by expressing the name of a party for which he thinks the elector may wish to vote.

There is absolutely nothing to preclude taking a how-to-vote card into a polling place, and there is nothing to prevent an elector referring to the card all the time he is in discussion with the presiding officer and informing him of the manner in which he wants to vote.

The Hon. Lyla Elliott: He cannot use it in his vote; it specifically says that he cannot.

The Hon. J. C. TOZER: As I said, everyone else has failed to read what was said, and obviously the Hon. Lyla Elliott has failed to read it also.

The Hon. O. N. B. Oliver: You read it.

The Hon. Lyla Elliott: I have read it.

The Hon. J. C. TOZER: It would be quite unfair to prevent any illiterate voter from referring to his how-to-vote card when obviously all literate voters can and in fact do refer to their cards.

The Hon. Lyla Elliott interjected.

The Hon. J. C. TOZER: The honourable member says that, not I.

The PRESIDENT: Order! The honourable member knows that interjections are out of order.

The Hon. J. C. TOZER: Such prevention of referring to how-to-vote cards is not intended by the Government, and other aids to memory may also be used if the fellow wishes to use them when talking to the presiding officer. This amendment is not designed to inhibit the voter as much as it is designed to prevent the possibility of his vote not being a true reflection of his own wish and intention.

It may well transpire that some illiterates may find it impossible to instruct the presiding officer in the making of a valid vote. Let us be quite clear in our understanding of what is happening in that polling place. We are electing a man to represent a district in the Parliament of Western Australia; we may even be determining the fate of a Government.

If a person, even despite the explicit assistance that is available to him under the terms of the Electoral Act, and also under the amendments introduced in this Bill, so lacks an understanding of what he is in fact aiming to achieve, then perhaps one has to wonder whether his vote should be a contributing factor in determining how Western Australia will be governed. It does not seem right under any circumstances that such people perhaps may be determining the whole course of history.

I think sometimes society—that is, all of us—is a bit unreasonable in expecting that some of these unsophisticated, illiterate people to whom I am referring should be able to cast a valid vote. We must remember, Sir, that it is not compulsory that an Aboriginal—

The PRESIDENT: Order! Would the people in the gallery please refrain from entering into conversation.

The Hon. J. C. TOZER: It is not compulsory that an Aboriginal be recorded on the electoral roll, and I suggest that this is in fact where a measure of irresponsibility lies. I do not think that we—again I mean the whole of society—should go around enrolling such people on the electoral roll who clearly will never be able to have sufficient understanding to know in fact what they will be doing in the polling place when they go to exercise their right.

The unfortunate fact is that by having such persons on the roll we open the gate to the possibility that someone else will influence them in the casting of their votes, instead of them

making up their minds of their own free will to cast their votes in the manner that they wish.

[Hissing from the gallery.]

The PRESIDENT: Order!

The Hon. J. C. TOZER: This sort of influence cannot reasonably be exerted on a literate and understanding person, but it can be exerted on an unsophisticated and illiterate person.

The Hon. R. Hetherington: Not all illiterates are unsophisticated.

The Hon. J. C. TOZER: There are many middle-aged and even elderly people who have been on the roll in the Kimberley electorate since 1962 when they were permitted to be enrolled, and they have cast and will continue to cast responsible votes without the assistance of a presiding officer in many cases, but in some cases with his assistance where necessary. There are many people in those age groups, though, who will never have such a capacity.

Clearly all 18-year-olds will not require the assistance of a presiding officer to help them; they will cast a vote in the booth in the same manner that any other person will. As a matter of fact, all those people in their early twenties who have had the half education to which I referred the other night, will be able to cast a valid vote.

Another point—although Mr Hetherington did not mention it tonight other people have mentioned it—is that the idea of getting people to vote for symbols is quite "foreign" to our way of thinking.

The Hon. Lyla Elliott: We do vote for parties.

The Hon. J. C. TOZER: There is no provision in the Electoral Act for political parties.

The Hon. R. Hetherington: It is high time there was.

The Hon. J. C. TOZER: I do not believe political parties are referred to in any place in the Act; it does not recognise political parties. Therefore, it is quite useless to talk of symbols.

The Hon. R. Hetherington: Why don't you talk some sense?

The Hon. J. C. TOZER: The use of symbols would again open the path for the type of brainwashing that can be achieved, because then a person has only to influence people to vote for the elephant, the tiger, or whatever.

[Hissing from the gallery.]

The Hon. Lyla Elliott: Do you think the people of Israel and India are brainwashed with symbols? That is how they vote.

The Hon. J. C. TOZER: I think most Western Australians would agree that in our community to vote for a symbol would be quite unacceptable.

The Hon. D. K. Dans: Why not ask them and find out?

The Hon. J. C. TOZER: This is a problem that we currently have in the Kimberley, but I believe we will grow out of it in a relatively few years. However, it will take a little time and there will be some problems for a while on the part of a few people casting a vote. However, I look forward to, and I am sure all other members look forward to, the day when we can have a completely uninhibited and freely expressed vote by every man Jack—I am sorry ladies; by every woman Jill too—

[Hissing from the gallery.]

The PRESIDENT: Order! It is quite apparent there are some people in the public gallery who have the intention of disrupting the activities of this House. I will leave the Chair until the gallery is cleared.

Sitting suspended from 11.10 to 11.30 p.m.

The Hon. J. C. TOZER: Mr President, I apologise to you and to the House if anything I said brought on that unnecessary interruption and embarrassment, particularly as I was just finishing my remarks.

What I have said is that it is my ambition and sincere hope that we will see the day—the sooner the better—when every person in the Kimberley over the age of 18 will be able to go along and express a vote quite freely and without inhibitions for the person whom he or she has decided to support.

I do not intend to dwell on the other part of the Bill before us relating to postal votes as I believe other speakers will probably cover that.

It is always a pity when something that has existed before is withdrawn but quite frankly I find it surprising that there ever was a situation whereby an illiterate voter could have a postal vote. After all, the whole idea leaves itself wide open to malpractice and clearly it is the sort of vote we would not tolerate under any sort of circumstance. It is unfortunate it has existed in our Act, but it is no longer going to exist. All we can satisfy ourselves with is that the Bill brings the Act into line with what in fact seems to be accepted practice elsewhere in Australia; that is, the Commonwealth and all States bar one.

I would like to make one brief suggestion to the Chief Electoral Officer. I make this suggestion on the basis of the experience of the 19th February. It is very important that the staff in all Kimberley

polling booths, where there are a large number of illiterates, should be surplus to adequate for the purpose. I think it is important that the presiding officer be given an area completely partitioned off. If necessary he should have a separate room where he and the illiterate voter, plus scrutineers, can go through the illiterate voter's difficult task of casting a vote.

It is quite unsatisfactory to have this process going on within a polling place where there are lines of illiterate people waiting to cast their vote. I suggest to the Chief Secretary or the Attorney-General—whoever is responsible—that this small step be taken to ensure a better spin for both the staff and the electors in the circumstances.

The Hon. R. Hetherington: It is against the Act if anyone else is there.

The Hon. J. C. TOZER: What Mr Hetherington says is correct but when the hall hired as a polling booth is inadequate it is not possible to achieve this; and that is the point I am making. It has to be remembered that in many polling places in the Kimberley illiterate voters will outnumber the literate voters by four to one and possibly five to one.

This legislation does not make me jump for joy at all but I see no alternative. I therefore support the second reading of this Bill.

THE HON. LYLA ELLIOTT (North-East Metropolitan) [11.35 p.m.]: I do not believe what I have been listening to; I cannot imagine that Mr Tozer himself believes what he has presented to this Chamber. Anyone who has read the legislation and knows what has been going on in the Court of Disputed Returns since the election in February this year cannot possibly believe the sort of statements Mr Tozer has been making to this Chamber.

In the 6½ years I have been a member of this Chamber I have not been more disgusted and outraged as I was when I had to sit and listen to the Minister's second reading introductory speech last week. The sheer cynical audacity of the Government is frightening. We have a Government in power which because it has absolute control of both Chambers is prepared to push through any obnoxious legislation, irrespective of public opinion and irrespective of the fact that it tramples on the civil liberties of the people of this State.

Parliament is becoming nothing more than a farce. Mr Tozer ought to talk about a farce and suggest the passage of this Bill will not be a *fait accompli.* Of course, any legislation produced by this Government is a *fait accompli,* when it has control of both Houses and the Government members are instructed how to vote; and do not let anyone tell me they are not. This Bill will go through irrespective of public opinion.

It is extremely obnoxious legislation. The Government has come to the conclusion that because it was returned to office this year with an increased majority despite its poor showing during the previous three years it can get away with murder. This is exactly what this Bill does; it will kill the franchise of illiterate voters. It is taking away the right of the majority of them to say who they want to govern this State. Surely this is a basic human right that should be enjoyed by every citizen in a democracy; the people should have the right to say who will govern the country or the State in which they live.

I do not know whether the Government thought that the Opposition and the people would be silly enough to let the Bill go through without any protest. Unfortunately this is what happened when section 129 of the Act was amended last year. We have realised now what a terrible mistake it was not to have been more suspicious of that amendment. Of course, it is very easy to be wise in retrospect.

Why were we not suspicious? We were not because we were completely innocent. We had no intention of manipulating the illiterate vote; nothing was further from our mind. The Minister who introduced the Bill at the time, the Hon. Neil McNeill as Minister for Justice, said the Bill was designed to obviate the possibility of irregularities occurring in voting by illiterate electors. The Opposition accepted that in good faith. That Bill was introduced late in the session and perhaps we do not study legislation sufficiently at the end of a session when Bills are rushing through. Little did we dream that that was precisely what the Liberal Party had up its sleeve.

Prior to 1976 the legislation covering blind, incapacitated, and illiterate voters, was the same, and I cannot see what is wrong with that. Why should the illiterate voters not be able to take a friend or someone known to them into the privacy of a polling booth and register a vote? After all, as I suggested by interjection earlier, this situation of an illiterate voter is very similar to that of a blind person because he cannot read the ballot paper, just as an illiterate voter cannot do.

We should have realised what was going on when the legislation was changed last year; but, as I have said, it is easy to be wise in retrospect. Little did we realise the sinister ulterior motives of the Liberal Party on that occasion. If anyone should challenge that statement that there were sinister ulterior motives, I would just like to quote

from a few exhibits which were presented to the Court of Disputed Returns.

This document is not one of the exhibits; I am quoting from a Press statement which appeared in *The West Australian* on the 10th September. It reads as follows—

> Ridge tells of Aboriginal votes plan
>
> The Minister for Health and Community Welfare, Mr Ridge, admitted yesterday that a plan was used to deal with illiterate Aboriginal voters on polling day in the Kimberley electorate this year.

Further on the statement continued—

> The plan was contained in a document called "Instructions to legal scrutineers in Kimberley electorate" which was given to the five Liberal lawyers.
>
> At the start of the booklet it said: "Your legal qualification gives you a status by reason of respect which will be accorded to your views by polling officers. This is the reason for your presence. Ensure that you use this advantage to the maximum."

Not only was this plan designed to intimidate illiterate Aboriginal voters, but it was designed also to intimidate polling officers as is quite clearly illustrated by the evidence which was given on that particular day.

I have a very interesting letter here which was presented as an exhibit to the court. It is from Mr Ridge and it is addressed to Mr Jeremy O'Driscoll, earth moving contractor of Derby. I will not read the whole letter, but I will read the very pertinent paragraph which supports my statement that there was a plan to deprive the illiterate voters of their vote.

The PRESIDENT: I hope the honourable member can relate these matters to the Bill.

The Hon. LYLA ELLIOTT: Mr President, it is very relevant to the Bill as I will show you in a moment. Mr Ridge says to Mr O'Driscoll as follows—

> I wanted you to know, also, that I didn't underestimate the value of your trick at Gogo on 19th. We could have been in real trouble without the services of a person such as yourself as scrutineer and I'm extremely grateful.

What was this trick at Gogo?

The Hon. W. R. Withers: I wondered the same thing, Miss Elliott.

The Hon. LYLA ELLIOTT: I am just about to tell Mr Withers what the trick was. Mr Justice Smith in his findings on the case tells us what the trick at Gogo was. He found as follows—

> . . . a Liberal scrutineer at Gogo station, Mr J. O'Driscoll, had concocted a story about a change by the returning officer in the procedure of accepting how-to-vote cards as a medium of instruction by illiterate voters.

"Concocted a story" which is he told a lie.

The PRESIDENT: I would like to know what the honourable member is quoting from.

The Hon. LYLA ELLIOTT: I am quoting from today's *The West Australian* which reports the decision of the court. That is the trick at Gogo which Mr Ridge found so helpful.

Another letter was presented to the court and this is very relevant to the Bill before us. It was addressed to Mr Allan Rees, United Aborigines Mission, Fitzroy Crossing. It was written by Mr Ridge. Mr Rees was an "Independent" candidate who at the time was a paid-up member of the Liberal Party, as I understand the situation. The letter reads, "Dear Allan . . ."

The Hon. R. Hetherington: That is known as a "dummy candidate".

The Hon. LYLA ELLIOTT: He is supposed to be a political opponent, anyway.

The Hon. A. A. Lewis: I am not a political opponent of Mr Hetherington, but I call him by his Christian name.

The Hon. R. Hetherington: Thank you.

The Hon. LYLA ELLIOTT: The letter reads as follows—

> I find it difficult to express my appreciation to you for the help that you extended to me during the recent State elections, and I hope that you will accept a very simple, but sincere, thank you as a token of my gratitude.

It continues in a further paragraph—

> Of greater importance is the fact that a third name on the ballot paper created some confusion amongst the illiterate voters and there is no doubt in my mind that it played a major part in having me re-elected.

Only one extra person, a third person in the Kimberley by-election, was enough to create confusion. It was obviously part of a plan.

The Hon. J. C. Tozer: Do you want to know what a trick means in the dictionary? It means a turn or spell of duty; shift. That is in the dictionary.

The Hon. D. K. Dans: The ladies of the night have another name for it.

The Hon. LYLA ELLIOTT: Continuing with the letter which is very interesting and has a strong bearing on the legislation presently before us—

> Bearing in mind that we had five young solicitors' scrutineering for us at the various polling booths, I believe that for the first time ever we now have enough evidence to convince people of the necessity for amending the Electoral Act in relation to illiterate voters.

Listen to this. To continue—

> If this is not done, I would anticipate that by the next election there could be in the order of 3 000 to 4 000 aborigines on the roll and, under such circumstances, we would have little chance of success.

That is very illuminating, Mr President. The letter says, "We have to amend the Act and if we do not we will have little chance of success."

In the final paragraph the letter says—

> Unfortunately, I'm not able to express my appreciation to you publicly, but I wanted you to know that I did greatly value your assistance, and I shall look forward to a long and friendly association with you.

Why could he not express his appreciation publicly if it was all above board?

That was Mr Ridge's letter to Mr Rees.

What did Mr Crichton-Browne have to say when the question was raised in the tally room? He said—

> We anticipated the problems which have come to light and sent up a number of lawyers to scrutinise the voting. Hundreds of Aborigines have been arriving at the booths who could not read or write.

Big deal! What a terrible thing! They cannot read or write. Obviously it is the intention of the Liberal Party to deny them a vote. This is an implied insult to the Aboriginal people, Mr President.

There is more evidence of the sinister plot which was hatched before the night of the State election. What does Mr Ridge think of Aborigines? In his letter to Mr P. J. Quilty of Ruby Plains Station, Halls Creek—once again I will not read the whole letter—he says as follows—

> It was a degrading experience to have to campaign amongst the Aborigines to the extent I did and it offended me to know that whilst I was concentrating my efforts on these simple people over the last couple of weeks, I was neglecting a more informed and intelligent section of the community.

What an insult; what a disgusting insult! Once again to come back to the Bill, there is more evidence in this letter that what we on this side of the House and a number of other people in the community are saying is correct. It continues—

> As a result of their activities, I believe that we now have enough evidence to try and convince people of the necessity for amending the Electoral Act in relation to illiterate voters. If this is not done, I would anticipate that by the next election there could be in the order of 3 000 to 4 000 Aborigines on the roll and under such circumstances the Liberal Party would be doomed to failure. I agree with you that it is going to be difficult to get through any legislation which smacks of discrimination but I believe that we have an obligation to try.
>
> One thing is certain. I shall certainly be pressing for changes to the Electoral Act in relation to the casting of absent votes by illiterate people.

Mr Tozer has tried to tell us this is a pure, reasonable, and above-the-board proposition with no sinister or ulterior motive.

The Hon. J. C. Tozer: I referred to that before.

The Hon. LYLA ELLIOTT: As further evidence of what the Liberal Party thinks of Aboriginal voters, I wish to quote what Mr Hayden Wesley Dixon, who is one of the scrutineers, was quoted as saying. It is as follows—

> A lawyer who went to the Kimberley to work as a Liberal Party scrutineer in the last State election told the Court of Disputed Returns yesterday that he had not regarded illiterate Aborigines as bona fide voters.

This was in *The West Australian* on the 17th September. The report goes on to indicate how Mr Seaman, the counsel for Mr Bridge, challenged something Mr Dixon had said. The report states—

> Mr Seaman also tendered one of Dixon's notes which mentioned that an Aboriginal had been shaking while he was being questioned.

This is the sort of ordeal these people were put through by these smart aleck Liberal scrutineers who went to the north to try to deprive the people of their votes. I have another letter from Halls Creek. I do not know whether you will allow me to use it, Mr President, but it does not relate to Mr Tozer. In a letter to the Chief Electoral

Officer the ALP workers had this to say, under the heading of "Assistance to Illiterates with Language Problems"—

> No assistance was given to illiterate Aboriginal electors who all had problems with the language.

Probably they did not speak as stated by Mr Tozer because they could not express themselves, in English, and they were helped with name tags so there would be no confusion with the polling officer when he was looking up the name on the roll. The quote continues—

> As elsewhere no assistance was permitted to electors, even from one Aboriginal to another, where misunderstandings occurred. One case in hand was of a young woman with an elderly, deaf man—she was not permitted to assist or even stand with him. Liberal scrutineers objections to questions being rephrased in more simple terms put the electoral staff in an impossible position—again no explanations, reasons were given.

Does anyone wonder why we are so strongly opposed to the legislation when it is realised that the amendment moved last year to section 129 had the effect of depriving illiterate voters of the privacy granted to other people such as the blind and incapacitated voters? By depriving them of their privacy, the smart aleck Liberal lawyers were able to intimidate these timid and unsophisticated people. The Press report referred to one person who was shaking with fear and no doubt others were intimidated and frightened away.

After polling day no doubt members of the Liberal Party and Mr Ridge's campaign organisation were laughing up their sleeves at the brilliant scheme they had conceived to deprive the people of their votes and thus ensure the return of their candidate. However, they were not as smart as they thought they were and, as has been revealed in the decision in the Court of Disputed Returns, they have been completely discredited.

Mr Justice Smith has ruled, firstly, that there will be a new election; and secondly, that the use of how-to-vote cards is in order for illiterate voters. Today's Press report states—

> Mr Justice Smith said he believed that the presentation of a list or a how-to-vote card by an illiterate elector was a proper direction on the marking of his first and subsequent preferences.
>
> However, before marking the ballot paper, the presiding officer should read the list or card and satisfy himself that it reflected the elector's wishes.

That is all we have ever asked. Now, after a long, expensive process of law under which members opposite have been proved wrong and been exposed, they want to change the rules by amending the legislation to enable them to pervert the course of justice and manipulate the position again by preventing eligible adults who cannot read or write from casting a valid vote.

As Ernie Bridge said, in this morning's Press—

> They know they cannot win in a fair and square contest.

Mr Claughton, I think it was, referred to the Bill as a, "Re-elect Ridge" Bill. Let us examine the effect of the two major amendments in the Bill. First of all they stop many illiterate people voting by post. This does not apply to all illiterate voters because I understand that some of them have mastered the art of writing their name. However, the majority would be prevented if they were ill or incapacitated. Under the Bill they will not be allowed to have a vote. It is no good Mr Withers, Mr Wordsworth, and Mr Tozer—I think they must have got together on this one—telling us that they are introducing the legislation to bring our legislation into line with the Commonwealth Act. If they are so concerned about bringing it into line with the Commonwealth Act, why did they amend the section relating to how-to-vote cards because the Commonwealth Act does not preclude the use of how-to-vote cards by illiterate voters? The Government should be consistent.

As far as I am aware there is no evidence of any malpractice in postal voting by illiterate voters. None has been presented to us or to the court.

The Hon. G. C. MacKinnon: The Independent member (Mr Thompson) suggested there was.

The Hon. D. K. Dans: I do not recall him saying that.

The Hon. G. C. MacKinnon: He was talking about a Liberal lady collecting—

The Hon. D. K. Dans: He was talking about a Liberal lady who used to operate north of the river at one stage.

The Hon. LYLA ELLIOTT: I do not have to justify what Mr Thompson says. No evidence of malpractice or manipulation of postal voting was provided to us or to the Court of Disputed Returns, so why is the Act being amended?

The Hon. D. J. Wordsworth: Because we are not doing it as a result of those recommendations. It is as simple as that.

The Hon. LYLA ELLIOTT: The Government

is afraid of the situation which would arise if there were a by-election and some of the elderly people who could not get in to vote had a postal vote arranged for them.

The Hon. D. J. Wordsworth: I am not saying that; you are.

The Hon. LYLA ELLIOTT: That is what it is about. That is the first thing: The Government wants to deprive these people—not only Aborigines because many people from other ethnic groups in the community would be incapacitated—of their right to cast a postal vote.

The second and most controversial provision is the one which makes it impossible for the majority of illiterate people to cast a valid vote at the polling booth, because it bans the use of how-to-vote cards. It is all very well for members opposite to say that an elector can take a how-to-vote card into the polling booth. Of what use is that if a voter cannot hand it to the electoral officer and indicate that is how he wishes to vote? That is what this Bill does, so do not let members opposite tell us otherwise.

The Hon. D. J. Wordsworth: If they cannot read, how do they work out which card to give to the electoral officer?

The Hon. LYLA ELLIOTT: The Bill specifically states that the presiding officer—

> (a) shall not accept as the instructions of the elector the tender by or on behalf of the elector of anything in writing with a preference, or an order of preference, indicated thereon;

I just wonder how people would have voted in the last Senate election had the Commonwealth legislation contained a similar provision.

I have in my hand a how-to-vote card for the last Senate election in this State, and it shows there were 29 candidates on that occasion.

The Hon. D. J. Wordsworth: But this does not apply to a Senate election.

The Hon. LYLA ELLIOTT: On the one hand we are told we should change our State Acts of Parliament to comply with Federal legislation. If it is a good principle to introduce this measure, the Government should support the Commonwealth adopting this legislation also.

The Hon. D. J. Wordsworth: Not at all. We know the number of candidates will be different in that case.

The Hon. LYLA ELLIOTT: To continue what I was saying: if the Government is so sure that it is right in principle it should support it for the Commonwealth as well, but it does not. At the last Senate election there were 29 candidates. It does not matter how brilliant one is, how literate one is, or how good at figures one is, I defy anyone in this Chamber to memorise 29 candidates.

The Hon. D. J. Wordsworth: The Federal Act has not been changed. Ours is a different case altogether.

The Hon. LYLA ELLIOTT: I have answered that point. During the 1974 State election many seats had four candidates. Prior to that I can remember when many small parties put forward candidates. There were the United Farmers and Graziers, the Country Party, the Labor Party, the Liberal Party and the DLP. There were six or eight candidates for some State seats.

The Government is saying to these people something it does not say to literate voters who can take a how-to-vote card into the polling booth. The Government is saying to those people who are unfortunate in not being able to read or write that it is too bad and they have to memorise the names of the candidates. They will not be entitled to satisfy themselves that a card represents the card of the candidate they want to vote for and then present that card to the presiding officer. Do not tell me otherwise.

This amendment will do precisely that; it will prevent illiterate voters from presenting their how-to-vote cards. During his second reading speech the Minister said that presiding officers had complained that the position was unclear. What presiding officers? What evidence is there of any presiding officer complaining to the Court of Disputed Returns that the position was unclear, except for the position which was created by the Liberal scrutineers who were sent to the north, and the situation created by the telegram sent against the wishes of the Chief Electoral Officer at the insistence of the Minister for Justice and drafted by the Attorney-General?

The Hon. I. G. Medcalf: That is not correct; I did not draft it.

The Hon. LYLA ELLIOTT: According to the report, the Attorney-General did draft it.

The Hon. I. G. Medcalf: You look again.

The Hon. A. A. Lewis: Is the member not going to apologise? The Attorney-General has given his word.

The Hon. LYLA ELLIOTT: I was in court when the Chief Electoral Officer was being questioned and subsequently Mr Langoulant went into the witness box and I am 99 per cent certain that was the information he supplied. Unfortunately, I do not have a transcript of the evidence but my understanding of the evidence

was that the Attorney-General drafted the telegram. I now have a copy of the transcript, and at page 37 Mr Justice Smith said—

> The evidence disclosed that the Hon. the Attorney-General instructed the Crown Solicitor to draft the telegram and that its text was settled jointly by them.

The Attorney-General instructed the Crown Solicitor to draft it.

The Hon. I. G. Medcalf: You said I drafted it.

The Hon. LYLA ELLIOTT: That is the only thing members opposite can pick me up on; they are nitpicking. The instruction of the Attorney-General was that it be drafted, and its text was settled jointly by the Attorney-General and the Crown Solicitor. My understanding is that the Crown Solicitor drafted it the way the Attorney-General wanted it. Anyway, that is a fairly minor point. The point is all had a finger in the pie.

During his second reading speech the Minister said—

> The Government believes that there has been ample demonstration of the kind of problems which may arise if the present situation is allowed to continue . . .

Later, he said—

> The Government believes that it is proper that the provisions of the Act should be clarified, thereby removing opportunities for alleging that the votes of innocent illiterate persons may have been manipulated.

What puerile rubbish. There was not one piece of evidence presented by the Liberal Party to the court. Not one witness was called by the Liberal Party, and Mr Ridge himself did not go into the witness box to defend his position or to show there was any manipulation by Labor Party workers. If illiterate persons have been manipulated, why do not they present the evidence? Because they have none.

The Hon. G. C. MacKinnon: Your lack of understanding of the Act is abysmal.

The Hon. D. K. Dans: I think the Premier's lack of understanding of the law is abysmal, from my reading of the papers.

The Hon. G. C. MacKinnon: The petition was issued by Mr Bridge. You are getting law mixed up with justice.

The Hon. D. K. Dans: What a long bow.

The Hon. LYLA ELLIOTT: We saw some justice yesterday, for a change.

The Hon. D. K. Dans: Plenty of law, but little justice.

The Hon. LYLA ELLIOTT: The Liberal Party was entitled to call witnesses to defend its position and to show the reason it sent scrutineers north so that illiterate voters would not be manipulated. However, the Liberal Party did not give any evidence, because it did not have any. So, do not put that stupid argument over.

The Hon. G. C. MacKinnon: You do not understand; it is a great pity.

The Hon. LYLA ELLIOTT: This legislation is immoral and it has one purpose. I believe it is part of a pernicious evil plan to pervert the course of justice and democracy and it should be thrown onto the garbage heap where it belongs.

THE HON. H. W. GAYFER (Central) [12.08 a.m.]: My remarks will be brief. I have sat here all evening listening to a real slanging match. I am very disappointed that we should leave the Bill and get stuck into the depths of law case evidence.

I believe that during the last few weeks there has been an inquiry, and a decision was brought down yesterday. I am very sorry indeed that an election has been held within certain definitions and that the result of the election has been such that the candidates have to go through the whole performance again.

From what I have heard this evening from every member who has spoken it must have been quite a performance. If the performance was as bad as I have been led to believe, after listening to both sides of the argument, then I suppose it is fitting and proper that some alteration should be made to our electoral laws in order to tidy up such a performance.

Consequently, I have no quarrel with what is intended by the Bill, except on one point. In the argument that has been going across the Chamber, one side has been saying the Bill is in conformity with the Commonwealth Act and the other side has been saying it cannot be because our electoral legislation is already in conformity with the Commonwealth Act; half of the speakers want what is in the Commonwealth Act and the other half want a provision that is not in the Commonwealth Act. I agree there should be one set of laws governing elections throughout the country, otherwise we will have poorly educated and illiterate people not knowing what to do when they go to vote in an election—and elections are being held with increasing frequency as the years go by. I believe there is a need for revision of the electoral laws.

I can also see problems with the right of an elector to take a how-to-vote card to the presiding officer and say, "That is how I want to vote." I have heard the argument that for illiterate people

that is the only way they will know for whom they want to vote. But if they are illiterate—

The Hon. Lyla Elliott interjected.

The Hon. H. W. GAYFER: I am making this speech. Illiterate people would not know to which card they were pointing or who was the person who gave them advice. I can imagine a horrible situation developing shortly if this kind of thing goes on. People could be forced to take certain cards. It may be that corrals and compounds, about which I have heard, will be set up in order to give people my card to take to a particular presiding officer. I have been listening to this kind of argument all night.

I believe if illiterate people have to vote and want to vote, they should fully understand which way they are voting. Otherwise, what is the purpose of voting if they do not understand what they are doing? I believe it was Mr Hetherington who said education and instruction should be paramount in directing voters which way they should vote, no matter how incapacitated or illiterate they are.

Nevertheless, believing a change should be made, if what I have heard about is the kind of thing that is going on throughout Australia, I am quite convinced that an authority—not a Select Committee, but let us say a selective committee—should be instructed to find out the most practicable and sensible way illiterates and incapacitated people can vote with dignity and without direction. Perhaps that is what the Bill is looking for, but I do not believe it achieves it.

So many problems with respect to the Bill have been pointed out from both sides of the House that I am beginning not to like any part of it. Earlier tonight I was in favour of altering the postal ballot provisions. I was not in favour of an illiterate person having the right to hand a how-to-vote card to a presiding officer, because all kinds of things have been alluded to.

I now believe I must weigh up the Bill sensibly as I see it—which may not be sensibly as many people see it. I now believe we must have uniform voting laws throughout Australia so that illiterate or physically handicapped people will know what to do. I do not know whether that is possible.

I have come to believe that coercion may have taken place in the election under discussion. If that is so, it is not good in our Australian way of life. I do not want any part of it and I do not want it to happen in my electorate.

There are two things I cannot go along with. One is that there will still be a variance between one law and the other as far as voting is concerned; the other is that there will be a change in the game—in other words, between one grand final last week, which was a draw, and another grand final to be played next week, there will be a change in the rules of the game.

The Hon. D. K. Dans: We are going to play the square ball next time

The Hon. H. W. GAYFER: I do not want help from the Leader of the Opposition. I do not believe I can support the Government on this measure, and I do not intend to do so. Now that the judgment has been brought down, I do not believe I can support the Bill, although had the judgment been the other way I would have considered it and argued it clause by clause. Nor do I believe I can support the Opposition, purely and simply because what the Opposition wants to do is in my opinion no more right than what the Government wants to do. Therefore, when the bells ring I intend to leave the Chamber and, as they say, vote with my feet.

THE HON. F. E. McKENZIE (East Metropolitan) [12.17 a.m.]: I also rise to oppose the Bill. The previous speaker made reference to a Select Committee, and perhaps that is how the Government should have handled this matter. From what we have heard from both sides, it seems to me there would be some sense in dealing with the matter in that way because allegations have been made from both sides. A Select Committee inquiry would overcome the problem.

I must refer to the court case. Blind Freddie would have known what the decision would be. One could pre-empt it. It was plain to me what the decision would be; I expected it.

The Bill contains two pages of amendments to the Electoral Act. The election was conducted on the 19th February, and I can distinctly remember the President of the Liberal Party making the statement at one stage that no public moneys should be utilised in meeting the costs of the action. But just prior to the decision being delivered, an announcement was made that a sum of $50 000 would be made available to each candidate. Following close on that, this legislation was introduced into this House. No matter what is said, I cannot be convinced it was not introduced in the belief that it would provide a short-term political advantage to the Liberal Party. If the Bill is passed, I do not think that short-term political advantage will accrue.

Let us look at the situation in respect of the forthcoming Federal election. An article appeared in last Saturday's edition of the *Kalgoorlie Miner* under the heading, "Both parties protest over voting Bill". I would like to quote from this article because I believe it is fairly

relevant. It represents the division of opinion which exists between the member for Kalgoorlie in the Federal Parliament (Mr Cotter) and the members who represent the area in this House. The article commences—

> The State Government's plans to control voting by people who are illiterate met strong opposition from both Liberal and Labor MPs yesterday:
>
> Both the sitting MHR for Kalgoorlie, Mr Mick Cotter, and his Labor opponent in the coming election, Mr Brian Conway, attacked the proposed Bill.
>
> Mr Cotter, said he was "deeply concerned" about the new electoral laws.
>
> He will be making urgent inquiries about the legislation to see how it would affect Aboriginal voters.
>
> He will take the matter up with the State Government.

I do not know how successful those representations have been. I do not know whether in fact Mr Cotter has taken the matter up with the State Government. However, if one looks at the amendments which the Leader of the House intends to move if the Bill reaches the Committee stage, it would appear that those representations have not been very successful.

The Hon. J. C. Tozer: He based his comment on Press reports, and they were most misleading.

The Hon. F. E. McKENZIE: For the benefit of Mr Tozer, I will quote the exact words used by Mr Cotter. The article continues—

> Mr Cotter said it seemed the legislation could have the effect of disenfranchising Aboriginal voters in his electorate.

If one takes note of the inverted commas in the Press report, these are Mr Cotter's exact words. He went on to say—

> "I am concerned at any attempt that might be made to stop these people voting," he said.

The Hon. G. C. MacKinnon: Fair enough; he was just going by the Press account of it.

The Hon. D. K. Dans: He has a strong sense of survival.

The Hon. F. E. McKENZIE: These are Mr Cotter's comments, and I trust the Leader of the House will take note of them.

The Hon. G. C. MacKinnon: I take note of everything you say, Mr McKenzie.

The Hon. F. E. McKENZIE: No matter what happens the Government intends to proceed with this legislation at the risk of losing the seat of Kimberley. I think that will happen.

The Hon. G. C. MacKinnon: No.

The Hon. F. E. McKENZIE: Later on we have Mr Withers' comment that the Commonwealth Government has no intention of changing its rules.

The Hon. G. C. MacKinnon: No need to; we have changed ours in line with theirs.

The Hon. F. E. McKENZIE: That is not so. Perhaps when the Leader of the House replies he can tell us about that. The legislation may be the same in some areas, but it is not identical. The Press article continues—

> Mr Cotter's comments reflect concern among Federal MPs that the WA Government's move will affect the Government's chances of holding the Kalgoorlie seat at the December 10 election.
>
> Kalgoorlie is a marginal seat, which the Liberals won from Labor at the last election.
>
> Mr Cotter said it has a big proportion of Aboriginal voters, and takes in the State seat of Kimberley, which has been the subject of an action before the Court of Disputed Returns.
>
> Mr Cotter said there seemed to be a great misunderstanding of the intelligence of the Aboriginal people.

Now that is the Liberal colleague of the Leader of the House making those statements.

The Hon. G. C. MacKinnon: He had not seen the Bill; he had read only the press accounts.

The Hon. Grace Vaughan: If he had read the Bill he would have made more derogatory comments.

The Hon. F. E. McKENZIE: The article continues, and Mr Cotter's comments are again in inverted commas, as follows—

> "These people are only illiterate in English," he said. "This does not mean they are unintelligent."

The Hon. G. C. MacKinnon: That is right.

The Hon. F. E. McKENZIE: Mr Cotter has another pertinent point here. When we have introduced legislation to try to simplify something I have remarked on this aspect. If we want people to participate in the government of this State and in the government of Australia, we ought to simplify the voting procedures. However, the Government has refused to do that because it is to its advantage to keep on bringing in legislation to make it more difficult for people to cast formal votes at elections. The article continues—

> Electoral legislation should aim at encouraging and helping people to vote, not stopping them, he said.

And then later on the article reads as follows—

> The Federal Minister responsible for administration of Federal electoral laws, Senator Withers, said the Commonwealth had no intention of amending its laws in the same way as the WA Government.

The Hon. G. C. MacKinnon: He does not know what he is talking about because we have copied the Federal legislation.

The Hon. D. K. Dans: You want to tell him that when he gets down to Bunbury.

The Hon. G. C. MacKinnon: I will tell him.

The Hon. F. E. McKENZIE: Tonight Mr Gayfer raised the question of a Select Committee, and I certainly favour this idea.

Let us look at what happened in the Kimberley electorate at the time of the last election. We found that an independent candidate by the name of Rees was brought into the picture. He is a member of the Liberal Party, and obviously his inclusion as a candidate was to make it more difficult for illiterate people to explain to the presiding officer for whom they wished to vote. This made it more difficult for formal votes to be cast. I do not intend to go on speaking about this matter, but I was quite pleased to hear Mr Gayfer suggest a Select Committee. This would be a splendid way out of the problem.

In the short time I have been here, about six months, I realise that it is very difficult at this late stage to move an amendment to the legislation. However, that may happen in another place. The idea of a Select Committee is new and refreshing. There is no doubt that this legislation is being rushed through. The Bill itself contains two pages only of amendments. Why did the Government wait until now to introduce it if this matter is of such concern to it? It is my belief that for quite a long period the Government thought there was no problem in this regard and that the candidate Ridge would be the successful party in the case before the Court of Disputed Returns.

The Hon. R. F. Claughton: The Bill was hastily conceived.

The Hon. F. E. McKENZIE: The Government is very worried about the whole situation, and especially the members who represent the area. We heard Mr Withers say that he was up there last weekend. However, he did not refer at all to the reaction in the Kimberley to this legislation.

The Hon. W. R. Withers: In the Press it was not very good at all.

The Hon. F. E. McKENZIE: What about the reaction of the people? Apparently Mr Withers went far and wide, but he did not care to mention the comments of the people.

The Hon. W. R. Withers: For good reason; they had only seen the Press.

The Hon. F. E. McKENZIE: It seems to me the legislation is being steamrollered through so that the Liberal Party candidate has more probability of being returned at the by-election.

The people whom we are discussing are intelligent; it is simply that they are illiterate. We should be making it easier for these people to exercise their right to vote in what we claim to be a democracy rather than depriving them of that right.

If there are anomalies in the Electoral Act, a Select Committee could go into the matter thoroughly. Then everyone would have the right to put forward submissions and the whole situation could be cleaned up in a reasonable manner. I am very strongly opposed to the Bill.

THE HON. N. E. BAXTER (Central) [12.29 a.m.]: I do not believe this Bill would have seen the light of day had not the defeated candidate, Ernie Bridge, petitioned the Court of Disputed Returns about the result of the election on the 19th February.

So far as I can ascertain from a search, there have been eight occasions in Western Australia when election results have been declared null and void. The first occasion was the result of an appeal to the Supreme Court in 1905. Other cases followed in 1908, 1916, 1933, 1934, 1943, 1947, and then in 1962.

As far as I can see on none of those occasions was an effort made to amend the Electoral Act as a consequence of the elections being upset, nor were promises made by the Government to meet the costs of the people involved in the cases.

I go back to the situation in 1962 during the general election when there was a dispute over the result in the seat of Darling Range after Ray Owen was defeated by Ken Dunn by one vote. Mr Owen petitioned the Court of Disputed Returns and the election was declared null and void and another election was held. In the subsequent election a very bad situation occurred in which a Minister of the Crown bought the electors of Forrestfield with a 65 000 water supply. This upset the election to the extent that Mr Owen was defeated by 16 votes. On that occasion was any attempt made to introduce anything to prevent a

Minister of the Crown buying votes by promising a water supply? Of course there was not.

Let us look at what this legislation really does. It says that an illiterate person of any ethnic group cannot apply for a postal vote. Then in clause 4 the Bill makes provision that a how-to-vote card produced to a polling officer in a polling place by an illiterate person will not be accepted as an indication of the manner in which that person wishes to vote. Therefore such a person is disfranchised; yet under the Act it is compulsory for these people to be enrolled.

The Hon. J. C. Tozer: That is not true; not Aborigines.

The Hon. N. E. BAXTER: I dispute the interjection by Mr Tozer, because under section 45 of the principal Act, which deals with compulsory enrolment, subsection (5) states, "This section except subsection (4) thereof does not apply to a native." There are no natives in Australia today; there are only Australian Aborigines. The definition of "native" in the Electoral Act means a person who is a native within the meaning of that expression as defined by the Native Welfare Act, 1905, which Act was repealed in 1972.

Therefore, there are no natives in Western Australia and Aborigines are compulsorily required to be enrolled just as is every other citizen in this State. Yet under this Bill we are saying that because a person is an Aboriginal and is an illiterate, or is an illiterate of any other ethnic group, we will not let him vote at elections although as long as he is an Australian citizen he must be enrolled on the electoral roll.

Accusations have been made across the Chamber by both parties as to what the other party did. Thank God the nose of the National Country Party is clean.

The Hon. D. W. Cooley interjected.

The Hon. N. E. BAXTER: As I said, a lot of criticism has been flung backwards and forwards across the Chamber as a result of that election, and I am saying, "Thank God the National Country Party's nose is clean."

I agree with my colleague, Mr Gayfer. If there is a ball game which results in a draw, we do not alter the rules for the next match. When there was a draw in the grand final in Melbourne, another game was played without altering the rules, and that is what should apply here.

I cannot see that I can support legislation introduced in this manner. Like Mr Gayfer, I certainly indicate that I will not support the Bill when it goes to the vote.

THE HON. W. M. PIESSE (Lower Central) [12.35 a.m.]: I support the other two speakers of my party. I, too, have been very concerned about this legislation coming forward at this particular time. I think the Government probably is genuine in hoping to right some things that have been wrong, but I feel this is not the time to bring forward this measure, right on the eve of a Commonwealth election and a State by-election. It will result only in further confusion and further problems in respect of the whole business.

I also agree with the former speakers that a great deal of dirty washing has been hung out on both sides of the Chamber, and it is very unfortunate that this should be happening and that the real context of this legislation should be lost in this mud-slinging match. This is most unfortunate because it is a very serious matter.

It has been fairly well agreed that the Bill falls into two categories, the first part referring to postal votes. I have heard some members say tonight that they have never known of postal voting being abused. I have worked off and on over many years in hospitals of various kinds and I can assure you, Sir, that it was not only the work of the Liberal lady as somebody said, but it has indeed been the work of men and perhaps women of every political party who have endeavoured and at times have succeeded in manipulating postal votes. I agree with legislation to prevent that. I believe in this day and age a person should be able at least to write his or her name if he or she wishes to apply for a postal vote.

Again, we have to allow for the vagaries of human nature; and if a person is going to hand over a ballot paper to be marked by somebody else in that person's name then, of course, there is a danger of the resulting vote not being a true interpretation of the person's wish. We all realise the problems involved in this.

On the other hand, we must be realistic about the matter of how-to-vote cards. We should not just say it is wrong for an illiterate person to produce a how-to-vote card because he or she would not know what is on it. There are ways whereby such a person could be reasonably sure of what is on the card. For instance, suppose I were an illiterate person and I desperately wanted to vote in a particular way. I would not simply accept a how-to-vote card from just anybody; I would go to some person whom I knew and believed I could trust and say, "I want to vote for so-and-so; will you show me how to do it?" In such a case where an illiterate person has gone to someone he or she knows and trusts and has found out how to vote, then I believe how-to-vote cards

could be used. However, my understanding of the situation in the very far north of this State is that that is almost an impossible position to arrive at.

I have had nothing to do with the election in question, but it is only by that use of a how-to-vote card that an illiterate person could have a fair idea of what is on it.

Again, if a person is unable to state his own name then I do not think we can expect him to know what he is doing. There are so many anomalies in this whole situation. I believe we are completely overlooking—although it has been mentioned—the real needs in respect of this legislation; I refer to the need to encourage a feeling of responsibility in all people in respect of the privilege of being allowed to vote.

This applies to all of us. It is not only illiterate people who take this privilege very lightly at times and who mutter to themselves, "I have not even looked at the names of the candidates. I will have to get a how-to-vote card. I do not know who I am going to vote for. I do not know how I am going to allocate preferences"; many people I know who should know better also adopt this attitude.

The other thing we must do is help people realise that voting for their Government is a privilege and also a responsibility. It has been said that these illiterate people are intelligent; I believe they are. Most intelligent people I have ever met can be taught in time to make marks of their own. In other words, they can be taught to copy letters. Even a child with a minimum of instruction can be taught to write numbers from one to 10. I believe this is one aspect of the problem which should be examined; perhaps some advancement could be made in this direction.

While I dislike very much walking out on a vote, I too feel I cannot support the Government's legislation. I am very sorry I cannot do this. But neither can I support what is proposed by the Opposition. So, I am afraid I have no option but to walk out when the vote is taken.

THE HON. GRACE VAUGHAN (South-East Metropolitan) [12.41 a.m.]: I intend to speak in opposition to this Bill. I wish to start by quoting from Mr Huelin's message sent to every member in this House. Unlike other members who said they would not tire the House be reading it, I believe there are parts which should be read so that they can be recorded in *Hansard.*

John Huelin can never be accused of being involved in party politics. He certainly can be seen as being a very great friend of the Aborigines and migrants. He has worked hard for the Good Neighbour Council and has helped the Aboriginal people as their legal adviser. He is very much respected by all in the social welfare field as well as the legal field.

Therefore, the paper he has produced is one we can treat with very great respect. I have extracted a couple of paragraphs which I think should be read in this House. Mr Huelin quoted from the Act which established the Aboriginal Affairs Planning Authority in 1972 to which the Hon. N. E. Baxter referred. He states—

> (a) The State Government in considering the rights of Aboriginal people is bound to take note of the Aboriginal Affairs Planning Authority Act 1972, which set up an Authority whose functions include:
>
> > "To promote opportunity for the involvement of persons of Aboriginal descent in the affairs of the community and promote the involvement of all sectors of the community in the advancement of Aboriginal affairs."
>
> (b) It seems, therefore, as part of its obligation under that Act alone, that the State Government should promote in every way the opportunity for Aboriginal people to take part in elections and government to which they are subject.

Rather than doing that, this Government in fact is blatantly discriminating against Aboriginal people and many people of European descent who are illiterate. Even people of Australian birth could fall within the ambit of this legislation because for some reason or another they have not been educated to the point where they can be classed as being literate.

It is true, as the Leader of the House was quick to try to deny, that research has shown that even in a sophisticated city like Sydney, some 15 per cent of people over 40 years of age in fact are illiterate. So, we are not talking about a small number of people.

What about people who are deaf and dumb? Supposing they can be classed as physically incapacitated, thereby entitling them to take a friend into the polling booth to assist them. As the Hon. Win Piesse said, such a person may not be lucky enough to find a friend at the polling booth to help him vote. So, that person is forced to ask the presiding officer to help him. The presiding officer would not be allowed to use any written material to advise that deaf and dumb person. How is the deaf and dumb person going to indicate his choice of candidate if he has no written material in front of him? Are we to presume all the presiding officers are going to learn the deaf and dumb language?

Let us take the case of migrants who do not

speak English; there are many such people, particularly women, who have lived in Australia for a considerable number of years and still speak only their own language. How are they going to be assisted? Are we to expect all the presiding officers will be multi-lingual?

This piece of legislation has been prepared with such haste that already we have had circularised some amendments to be moved in the Committee stage. This shows how carelessly the Bill has been prepared.

The Hon. D. K. Dans: They are to tighten it up!

The Hon. GRACE VAUGHAN: The amendments indicate that the Bill is deficient in the most elementary aspects. I might tell the Leader of the House I have observed some other anomalies in the Bill.

The Hon. G. C. MacKinnon: Are you going to tell me about them?

The Hon. GRACE VAUGHAN: I am talking about the haste with which the legislation has been prepared and therefore the most elementary things which have been left out of it, in order to effect what the Government has set out to achieve.

The Hon. G. C. MacKinnon: I thought you were going to tell me about them.

The Hon. GRACE VAUGHAN: I am not going to give away the secret and let the Leader of the House know what the anomalies are; he will find out later, and he will have to introduce another amending Bill.

I wish to quote again from Mr Huelin's report. He goes on to discuss this blatant discrimination, and refers to that part of the Bill which states that the presiding officers cannot use written material to assist illiterate voters. He goes on to say—

> No other elector has to vote without the benefit of a "How to Vote" card if he wants it.

Even the most casual observer would know that most people going into the polling booth carry with them at least one how-to-vote card. I always take one card from everybody to keep them all happy; after all, they have been working all day at the polling booths.

The Hon. G. C. MacKinnon: That is very considerate of you.

The Hon. D. K. Dans: Also, it gets rid of the opponents' how-to-vote cards.

The Hon. GRACE VAUGHAN: I think it is. I put the unnecessary ones in the garbage bin and I keep the one to which I wish to refer. I am getting old, and my memory is not as good as it used to be. Also, I could have a Freudian block about the conservatives on the list; I am likely to forget their names. I can remember the names of the good candidates, but the crook ones I often forget.

Mr Huelin was discussing the Government's intention to amend the Electoral Act so that people would not be able to use how-to-vote cards to indicate to the presiding officers how they wished to vote. He states—

> In any case, how many people could exercise an intended vote without such aid, particularly where there are many names?

With all the dirty work which went on up in the north, Al Capone would have been proud of such an operation. The Mafia should be writing to them to find out some of their methods.

The Hon. G. C. MacKinnon: You are referring to the Labor Party's methods, I assume?

The Hon. GRACE VAUGHAN: I had already thought of the name the Hon. Lyla Elliott used to describe some people employed by the Liberal Party, and I think it is worth repeating. The Liberal Party sent smart aleck lawyers disguised as scrutineers to Kimberley to stand over electors, to intimidate people and frighten them into not exercising their right to vote. It was absolutely scandalous behaviour on the part of the Liberal Party.

This legislation has been introduced in haste, because the Government saw the writing on the wall. Every time the Court of Disputed Returns sat at a new venue, so the number of people who obviously had been disenfranchised built up. When it became inevitable that a new election would be ordered by the court, the Government introduced this amending legislation in order that its candidate would have at least some sort of chance—I will not call it sporting—the next time he went to the polls.

It knew that the arm of government in this State which is still functioning in a way that is not elitist and which is not neo-fascist would soon put a stop to any of its shenanigans. Therefore, the Government had to cover itself by introducing this legislation. It has covered itself not only at the polling booths, by making it impossible for the presiding officer to do other than what is written in this Bill, but also with regard to postal votes so that many of the people who would qualify by being more than five miles away from a polling place have been disenfranchised in that they will not be able to apply for a postal vote because they cannot write.

There is a good argument in what the Hon. Win Piesse has said: there are ways in which

people can get over these barriers. But not all people have the same resources as the friend of the Hon. Bill Withers who rehearsed what he was going to do when he got into the polling booth by writing in the dust. Many people might have done that, but when such people get into the polling place the noise and the excitement of exercising the very small amount of political influence which these disadvantaged people have would be just too much for them and all the rehearsing would be to no avail, and they would again be at the mercy of those people who would try to influence them.

Presiding officers are having their hands tied. Of course there are ways in which this exercise can be done, but presiding officers cannot work out this sort of thing if their hands are tied. If a voter presents a how-to-vote card the presiding officer can soon ascertain whether the voter has been diddled by somebody outside who has told the elector that it is a Liberal Party card when it is a Labor Party card. He can soon ascertain that because the voter can say to the presiding officer, "I want to vote for the Labor Party candidate" or "I want to vote for the Liberal Party candidate. Is this the right card?" The presiding officer can say to the elector, "That is the one you want".

The presiding officer is a respected person; he should be the friend of the voter. He should be there to ensure that the democratic right of every person to vote is upheld. But what is this Government doing? This Government is becoming more and more elitist. I know that is one of my favourite words, but tragically in this country more and more people in positions of influence are gaining more and more power, and people who are disadvantaged are getting less and less political power and less and less influence in what happens in society. This Government is doing everything it can to nurture the concept of elitism and to push down that sort of person so that he does not have any influence on what happens in society.

Many members here tonight have said, some fatuously and some in mealy-mouthed fashion, "We are not saying they are ignorant because they cannot write but there are much better informed people who know what to do about the country". This was demonstrated by the correspondence from Alan Ridge to persons in the electorate which was read out by the Hon. Lyla Elliott.

I was very disappointed to hear the Hon. Bill Withers speaking tonight. I had expected from him a greater sense of justice than he displayed and I was very disappointed that he did not make reference to the judgment of Mr Justice Smith in the matter before the Court of Disputed Returns. Because I have great respect for Mr Withers I was very unhappy to find that the very man he had chosen as his scrutineer did the worst thing described in the judgment which was to deceive Mr Webb of Gogo by claiming that he had telephoned Mr Monger, the returning officer.

The Hon. W. R. Withers: I do not believe everything I read in the newspaper.

The Hon. GRACE VAUGHAN: The honourable member only had to read it in the newspaper and then follow it up. It is strange to me how uninterested many of the Government members were in the Court of Disputed Returns.

This man O'Driscoll deliberately deceived Mr Webb at Gogo, and the judge said so. What happened was that Mr Webb said that Mr O'Driscoll informed him that he had telephoned the returning officer and had advised of a change of procedure in the how-to-vote cards. I quote from the judgment—

> He said they had gone away from How to Vote cards and were now working directly from the ballot paper, reading the names from the ballot paper in the order shown thereon.

It is very strange that this is exactly the format that has been prescribed in this Bill.

The Hon. W. R. Withers: I was not involved in that.

The Hon. GRACE VAUGHAN: That is why I am disappointed in the Hon. Bill Withers. I think he should have known about this. I continue to quote—

> Mr Webb then closed the polling place and attempted to telephone the returning officer. He found the exchange was closed . . .
>
> Mr Monger in his evidence said that he did not know Mr O'Driscoll—

This is Mr Monger, the returning officer, giving evidence before the court. It is on page 62 but nobody wants to read it.

The Hon. J. C. Tozer: Of the Bill?

The Hon. GRACE VAUGHAN: Not of the Bill. To continue—

> —and that so far as he could recall, he had never had any conversation with a person of that name on polling day.

I do not wish to indulge in mudslinging, but this is what was said before the Court of Disputed Returns and this is the sort of skulduggery that the Government is not only supporting but also legitimising by putting it into the Electoral Act. To continue—

> He was quite clear that throughout polling

> day he had never varied his advice in relation to the use which he considered it proper for illiterate electors to make out How to Vote cards.

What does the judge say? He said—

> I have no doubt that Mr O'Driscoll concocted the story which he told Mr Webb of the returning officer's change in procedure in regard to the use of How to Vote cards as a medium of instruction. Equally, I have no doubt that his deception of Mr Webb in this regard was to further the scheme to stultify the use of such cards . . . . A letter written by the respondent to Mr O'Driscoll subsequent to the election, a copy of which was adduced in evidence, gives the impression that Mr O'Driscoll's actions received his sanction.

It is just too horrifying to think of what the Government has in mind. The sort of tactics used were monster tactics. They had to go there in a mob like the cowards they are to stand over these people who already were politically disadvantaged and were already deprived educationally, nutritionally, and in many other ways.

The Aboriginal people's history since we came here and took over this country is something which we should all be thoroughly ashamed of, but now we are heaping further indignities on them. Although I am speaking also of illiterate and migrant people, there is no doubt that Aboriginal people are right at the bottom of the status scale in this country politically, educationally, health-wise, housing-wise, and in all other facets of life. They have to exhibit tremendous potential; they have to exhibit tremendous talents and ability to get up from the bottom of the ladder. As soon as they do some people point to them and say that some of them have been able to get up so why do not they all do it. This is the elitist approach. Conservatives say that anyone can overcome his background in this country; that there is equal access to opportunity. That is complete balderdash. This Bill is certainly solidifying all the elitist concepts this Government has.

One of the terrible things about this deprivation of people's right to vote, about their disenfranchisement, about the standover of them, and about the embarrassment that these people face is that not only will they be disenfranchised by not getting to the polling booth, but even if they do get there they will be confused at the polling booth and possibly register an informal vote. The tragedy is that many of these people are likely to vote for the conservatives.

Let us face it, most of the people at the bottom of the status ladder want to vote for the Labor Party because they see it as the only way out. Often the Opposition is ashamed of the inadequacies of what we can do for these people. We know that our party is the party with the ideals and ideas to help the people who are disadvantaged.

It could happen that these people could vote for the conservatives in error, and it could happen very easily. The very party which is oppressing them and which they want to vote against they end up voting for. This is the terrible irony of the thing and it worries many of the Aborigines who wish to get help and provide an opportunity for them to get up from the bottom of the ladder.

I could go on for ages. It is with disgust that I speak in this House tonight because I have seen the erosion by stealth, manifested in the dirty trick played by this Government last year, when talking about the need to separate the blind from the illiterate. The Government said it had to introduce a new clause to enable presiding officers to help the blind person and we thought that was a good idea. However, as with a lot of the legislation coming through this Chamber, as Miss Elliott has said we are too trusting. We believed the people on the other side had more integrity and we were deceived into thinking it was an innocuous Bill, but it had very murky depths.

This Bill too has a veneer of clarifying the situation and making very explicit what the presiding officer has to do. This too has murky depths and is a conspiracy against the illiterate voter. I believe this sort of legislation will hasten the end of the reactionary conservatives who are now in control of this State. In fact, they should heed the warnings of Bertrand Russell and other people that if one wants to keep the people down one has to throw them a few crumbs while depriving them of the crusts they have. This is what is happening here. The Government is frightened of these people, who have no political influence. The Government is frightened of losing the seat in the north because these people at present are allowed to vote.

This is the action of a frightened party in bringing in legislation which is unworthy. The Government has the numbers but no conscience; it has the strength but no integrity. I condemn this legislation.

THE HON. D. W. COOLEY (North-East Metropolitan) [1.06 a.m.]: I congratulate the Hon. Grace Vaughan on an excellent speech, which I believe to be one of the best she has delivered in this Chamber.

This Bill has caused me a great deal of concern.

I was not in the Chamber for all of the Minister's second reading speech and I did not get the full implication of it on Thursday, but on taking the Bill and a copy of the speech home I was soon greatly concerned. That concern was deepened last night after I heard a very erudite lady speaking on "Monday Conference". I cannot recall her name but she was a very learned American. She said that the death knell of democracy could be political expediency. Her words brought to me the motive behind this Bill, which is political expediency.

I do not agree with her altogether when she says political expediency can be the demise of democracy. I think the demise of democracy will come with declining morality in the community. If our moral standards are not maintained we will go down as a nation and a democracy.

In 1969 it was my pleasure to undertake a very extensive tour of the Soviet Union. Following that tour I undertook a very extensive tour of Europe and England. After that experience in the Soviet Union and after seeing what was going on the western side of the iron curtain in respect of morality, I became very concerned that our way of life could be taken over by the people who control the forces on the other side of the iron curtain because our moral standards had become very much lower than theirs.

I took some consolation in the fact that this decline in morality was being practised only by individuals and perhaps by minority groups, and that our position would not be too bad if the situation stayed that way. However, when we see political parties and Governments going into moral decline, I think we should have a great deal of concern for the future of our nation and democracy as we know it.

The revelations of the Kimberley election on the 19th February this year indicate to me there is a moral decline within the Liberal Party. There are people in very high places in the Liberal Party who are in a great deal of disrepute in respect of actions taken during and before the election.

This Bill is another indication that the Government of this State is in moral decline. It concerns me very much indeed, not because this is a Government which has a different political philosophy from my own, but because it is a Government which has allowed itself to be put in a situation such as this, in a situation where the morality of the Government is at stake and where its morality is in very great question.

Mr Deputy President, if you want any further evidence of the fact that the Liberal Party is in moral decline, you should have seen the interview on "This Day Tonight" when the so-called leader of the Liberal Party—I am not sure whether he is the president or the secretary—Mr Crichton-Browne appeared on television and stated what he believed in regard to the Kimberley election. He made certain predictions in respect of the by-election which will take place.

I do not mind admitting I was frightened when I heard that man. I was frightened for the future of our State and for the future of our children, if this is the sort of person who has a hand in the control and destiny our State and of our contry in the future.

The Hon. A. A. Lewis: Hold it!

The Hon. D. W. COOLEY: I will not hold it.

The Hon. A. A. Lewis: We are not a party which takes orders like the Labor Party.

The Hon. D. W. COOLEY: I am glad the honourable member mentioned that.

The Hon. A. A. Lewis: We make our own decisions. We realise you cannot.

The D. K. Dans: Even the bad ones.

The Hon. A. A. Lewis: At least we take responsibility for them which is a little more than the Labor Party has ever done.

The Hon. D. W. COOLEY: We take a great deal of responsibility. I am glad Mr Lewis raised that point because I was coming to it myself. We take a great deal of responsibility. I admit we are more regimented than the Liberal Party or the National Country Party. However, the manner in which we vote is determined in a democratic way. Decisions are properly made in a democratic manner in the conferences which we hold.

That cannot be said for the party which Mr Lewis represents. The Liberal Government makes decisions in this House; it does not consult the rank and file in respect of its party's policies.

The Hon. A. A. Lewis: We do not hold our seats if we do not do what our electors think is fit and proper.

The Hon. D. W. COOLEY: The honourable member can have his way and we will have ours. It surprises me—

The Hon. A. A. Lewis: It is surprising you talk about people's morality.

The Hon. D. W. COOLEY: There is nothing immoral about believing in acting in a democratic manner as the Australian Labor Party acts.

The Hon. A. A. Lewis: You are prepared to talk about morality.

The Hon. D. K. Dans: You have forgotten about the Liquor Bill.

The DEPUTY PRESIDENT: Would the honourable member address his remarks to the Chair?

The Hon. D. W. COOLEY: I am amazed at the situation; I thought there could be free voting in the Liberal Party. I thought we would come into this Chamber tonight and at least two members on the Government side of this House would have been opposed to this measure, and I refer to Mr Withers and Mr Tozer, because this Bill strikes at the very heart of a great number of their electors. These electors have been disfranchised. That is one of my concerns in respect of this Bill. Not only are the electors in the northern provinces affected; there are electorate voters in the North-East Metropolitan Province, which is the one I represent, who are affected. I do not like to see these people being disfranchised, which is what this Bill sets out to do.

I thought the two members I have mentioned would have spoken up for the people they represent. However, they did not. I was very much surprised by Mr Withers, because I thought, on other grounds, he would have opposed this legislation. I thought someone like Mr Williams, who is not in the Chamber, who is so deeply concerned for people—and I say that with all sincerity because of the manner in which he works, for underprivileged people of which we are all aware—would have spoken against this Bill.

I thought we would have come into this Chamber tonight and found people like Mr Williams opposing this Bill. I would have thought someone like Mr Tom Knight, who is so concerned for handicapped people, would have had some thought for the people who are being disadvantaged by this Bill. I can only hope they will. I know the party machine is in action and they dare not vote against the Bill.

The Hon. A. A. Lewis: How many times have you voted against Caucus? You are not allowed to.

The Hon. D. W. COOLEY: I have come to know some of the members who have been here for many years. I know there are some members on the other side who would not have a bar of this. However, there are some who like to see underprivileged people—

The Hon. A. A. Lewis: Who are they?

The Hon. D. W. COOLEY: I would not name them, because I think it would be—

The Hon. O. N. B. Oliver: Grandstanding.

The Hon. D. W. COOLEY: There are some members who I know must feel very grave concern as a result of this Bill and who would like to vote against what they call their "consciences"; But they must be brought into line by the party machine. Even at this late stage, I hope they may have an opportunity to vote against the Bill, if the party machine does not discipline them.

The Hon. A. A. Lewis: When we see you taking the stand Mr Thompson takes on issues, we will admire you a little for it.

The Hon. D. W. COOLEY: I sincerely hope that will happen. Much has been said this evening about the document we received from Mr Huelin, who is the Principal Officer of the Aboriginal Legal Service. He does not know me very well; but I know him very well, because he was in the army unit I was in and I did not have very much respect for him then. There is a great deal in this particular document.

The Hon. R. G. Pike: He was probably more Liberal then.

The Hon. D. W. COOLEY: The honourable member should be called to order, because he interjected when he was not sitting in his seat.

The Hon. O. N. B. Oliver: Have you read it?

The Hon. D. W. COOLEY: I usually read documents which are sent to me.

The Hon. O. N. B. Oliver: Can you explain section 9, subparagraph (5)(a)?

The Hon. D. W. COOLEY: The honourable member should ask Mr Huelin about it. He is from the Liberal Party. I think he stood as a candidate at one time. Whether or not he was successful I do not know.

I admire Mr Baxter for what he said in regard to this Bill; but I would have thought other members on the Government side would have followed him. We should be able to say what we believe in this Chamber. If we believe sincerely there are injustices contained in the Bill, we should vote against it. I hope members will change their minds and they will vote against this legislation. One very good suggestion was made.

The Hon. O. N. B. Oliver: A ship without a rudder.

The Hon. D. W. COOLEY: Who is a ship without a rudder? Who is the honourable member talking about?

The Hon. G. C. MacKinnon: You had better watch out or he will drop that glass of water on your head.

The Hon. D. K. Dans: You will sail away.

The Hon. D. W. COOLEY: Mr Gayfer made an excellent suggestion in relation to this legislation when he referred to an inquiry. What

is wrong with an inquiry? Surely we have time to hold one. We do not have another general election until 1980. Even if the conservative people on the other side of the Chamber withhold this Bill until the inquiry is held, if the worst situation occurs, the Government will lose only one seat. The Government will not go out of office. The Government will not lose its so-called "divine right" to govern, as members opposite call it.

The Hon. A. A. Lewis: Do you agree with that?

The Hon. D. W. COOLEY: Members opposite make enough effort to bring that about.

The Hon. A. A. Lewis: Who does?

The Hon. D. W. COOLEY: Members opposite engage in collusion.

The Hon. A. A. Lewis: Who does?

The Hon. D. W. COOLEY: The honourable member's party. Members opposite should look at what happened in November and December, 1975. They will then see what sort of party they have, with its "divine right" to govern. That is what I am referring to.

The Hon. A. A. Lewis: You are paranoic.

The Hon. D. W. COOLEY: Members opposite cannot stand to lose. They have an election, the umpire upsets the decision, and they have to change the rules.

The Hon. A. A. Lewis: Which umpire?

The Hon. D. W. COOLEY: The magistrate who heard the case in the Court of Disputed Returns. That is what we are talking about. Did Mr Lewis not know?

The Hon. A. A. Lewis: No. I thought we were talking about the Bill.

The Hon. D. W. COOLEY: I think there is a great deal of merit in what Mr Gayfer said. No haste is necessary. Instead of implementing the provisions of the Bill we should have a good look at them, and what better way would there be to examine all the ramifications of the Bill than the one suggested? We have the judgment of Magistrate Smith as a reference. If the whole matter were cleared up everyone would be satisfied, including Mr Withers and Mr Tozer who would be able to appear before the inquiry to indicate the unjustices they believe exist under the present legislation. That is what we should do instead of blindly rushing into something which will prejudice many underprivileged people.

THE HON. TOM McNEIL (Upper West) [1.21 a.m.]: As the last member of the National Country Pary—

The Hon. D. K. Dans: I hope you are not the last.

The Hon. TOM McNEIL: The last of them to speak, that is. As the last member of the National Country Party to speak, I would like to endorse the remarks made by my colleagues. Although allegations and counter-allegations have been flying around the Chamber, I do not wish to participate in them. Before I came here today I did not approve of the Bill, and I certainly intend to vote that way.

I honestly believe there is room for a great deal of improvement in the situation as it currently exists in the polling booths, but I do not believe I can add anything to what has been said already in the Chamber tonight. It is essential that the situation be studied and this morning the NCP reiterated its stand against the Bill. Mr Cooley has indicated he would like us to vote that way, if we oppose it. I cannot speak for my colleagues, but I certainly will be crossing the floor. This is not the time to introduce the legislation. The time is the future. If there is something which requires amendment, there is a far more appropriate time than now for it to be done.

[Applause from the gallery.]

The DEPUTY PRESIDENT: Order please! It was pointed out earlier this evening that it is highly disorderly to have any expression from the gallery, and I hope the people in the gallery will accept that ruling. We are all under privilege in the House.

The Hon. TOM McNEIL: I am sorry I made a remark which caused that outburst.

Only once earlier tonight, was I thinking of changing my view because of the behaviour of the gallery, but I certainly will not change it now as my conscience would not let me. There is a time and place for everything, but my decision has not been made because of the outburst from the gallery. I oppose the Bill.

THE HON. D. K. DANS (South Metropolitan—Leader of the Opposition) [1.24 a.m.]: I oppose the Bill, but before I commence my remarks I wish to state that I feel very proud to be standing on this side of the House tonight with those members of the ALP who have demonstrated their sincerity and the fact that they have a conscience. I deliberately refrained from speaking until the later stage of the debate to allow all members to make a contribution.

Really we are not here discussing the Bill tonight as it affects the election in the Kimberley. We are discussing the future of democracy—the people's democracy—and what it means, because when the Bill passes through the Chamber, and when it passes through another place, we will have taken a major step down the road to fascism.

Although the Government is not game enough to say so, what the Bill really means is that the Government does not want illiterate Aborigines to vote at all. In fact, it does not want Aborigines to vote, full stop. That is what the Bill really means.

The Hon. W. R. Withers: That is not correct.

The Hon. D. K. DANS: There are no "ifs" and "buts" about it; there are too many coincidences.

First of all we had the announcement by the Premier that he would make a cash grant of $50 000 to each of the candidates. I think that was at the time when it became apparent that the court's decision would go against the Government. Then at the eleventh hour the Bill was introduced into the Chamber in order to give some electoral advantage to the Government's candidate in the by-election which was sure to be ordered.

I do not intend to canvass all the provisions of the Bill or the ins and outs of it because its intention is quite plain. The Act was amended in 1976 to give the Government parties an edge. However, it did not fulfil that expectation and because of a number of incidents this Bill is now before us.

We have been told to accept that somehow or other the Bill is not doing anything at all and that its provisions are exactly the same as those pertaining to the Federal elections. If that is the case, Senator Withers, Mr Cotter, Mr Viner, and other members of the Liberal Government must be very badly informed—but if my memory serves me correctly, Senator Withers and Mr Viner are both lawyers—because they have dissociated themselves from it!

Let us look at some of the things commented upon tonight. In the first instance Mr Bill Withers made a rather weak contribution, if I may say so, and had the temerity to say that if anyone saw the cartoon with a pen sticking through the chest of an illiterate Aborigine with a little note stuck to it, he would be very upset. He then tried to draw some analogy as to how we would feel with a shovel-nosed spear through our chest, and with a note stuck to it. He has been long enough in the Kimberley to know that if anyone had a shovel-nosed spear through his chest he would not be thinking about anything at all.

The Hon. W. R. Withers: That is right. That is what the cartoon depicted.

The Hon. D. K. DANS: Just think of that statement. I do not know of any illiterate Aborigines who read papers, nor for that matter, do I know of any illiterate Aborigines who buy newspapers. However, I have enough confidence in and know enough about the Kimberley to be sure that if any Aborigines did see the cartoon they would get someone quickly to explain what it was all about—

The Hon. W. R. Withers: That is right.

The Hon. D. K. DANS: —because they are intelligent people; and they would see the humour or otherwise in it.

The Hon. W. R. Withers: I imagine it would be "otherwise".

The Hon. D. K. DANS: He went on to say that 41 per cent of the Aborigines were in his province and 30 per cent were in the Kimberley and that he could not see how interpreters could help them.

I have enough confidence in them to know that they communicate with one another quite readily and they know what the election and swindle was all about and how they were tricked out of their rightful candidate. Do not let us make any mistake about that.

Mr Tozer, Mr Withers, and the Leader of the House tried to make some allegations about manipulation by the ALP. Although I tempted them by interjections to say exactly what they meant, they did not do so, but that is what they implied.

People have been quoting from all kinds of documents tonight, so I would like to refer to page 45 of the judgment, and what Mr Justice Smith had to say. I will restore him to his rightful position because Mr Cooley made him a magistrate in the closing stage of his speech, and we would not want him to be upset over that. Mr Justice Smith said that there was no evidence of malpractice by the ALP.

It is interesting to note that despite claims made by Sir Charles Court and Mr Crichton-Browne on election night and in the following days, that the ALP behaved reprehensibly and the Liberal Party would welcome an open inquiry to bring forward proof of this, during the case Mr Ridge did not call a single witness or make a single allegation. I hope Mr Tozer is listening very carefully.

Many reputations have been severely damaged in this case. I do not think the Attorney-General, either accidentally or otherwise, came out of the whole exercise very well in the eyes of the public.

I do not think the five lawyers to whom the judge referred as being in a plan came out very well. If ever there was anything to erode the confidence of the people in the legal profession, surely it was this: that five lawyers responded to a plan concocted no doubt in the Liberal Party headquarters. They went up to intimidate the Aboriginal voters. I think Mr Withers and Mr Tozer would agree they were dealing with people

who have had the guts kicked out of them for 200 years, and who are intimidated fairly easily. It is not possible to get them on their feet again in five seconds. Those people knew they were treated in that way by Rowell, a long-time resident of Derby.

I do not intend to read the whole of the opinion in the judgment, but I have a brief summary which was made up today. In order to answer some of the matters referred to by Mr Tozer, let us see the lengths to which the Liberal Party went, and let us expose some of the statements made tonight. At page 48 of the judgment—and I hope Mr Tozer is listening—it is stated—

> The instruction which Mr Monger had given to presiding officers as to the attitude which such officers were to adopt when an illiterate elector presented the How to Vote card as the medium of his instruction, met with the prior approval of the Chief Electoral Officer.

I repeat: "met with the prior approval of the Chief Electoral Officer". To continue—

> To my mind, the presentation of a list or a How to Vote card by an illiterate elector, is a proper direction by such an elector, both as to the marking of his first and his subsequent preferences, provided that the presiding officer takes the precaution of reading what is written on the list or card to the elector. . . .

That was not a direction from Mr Monger. Mr Monger had been advised, and correctly advised, by the Chief Electoral Officer. Miss Lyla Elliott, when speaking, made a claim about the Attorney-General's part in this. The Attorney-General (Mr Medcalf) checked her by interjection. I will refer back to the judgment again so that we may get it correct.

At page 36 the judge commented on the telegram sent by the Chief Electoral Officer to the presiding officers, upon instruction from the then Minister for Justice (Mr Neil McNeill). The text of the telegram was drawn up in consultation between the Attorney-General (Mr Medcalf) and the Crown Solicitor (Mr Langoulant). I think I should set the record straight there.

One of the amazing factors in this is that one must get extremely suspicious. I was a trade union official before I came into this place, and one thing I was taught in my early days in Sydney was that in order to become a successful trade union official one had to have a suspicious mind, bearing in mind the people one was dealing with on the other side. If something happened once, it was an incident; if it happened twice it was a coincident; and if it happened three times something began to stink.

As one goes through the sad tale of the election in the Kimberley all those things fit into place. Mr Cooley has quite rightly pointed out that here we have a political party hell bent on retaining power at any cost. I was staggered to see—as was Mr Cooley—Mr Crichton-Browne on "TDT" last evening quite blatantly saying—and he looked very furtive to me, but I may be biased—that the Liberal Party would go about the election just as aggressively as ever and if, in fact, it lost the election it would appeal to the Court of Disputed Returns.

What a wonderful admission. This all comes from the party in order that it can stay in power. Federal-wise it corrupted the Attorney-General in a vital election.

Point of Order

The Hon. I. G. MEDCALF: I beg your pardon; would you withdraw that comment that I was corrupt.

The Hon. D. K. DANS: I am sorry; I withdraw the remark without any qualifications that the Attorney-General was corrupt. The corruption concerned the Governor-General.

The Hon. G. C. MacKINNON: Mr President, I must ask for the withdrawal of those remarks also.

The Hon. D. K. DANS: I do not mind withdrawing those remarks also; they are common knowledge. He even got on television during the presentation of the Melbourne Cup, and I heard him speaking on radio at a luncheon the other day.

Debate Resumed

The Hon. G. C. MacKinnon: You are not doing yourself justice, you know.

The Hon. D. K. DANS: If I am not doing myself justice, then the party and the democratic principles which the Leader of the House is pleased to follow are not being done justice either. The Leader of the House is aiding and abetting—with the introduction of this Bill—the introduction of a further element into Australian politics which will erode the very democratic principles we are supposed to stand up for.

The Hon. G. C. MacKinnon: You have a short memory.

The Hon. D. K. DANS: That is what the Leader of the House is doing; that is what this Bill is doing. Does any member really think this Bill was just produced? Why was it not produced

at the end of February? Why was it not produced in March, and why was not Parliament called together, bearing in mind the experiences of the election held in the Kimberley? Why was it not brought forward then?

This measure was brought forward only when it became apparent that the Court of Disputed Returns would rule for a new election. That is the reason for its introduction. It was the same reason money was made avilable to the candidates. We had to get to work and get some money together so we were ready for it. I am not knocking that at this stage. I will return to the report. My own heading for page 44 is "The plan involving five lawyers". How would members feel about getting legal advice from one of that group? It would be terrific! As I said the other night about members of a political party not very far from here, they do not pull their socks on; they screw them on. I imagine these five lawyers would be of the same kind.

I do not know how this case has damaged the careers of those people, but surely the part they played in this deception will have some effect. It was a deception and a conspiracy to pervert the course of justice and to pervert a fair and equitable election. The judgment, at page 44, reads—

> The adoption by the respondent of a plan which the respondent conceded was contained in a document entitled 'Instructions to Legal Scrutineers in the Kimberley District' and the implementation of that plan by five lawyers at the seven named polling stations was admitted in the respondent's amended answer, but in the pleading the respondent denied that the purpose of the plan was to deprive illiterate aboriginal electors of a fair and free opportunity of voting for the petitioner. Notwithstanding this denial, the respondent did not seek to explain in evidence why he adopted the plan or the reason for its implementation. The person responsible for drawing up the plan was not called to give evidence.

I have suggested that person may well have been Mr Rowell, but I have no way of knowing for certain. Mrs Vaughan has told us of the part O'Driscoll played in this, and if I wanted to keep the House I could go through what the five lawyers had to say. When the pressure came on in the court they sang like birds; they could not tell enough. At least those who appeared in the court were reasonably honest.

No-one with a conscience—and I hope I have a conscience—no-one who believes in fair play, no-one who believes in the democratic process, no-one who believes in the future of this country, and indeed no-one who believes in a free vote for all people at an election would support this Bill.

Do not think I am going too far into the back of beyond. Today it is the Aborigines; and let me make the point that in the area I represent there are great numbers of Italians, Slavs, and Greeks. On Friday, I am going to the South Fremantle High School where 35 different ethnic groups are represented. There were 36 but one has left. The Bill applies to all those people. If members were to go out and do a little head counting, they would find that not only are many of these people illiterate in our language but they also cannot read or write their own language. They know what voting is all about but they certainly do not understand our screwy system.

If I interpret correctly the amendment which has been circulated, someone has had a hurried look at the Bill and seen a few loopholes. At first I thought, "Here is a change of heart, they are loosening the thumb screws"; but when I looked into it I found they were not only tightening up the thumb screws but they were also putting people on the rack, tightening up the whole exercise, just in case. The Hon. Grace Vaughan put her finger on it.

I do not know how much of this kind of thing the people will stand. In another State similar to our own the democratic process has been slowly eroded. Despots began in other parts of the world by burning up books. It will not stop at this amendment. In the future there will be another attack on the people's rights and we will be going through the same kind of exercise here.

I do not want to delay the House but I will repeat what I said. Why have not Government members the guts to stand up and say, "We don't want illiterate voters—be they Aborigines or anyone else—to vote anywhere; we are simply going to chop them off"? If anyone on the other side can get up in the Committee stage and tell me this Bill somehow makes it easier for a person to cast a vote, I am a Dutchman. It is of no use for Mr Tozer to say people can take how-to-vote cards into polling places. I will be interested to hear him say in the Committee stage how they are to be used.

The Hon. W. R. Withers: It does not make it easier to vote—

The Hon. D. K. DANS: It makes it easier for the Liberal Party to win. That is why the legislation is before the Chamber. I would have thought a Government which wears the label of

"Liberal", which is really conservative and is going very much to the right of that, would have been bringing in legislation to make it easier for illiterate people to vote, if it thought the legislation enacted in 1976 was no good. It could have achieved that quite easily, with all the paraphernalia to ensure no-one could manipulate the vote. I would have thought that was the easiest way to go about it. The easier procedures are, the easier they are to apply, and people understand them.

I saw in the *Daily News* tonight a statement by the Premier to the effect that "It does not matter what the judge says, this is what I say." The people will take note of that.

Rather than going forward with some democratic principles, we are going backwards. We know where the legislation is aimed. When one pulls the trigger of a shotgun and fires over there, one hits everyone. I do not know how many people will be disfranchised. I was frightened last night when I saw on television Mr Crighton-Browne, who appears to be smarting under his defeat in the Liberal Party selection for Tangney. Surely it does not augur well for the people of Western Australia.

I ask those who value freedom, who believe in giving the underdog a go, and who believe in looking after the ethnic people we have brought to this country and the original inhabitants of the country to vote against the Bill or to press for the appointment of a Select Committee to investigate the kind of legislation I have been speaking about. If we are travelling at 100 miles an hour, there is no doubt in my mind that we should be ensuring the Aborigines are travelling at 1 000 miles an hour to catch up. The Bill is reprehensible, it does the Government no service whatsoever, and I oppose it.

THE HON. I. G. PRATT (Lower West) [1.46 a.m.]: In supporting the Bill, I wish to make reference to the speech of the Hon. Robert Hetherington and to discuss some of the points he made, because I want to show the difference in the attitude of the Liberal and Labor Parties towards the Bill. I will get right down to the guts of the issue—the expression used earlier tonight. That very clearly shows us the difference in attitude towards the Bill and why the Opposition is opposing it and the Liberal Party is supporting it. Three particular points stood out in his speech, and I wish to put them under a microscope to see what they mean. I congratulate that member on being one of the few members of the Opposition who actually spoke about the Bill. That is probably why he is rapidly assuming the role of spokesman and perhaps decision-maker for the Opposition.

Firstly, when he made his views known about the how-to-vote cards he told us they are essential in the process of the illiterate voter recording his vote. He went on to tell us that in many cases illiterate voters would not know who the individual candidates were but they would know the party they wanted to vote for, so they should get around to voting for the candidate by being able to identify his party's how-to-vote card.

The Hon. R. Hetherington: I said they were like literate voters in that respect.

The Hon. I. G. PRATT: The point he made was that the candidate is not the important consideration.

The Hon. R. Hetherington: For some electors.

The Hon. I. G. PRATT: For the illiterate electors.

The Hon. R. Hetherington: Not all the illiterate electors; some of them.

The Hon. I. G. PRATT: I am assuming he was talking about the least literate of the illiterate electors, if he wants to make the distinction. The point he made was the candidate is not important in this situation; it is the party that is important. This is the view we have had expressed over and over again by the Hon. Grace Vaughan and others on many occasions. I think it is also one of the favourite themes of the Hon. Lyla Elliott.

The Hon. Grace Vaughan: We admit to our solidarity; you pretend it is not there. We are proud of it.

The Hon. G. C. MacKinnon: You have no option.

The Hon. I. G. PRATT: The honourable member is brought into voice purely because I am repeating what she says. I do not see where she takes exception to that, but we can never understand some people.

The Hon. Grace Vaughan: No, it is beyond your mental capacity.

The Hon. I. G. PRATT: I have no doubt it would be beyond my mental capacity, and no doubt it would be beyond the mental capacity of all of us at times to understand the Hon. Grace Vaughan. I am sorry—

The Hon. D. K. Dans: Don't ever be sorry about a thing.

The Hon. R. Hetherington: I have always found her easy to understand; you just have to listen.

The Hon. I. G. PRATT: We have the one-party man speaking again.

The second point I wish to mention is the fact that Mr Hetherington referred to the confusion of illiterate voters. Again I am not suggesting that he has said all these people come into this situation, and indeed, my next sentence will show I do not allege that. Mr Hetherington said that some of these people did not understand the system, they were confused, and in fact, many of them were not part of our civilisation.

The Hon. R. Hetherington: I did not say that; I have just corrected the proof and I did not say that.

The Hon. I. G. PRATT: I suggest that the honourable member should read *Hansard* because that will reveal what he said.

The Hon. R. Hetherington: You had better check it yourself tomorrow.

The Hon. I. G. PRATT: The point he makes, and *Hansard* will—

The Hon. R. Hetherington: *Hansard* will show it. I have just had a look at it and corrected it, and that does not appear.

The Hon. I. G. PRATT: It may not now show it.

The Hon. D. K. Dans: You can look at the uncorrected proof.

The Hon. R. Hetherington: It did not then.

The Hon. R. F. Claughton: It was another speaker who made those comments.

The Hon. Grace Vaughan: Mr Pratt has selective attention.

The Hon. I. G. PRATT: The point was made, and the Opposition does not seem to want it brought to notice, that many of these people did not really understand what it was all about.

The Hon. D. K. Dans: But the judge said they did.

The Hon. I. G. PRATT: I am not claiming that they were all in this situation. I do not know whether that particular point was raised by the member when he was speaking.

The Hon. R. Hetherington: I really think you ought to read my speech tomorrow.

The Hon. I. G. PRATT: Again I wrote down the next point as it was said, and although my words may vary slightly, the principle is the same. Mr Hetherington said that the purpose of the Bill was to ensure that the people who were able to organise votes in the north did not get them. The point was made that the important thing, the paramount thing, was to organise the voters and to get their votes into the ballot box.

The Hon. D. K. Dans: Don't you do that in your electorate?

The Hon. R. Hetherington: I certainly try to do it in mine; so do the opponents.

The Hon. I. G. PRATT: I do not try to organise my electors; I try to give them something to vote for. I try to organise the people who are working and supporting me in the electorate. From the interjections of members opposite, I think we have an admission that that is what they want to do.

The Hon. D. K. Dans: Yes, there are 80 000 on the roll in my electorate. I go around and organise the whole 80 000. I am a very busy boy.

The Hon. I. G. PRATT: If we take those three points together they reflect the attitude of the Opposition; the important thing to do is to organise the voters—

The Hon. D. K. Dans: You have just been found guilty of organising them against the Labor Party in the Kimberley.

The Hon. I. G. PRATT: —whether or not the people know what it is all about.

The Hon. D. K. Dans: You stand condemned.

The Hon. D. W. Cooley: Everybody is entitled to vote.

The Hon. D. K. Dans: Providing they vote for us!

The Hon. I. G. PRATT: Thank goodness Mr Cooley is not in charge of creating the policy of the Liberal Party.

The Hon. D. K. Dans: The atmosphere you created in the Kimberley was a good trick.

The Hon. I. G. PRATT: Our attitude is that the people have the right to make their vote without being regimented, without being organised into a group and then have someone say, "This is how you are going to vote".

The Hon. D. K. Dans: Where did that happen?

The Hon. G. C. MacKinnon: In the Kimberley.

The Hon. I. G. PRATT: Voters should have some basic knowledge of what they are doing. I hope that anyone who intends to exercise his vote has a basic knowledge of what he is there for, and he should be able to express an opinion to the presiding officer. A person who goes into a shop—

The Hon. Grace Vaughan: You have not read the Bill.

The Hon. I. G. PRATT: —to buy a bottle of beer can obtain the brand he wants, and he would be sure of—

The Hon. R. F. Claughton: You would know all about bottles of beer, we know that from your speeches.

The Hon. I. G. PRATT: —what he wanted. If

someone wanted tea or coffee, he would know the difference and he would be able to express that. If there are two candidates, it is not hard to know whether a person supports one or the other.

The Hon. R. F. Claughton: What if there are 10 candidates?

The Hon. I. G. PRATT: If there are three candidates, an elector knows he favours one and he does not want one, and so he expresses that view to the presiding officer.

The Hon. D. K. Dans: You amended the Electoral Act and then sent people up there to fiddle it.

The Hon. I. G. PRATT: In this way a voter could indicate his preferences where there are three candidates. It is also my opinion, and this is my opinion, that even a person with a very marked degree of illiteracy—

The Hon. R. Hetherington: Look, you are either illiterate or not. You could perhaps say a lack of literacy.

The Hon. I. G. PRATT: I do not agree with the honourable member on that, along with many other items. I think there are degrees of literacy. However, a voter should be able to indicate a choice on a ballot paper, and that is what the Act requires: a choice of preference. I believe that an elector should be able to put one mark for the candidate who is his first choice and two marks for his next choice. This could be done without the assistance of the presiding officer.

The Hon. D. K. Dans: That was tried up there, and they stopped them.

The Hon. I. G. PRATT: This is an acceptable way to mark ballot papers. As a school teacher I worked on elections many times.

The Hon. D. K. Dans: No wonder we lose elections.

The Hon. I. G. PRATT: Perhaps Mr Dans judges everyone by his own integrity. We do not all live by it.

The Hon. D. K. Dans: Thank goodness for that!

The Hon. I. G. PRATT: Yes, thank goodness we do not. I have seen this method of voting used on many occasions.

The Hon. D. K. Dans: Fancy making that statement when we have this judgment in front of us.

The Hon. I. G. PRATT: It has been acceptable for voters to indicate their preference by putting one stroke against the name of their first choice, two strokes for their second choice, and so on.

The Hon. Grace Vaughan: I'll bet you were good at six strokes.

The Hon. I. G. PRATT: They stopped doing that to naughty little girls a long time ago.

The Hon. D. K. Dans: Not only are you a bad school teacher, but you have other things on your mind.

The Hon. I. G. PRATT: I suggest to the Leader of the Opposition that he should talk to the lady behind him.

The Hon. D. K. Dans: I often have a drink with her and a talk.

The Hon. I. G. PRATT: I support the Bill. Frankly, I wish it could have been discussed without a great deal of the emotional hogwash we have heard tonight.

THE HON. G. C. MacKINNON (South-West—Leader of the House) [1.59 a.m.]: I thank members for their interest in this debate, and I will endeavour to answer some of the items raised.

Firstly, I want to make what I hope will be a clarifying statement. One would imagine, listening to the speeches of those tremendously holy and righteous people opposite me—

The Hon. D. K. Dans: On this occasion we are entitled to be.

The Hon. G. C. MacKINNON: What a change that makes from about the last 10 years of the odd occasions they happened to get back into office, dating back to my knowledge to their attitude on SP betting—

The Hon. D. K. Dans: What has that to do with this Bill?

The Hon. G. C. MacKINNON: All the days of Whitlam—

The Hon. D. K. Dans: Boy, you are in a corner when you get to that.

The Hon. G. C. MacKINNON: Members opposite have no right to stand up there polishing their halos when they are totally misleading everyone. They have played to the gallery all night, with Mr Dans looking up and around every second sentence.

The Hon. D. K. Dans: And you were looking at the Press reporters to see whether they were reporting it.

The Hon. G. C. MacKINNON: Yes, simply because of the way Mr Dans presented his speech.

Let us consider what happened. Bridge, the defeated candidate, brought a petition against Ridge; and Ridge was the respondent.

The Hon. D. K. Dans: That is right.

The Hon. G. C. MacKINNON: So that cuts out a tremendous lot of evidence immediately, because the court was considering what happened

on that one day, and not in the weeks before. What Mr Dans was saying was ever so true. Why was it started? It started because of the shocking behaviour of Labor Party supporters in respect of people who were not really interested in an election and who, as he said, are mostly open to suggestion and to intimidation. These people are very capable of being intimidated, and they were. Then we had the situation of all the stuff that Mr Dans read out of the judge's finding.

The Hon. D. K. Dans: I didn't read anything out of that.

The Hon. G. C. MacKINNON: If Mr Dans looks at his speech tomorrow he will see that he did.

The Hon. D. K. Dans: I read from a summary I made.

The Hon. G. C. MacKINNON: So we have the situation in which the judge examined the witnesses and he—

The Hon. R. F. Claughton: Here come the excuses.

The Hon. G. C. MacKINNON: —decided that the presentation of a how-to-vote card was a proper indication of an illiterate voter's intention of how to vote.

The Hon. D. K. Dans: Is that all he said in the judgment?

The Hon. G. C. MacKINNON: That is the fundamental basis on which practically everything else he said depended. He accepted that as a proposition. There is no way we can go back before that day and talk about meetings in which Aborigines were dragooned by Labor Party supporters—and there is very real evidence of this—and that on the day they were herded together into compounds, labelled with their names, given a how-to-vote card, and sent over to vote. We knew this was going on and something had to be done about it. Mr Dans was quite right when he said one evil leads to another.

Everything in this debate is being based on that one day. Why was not the other evidence brought out? Any evidence brought out in respect of the culpability of the Australian Labor Party would have led to more confusion. In any case, there was no way it could be brought out because the court was considering only what happened on the polling day and in the polling booth. The judge has said, surprisingly, that someone who cannot read or write can produce reading and writing—

The Hon. D. K. Dans: There are over 2 000 pages of transcript, you know.

The Hon. G. C. MacKINNON: Yes, and it all deals with that one day.

The Hon. D. K. Dans: It does not deal with any Labor Party meetings.

The Hon. G. C. MacKINNON: So we come down to the basis of the matter. It was never really thought to be proper that a person who cannot read or write at all could take some writing to an electoral officer and by way of signs, as Mr Tozer so graphically described, say in effect, "That is my name and this is the way I want to vote"; and certainly not to the extent that we get an entire community of people with their names written on them by Labor Party supporters who work among them and have probably—

The Hon. Lyla Elliott: How do you know that?

The Hon. G. C. MacKINNON: We know. These Aborigines are frequently dependent upon those people for their social services—

The Hon. D. K. Dans: You should go outside the Chamber and make that statement about social service officers.

The Hon. G. C. MacKINNON: I did not refer to social service officers; Mr Dans ought to listen more carefully. These people, in an entire community, were sent across with their names pinned to them and how-to-vote cards in their hands, and there was not one dissident amongst them. I ask members: Has anyone in this Chamber ever found a community quite like that?

The Hon. R. T. Leeson: Yes, in Murchison-Eyre, and it was the other way around as you know very well.

The Hon. G. C. MacKINNON: The honourable member cannot say that.

The Hon. R. Thompson: Yes he can, go back over past election records and you will see.

The PRESIDENT: Order!

The Hon. G. C. MacKINNON: Members opposite can wriggle as much as they like, but they know what I am saying is totally and absolutely true.

The Hon. R. Hetherington: Nonsense.

The Hon. G. C. MacKINNON: Mr Hetherington is so holy it is pitiful.

The Hon. R. Hetherington: Don't make such stupid statements.

The Hon. G. C. MacKINNON: He is so holy, and suddenly we on this side are so wicked it is unbelievable. It is a wonder members opposite even talk to us.

The Hon. D. K. Dans: Put on your cap and start beating your drum.

The Hon. R. F. Claughton: You are really excelling yourself for the audience tonight.

The Hon. R. Hetherington: You certainly have no argument.

The Hon. R. F. Claughton: I didn't know you were a thespian.

The Hon. G. C. MacKINNON: Let us consider some of the statements made by members opposite. We were presented with two sets of statistics in respect of the poeple in Sydney who are illiterate.

The Hon. D. K. Dans: They are not getting this legislation.

The Hon. G. C. MacKINNON: The Hon. Grace Vaughan said 15 per cent pf the people over 40 in Sydney are illiterate, and I think it was the Hon. Lyla Elliott who said 15 per cent of all the people in Sydney are illiterate.

The Hon. Lyla Elliott: I didn't refer to that.

The Hon. G. C. MacKINNON: I am sorry, it was the Hon. Roy Claughton who made the latter statement. Let us define literacy. We are talking in this situation about a marksman—someone who cannot read or write, and there are precious few of them. Members opposite spoke as though 15 per cent of the people are illiterate to that extent. There are many dozens of so-called illiterates, of the sort that Mr Claughton and the Hon. Grace Vaughan were talking about, who go up to polling officers and receive ballot papers. They go into the booth with a handful of how-to-vote cards and sort out the ones for whom they want to vote. Yet according to the classification about which members opposite were speaking those people are probably rated as illiterates.

However, we are talking about people who are not only marksmen in the very real sense of the word but who are probably not greatly interested in voting, anyway.

The Hon. Grace Vaughan: Why presume that?

The Hon. G. C. MacKINNON: I did not presume it; I said "probably".

The Hon. Grace Vaughan: Why?

The Hon. G. C. MacKINNON: Because I know many of them.

The Hon. Grace Vaughan: "They are probably not interested"!

The Hon. G. C. MacKINNON: That is right, and they were dragooned by supporters of members opposite—positively dragooned.

The Hon. A. A. Lewis: She is looking more like Phyllis Diller every day.

The Hon. G. C. MacKINNON: The Hon. Bill Withers asked about—

The Hon. D. K. Dans: Sticking pins in people's chests?

The Hon. G. C. MacKINNON: —interpreters. To the best of my knowledge there is no provision for interpreters in any Electoral Act in Australia. I have seen people being helped in respect of interpretation when they go to the main counter and want to find their names. Often someone will interpret backwards and forwards and then they are given a how-to-vote card and sent off to a polling booth; but there is no provision for that in the Act.

The Hon. Grace Vaughan: That is the tragedy of it because, after all, an illiterate Italian woman can ask her husband outside for a how-to-vote card and take it in with her.

The Hon. G. C. MacKINNON: What is wrong with that?

The Hon. Grace Vaughan: She cannot take her husband into the booth.

The Hon. G. C. MacKINNON: I have never seen anyone who needs to do that, and my electorate contains two areas which have probably the highest proportion of Italian voters in the State. Actually, one town has now been removed from my electorate under the new boundaries.

The Hon. D. K. Dans: What does this prove?

The Hon. G. C. MacKINNON: I am saying I have not seen these people experiencing difficulty in voting because they can count and write figures. Even those who technically come within the category enumerated by the Hon. Des Dans and who are illiterate in their own language as well as in English can vote because they can write figures up to 10 and they know what to do; and they do it.

They do as the Hon. Grace Vaughan does; they take a card from each person. They know the one they want. Sometimes they even take a card from each person and then throw them away and take a card from their handbag and copy it. We have all seen this occur, and there is nothing wrong with it; it is perfectly legitimate and reasonable. Yet they are probably the very people members opposite have been going on all night about being illiterate.

The Hon. D. K. Dans: That is not the reason for this Bill. The reason for this Bill is totally different.

The Hon. G. C. MacKINNON: This Bill has come about because of the bad behaviour on the part of so many Labor supporters in taking advantage of people in the outback areas. Something had to be done. The judge said that it was perfectly reasonable for an illiterate voter to take over a written instruction. That was never meant to be the case, and we are clarifying it.

The Hon. Grace Vaughan: Why did you not do it six months ago?

The Hon. G. C. MacKINNON: Because six months ago we thought it was the law; now the judge says it is not. Is there anything unusual about this? I would hazard a guess—

The Hon. Grace Vaughan: You did not have that information last week when you introduced the Bill.

The Hon. D. K. Dans: What you are really saying is that you had a leak from the judge.

The Hon. G. C. MacKINNON: No, I did not. I would hazard a guess—

Several members interjected.

The Hon. G. C. MacKINNON: If I could get a word in—

The PRESIDENT: Order! Interjections must cease.

The Hon. G. C. MacKINNON: I would hazard a guess there are at least six Acts a year which are amended in this Parliament because we found out from a court case or from a legal opinion that the legislation did not do precisely what it was meant to do. Blind Freddie, being told about what was in the newspapers, would have known that a situation where illiterate people took written instructions into a polling booth would never look like being an acceptable proposition. It was never meant to be, because it is so ridiculous.

The Hon. R. Hetherington: Why? It is not ridiculous.

The Hon. G. C. MacKINNON: It is, particularly when whole villages do it.

The Hon. D. K. Dans: Had the Court of Disputed Returns ruled in your favour, would this legislation be here?

The Hon. G. C. MacKINNON: Had it said this, of course it would not.

The Hon. D. K. Dans: Last week? You are on transcript as saying something which is very dreadful.

The Hon. G. C. MacKINNON: No, I am not. Members opposite went on earlier that nobody knew of any irregularities in postal voting; however, the Hon. Ron Thompson corrected them and said that there had been such irregularities, and from our side. Apparently the practices in which we were engaged were irregular; but it does not matter who was involved; the legislation still needs correcting.

The Hon. D. K. Dans: You have not done much about that. You will not even agree to a mobile booth visiting the old people's homes.

The Hon. G. C. MacKINNON: There are mobile booths in some places in my electorate. I remember when Mr Tonkin was down at the district hospital, he drove everyone mad, and we had to get the polling officer down to stop him.

The Hon. D. K. Dans: Which Mr Tonkin?

The Hon. G. C. MacKINNON: Mr John Tonkin. Mr Claughton referred to 15 per cent of people in Sydney being illiterate. I have scrutineered at an awful lot of polling booths, and I have yet to encounter such a percentage of illiterate people. Frankly, I find it very hard to believe.

I should like to congratulate Mr Tozer. As usual, he made an extremely well-researched speech. On this occasion, of course, his speech was all the more important because he was there working all day at Halls Creek, watching the situation develop. He was not involved in the election personally because he was not up for election on that occasion. However, he was extremely active throughout the day and before, and he knew precisely what was going on, and he told us.

The Hon. D. K. Dans: The judge said our behaviour on election day was impeccable.

The Hon. G. C. MacKINNON: Of course it was—perfectly. But he did not see Labor Party representatives over in the picture theatre, and a few other places.

The Hon. D. K. Dans: What you are trying to say is that the whole decision is wrong.

The Hon. G. C. MacKINNON: No, but the judge was concerned only with what went on at the polling booths.

The Hon. J. C. Tozer: What did the judge say about the scrutineer at Halls Creek?

The Hon. D. K. Dans: I am not at liberty to discuss that because it is *sub judice*.

The Hon. G. C. MacKINNON: Mr Dans does not want to discuss that because he knows he is in a spot.

Mr President, there were many other speeches from the other side, most of which were in the same vein. We have heard the usual "holier-than-thou" statements from members opposite, most of which were not true, and did not apply to the legislation. I believe I have set the record straight, and I commend the Bill to members.

Question put and a division taken with the following result—

Ayes 16

Hon. G. W. Berry	Hon. O. N. B. Oliver
Hon. V. J. Ferry	Hon. R. G. Pike
Hon. T. Knight	Hon. I. G. Pratt
Hon. A. A. Lewis	Hon. J. C. Tozer
Hon. G. C. MacKinnon	Hon. R. J. L. Williams
Hon. M. McAleer	Hon. W. R. Withers
Hon. I. G. Medcalf	Hon. D. J. Wordsworth
Hon. N. F. Moore	Hon. G. E. Masters *(Teller)*

Noes 10

Hon. D. W. Cooley	Hon. F. E. McKenzie
Hon. D. K. Dans	Hon. T. McNeil
Hon. Lyla Elliott	Hon. R. Thompson
Hon. R. Hetherington	Hon. Grace Vaughan
Hon. R. T. Leeson	Hon. R. F. Claughton *(Teller)*

Pair

Ayes	Noes
Hon. N. McNeill	Hon. R. H. C. Stubbs

Question thus passed.

Bill read a second time.

In Committee

The Chairman of Committees (the Hon. V. J. Ferry) in the Chair; the Hon. G. C. MacKinnon (Leader of the House) in charge of the Bill.

Clause 1: Short title and citation—

Clause put and a division taken with the following result—

Ayes 15

Hon. G. W. Berry	Hon. R. G. Pike
Hon. T. Knight	Hon. I. G. Pratt
Hon. A. A. Lewis	Hon. J. C. Tozer
Hon. G. C. MacKinnon	Hon. R. J. L. Williams
Hon. M. McAleer	Hon. W. R. Withers
Hon. I. G. Medcalf	Hon. D. J. Wordsworth
Hon. N. F. Moore	Hon. G. E. Masters
Hon. O. N. B. Oliver	*(Teller)*

Noes 10

Hon. D. W. Cooley	Hon. F. E. McKenzie
Hon. D. K. Dans	Hon. T. McNeil
Hon. Lyla Elliott	Hon. R. Thompson
Hon. R. Hetherington	Hon. Grace Vaughan
Hon. R. T. Leeson	Hon. R. F. Claughton *(Teller)*

Pair

Ayes	Noes
Hon. N. McNeill	Hon. R. H. C. Stubbs

Clause thus passed.

Clause 2: Section 90 amended—

The Hon. R. F. CLAUGHTON: Clause 2 seeks to amend section 90 of the Act by deleting a portion of subsection (3) and thus removing from the category of people who are able to claim a postal vote those who are blind or otherwise physically impaired so that they are unable to sign their names. Under the provisions of existing section 90 these people are able to make their marks in the presence of a witness.

I should like to know what is the evidence of infringements against section 90 which has caused the Government to bring about this change. Many people in the community who have a very keen interest in voting suffer from disabilities, but the disabilities do not prevent them from taking a keen and rational interest in their right to vote or wanting to exercise it. I cannot see any reason that these people should be deprived of their right to play a part in the political processes without some real justification being presented.

All we have heard so far have been allegations of malpractice. Of course this malpractice occurs not only in regard to electoral laws but also in regard to a lot of other legislation. For example, every day there are minor and not so minor infringements of the traffic laws. We do not remove those laws from the Statute book because of that. We do not prevent people from driving cars because they offend in minor ways. There have to be substantial abuses before that sort of thing occurs. I have not heard presented in the debate on this Bill any evidence which would give the Government any reason to deny these people the rights which are held by all other citizens. I should like to hear something from the Minister on this point.

The Hon. G. C. MacKINNON: The Hon. Roy Claughton has taken a great many postal votes in his time. He knows the complexities involved, and it seems that the risks run with this have to be grave. It has been decided that we ought to do what most other States of Australia do, and deny postal votes under these circumstances. I move an amendment—

Page 2, line 5—Delete the word "and".

This is a formality only as this amendment relates to postal voting. It is a corollary to an earlier amendment to section 90. As we have deleted reference to marksmen elsewhere in the Act we have to delete it in this section. I regret it was not done initially.

The Hon. R. HETHERINGTON: I realise that postal votes are complex but the Minister has said that there are possibly some problems associated with them and he still has not given us any real reason. I wonder why we should pass this clause? I wonder how many people would have a postal vote under this clause? I wonder where there is any evidence that this section has been abused any more than any other postal voting system has been abused?

People who are blind and cannot sign their names and who would not be prosecuted for not voting but want to vote should not be deprived of a vote. I think people in this situation should be allowed to extend their interests in politics and should be encouraged to vote. If we want to add some kind of safeguard we should add it not just arbitrarily by taking away the right to vote.

I remain quite unconvinced. The Minister has still given us no evidence that there is any real malpractice. I can see no reason that this clause should be in the Bill and I am still determined to oppose it.

The Hon. R. F. CLAUGHTON: The Minister provided no answer at all to the query I raised. He indicated that in some States this provision is not available but that is no reason that it should not be available in this State. To say there is a possibility of grave abuse is not a justification when there has been no evidence of grave abuse of this provision.

Most of the people I call on for postal votes are either old, sick, or going away on holidays. It is a smaller number that are incapacitated and not able to sign their name. I believe all the people in this class that I call on who have to make a mark would be most offended if they were told they were no longer able to claim this right.

I would feel most uncomfortable calling on them and telling them, "I am sorry but we have made a law making it impossible for you to vote." I would want to be in a position to say, "I tried to retain this right for you and I argued your case but the Government was determined that you were going to be deprived of this right." I do not think it is good enough for the Government to take the steps that it has.

I do not know about the election workers who operate with the Liberal Party; I do not see them in houses collecting these votes but when I go to the houses I attempt to take the people's votes in as fair and impartial a way as I can and I let the people cast the sort of vote they want to cast. I would expect that is the way in which most election helpers operate. There are undoubtedly those few who do not but that does not mean we should deprive these people of their rights.

I think it is unfair that the person who wants to exercise his vote is deprived of his right for that reason. It is very much the wrong sort of reason. If the Government is to persist with this I hope it would have some better reason than to say there is the possibility of grave abuse. It is not good enough. Our job is to see that every person wishing to exercise his right to vote is given the opportunity to do so.

The Hon. G. C. MacKINNON: I think both members are quite right. There are so few of these facilities and instances over the years that we do face this tremendously grave situation of a person being robbed of a vote or his vote being misused. That really is a bad thing. I think we ought to come into line and I have agreed we should come into line with the other States and the Commonwealth. It is I know a denial of the marksman who cannot be provided with a mobile booth, but there are so few of them we should not place that reason in the way of anyone. I agree the matter ought to be amended as indicated.

Amendment put and a division taken with the following result—

Ayes 15

Hon. G. W. Berry	Hon. R. G. Pike
Hon. T. Knight	Hon. I. G. Pratt
Hon. A. A. Lewis	Hon. J. C. Tozer
Hon. G. C. MacKinnon	Hon. R. J. L. Williams
Hon. M. McAleer	Hon. W. R. Withers
Hon. I. G. Medcalf	Hon. D. J. Wordsworth
Hon. N. F. Moore	Hon. G. E. Masters
Hon. O. N. B. Oliver	*(Teller)*

Noes 8

Hon. D. W. Cooley	Hon. R. T. Leeson
Hon. D. K. Dans	Hon. F. E. McKenzie
Hon. Lyla Elliott	Hon. Grace Vaughan
Hon. R. Hetherington	Hon. R. F. Claughton
	(Teller)

Pairs

Ayes	Noes
Hon. N. McNeill	Hon. R. H. C. Stubbs

Amendment thus passed.

The Hon. G. C. MacKINNON: I move an amendment—

Page 2, line 6—Insert after subclause (a) the following to stand as subclause (b)—

(b) as to subsection (4), by deleting the passage ", in the case of an elector making his mark, it is witnessed and"; and

This amendment completely eliminates the marksman line I discussed earlier.

Amendment put and passed.

Clause, as amended, put and a division taken with the following result—

Ayes 15

Hon. G. W. Berry	Hon. R. G. Pike
Hon. T. Knight	Hon. I. G. Pratt
Hon. A. A. Lewis	Hon. J. C. Tozer
Hon. G. C. MacKinnon	Hon. R. J. L. Williams
Hon. M. McAleer	Hon. W. R. Withers
Hon. I. G. Medcalf	Hon. D. J. Wordsworth
Hon. N. F. Moore	Hon. G. E. Master
Hon. O. N. B. Oliver	*(Teller)*

Noes 8

Hon. D. W. Cooley	Hon. R. T. Leeson
Hon. D. K. Dans	Hon. F. E. McKenzie
Hon. Lyla Elliott	Hon. Grace Vaughan
Hon. R. Hetherington	Hon. R. F. Claughton
	(Teller)

Pair

Ayes	Noes
Hon. N. McNeill	Hon. R. H. C. Stubbs

Clause, as amended, thus passed.

Clause 3: Section 92 amended—

Clause put and a division taken with the following result—

Ayes 15

Hon. G. W. Berry	Hon. R. G. Pike
Hon. T. Knight	Hon. I. G. Pratt
Hon. A. A. Lewis	Hon. J. C. Tozer
Hon. G. C. MacKinnon	Hon. R. J. L. Williams
Hon. M. McAleer	Hon. W. R. Withers
Hon. I. G. Medcalf	Hon. D. J. Wordsworth
Hon. N. F. Moore	Hon. G. E. Masters
Hon. O. N. B. Oliver	*(Teller)*

Noes 8

Hon. D. W. Cooley	Hon. R. T. Leeson
Hon. D. K. Dans	Hon. F. E. McKenzie
Hon. Lyla Elliott	Hon. Grace Vaughan
Hon. R. Hetherington	Hon. R. F. Claughton
	(Teller)

Pair

Ayes	Noes
Hon. N. McNeill	Hon. R. H. C. Stubbs

Clause thus passed.

Clause 4: Section 129 amended—

The Hon. G. C. MacKINNON: I move an amendment—

> Page 2, line 35—Insert after the word "shall" the passage ", subject to subsection (5) of this section,"

These amendments on the notice paper are to ensure that an illiterate person—and I had better define that as a person who cannot read at all; a marksman—may not give his instructions by means of a written statement. As I mentioned in my second reading speech, if he cannot read it will be a meaningless statement. He cannot use a written instruction which he cannot read. He cannot say, "I intend to vote for the people written on this paper", because he cannot read the paper. Therefore he is liable to be manipulated. An illiterate person is open to manipulation by written documents which he cannot read and which, therefore, he cannot understand.

Many people in that situation have a shyness about indicating they cannot read and it seems totally illogical that they should be able to tender a written document when they themselves cannot read.

The Hon. R. HETHERINGTON: I will not repeat all the arguments I used previously; but it does seem to me rather odd that the Minister can be so sure about this when the Chief Electoral Officer, the returning officer in Kimberley, Mr Justice Smith sitting as the Court of Disputed Returns, and various other people at different times all seem to think it is possible for an illiterate person to present a written document if the electoral officer checks that the illiterate person knows what he is doing. Indeed, this is the way the person should vote. It may be true that some checking is involved, and some questions may need to be asked; but it does not seem to present a problem to anyone other than the Government.

I cannot really understand this. In fact I do understand it; but certainly I have not been impressed by the Minister's reply in his second reading speech when he made wild allegations which proved nothing. I can see no reason that we should not oppose the amendments and this clause of the Bill. I certainly will vote against it.

The Hon. GRACE VAUGHAN: It seems futile to attempt to get any sense out of the Minister because he will simply use his numbers to pass these amendments, as well as the amending Bill. I would like to know how the Minister can in such a cavalier fashion say, "This is about the marksmen." Where is this said? The principal Act, which the Minister is referring to when he talks about the part of the Bill he is now amending, refers to "subsection (2) or (3) of this section." It does not mention marksmen. It does not say anything about the degree of literacy. It simply says—

> If any elector satisfies the presiding officer that he is so illiterate that he is unable to vote without assistance . . . .

We may have the situation where a person has suffered a severe cerebral haemorrhage but is still able to think and knows the way in which he wishes to vote. However, he is physically handicapped in writing and physically handicapped in speaking. Why should that person be denied something which may be of consuming interest to him? He can listen to current affairs broadcasts; he can read; but he cannot speak and he cannot write. Unless such a person has a friend to go with him, the Minister is effectively cutting him out of having a vote. What does the Minister mean when he glibly says, "This refers to the marksmen"? That is not contained in the Bill. It is only what the Minister now says. Such a statement is typical of the attitude the Minister has taken to the whole Bill. I will simply make that point.

The Hon. G. C. MacKINNON: The honourable member is quite right. The matter is being confused by her initial talk about the number of illiterates. I pointed out earlier that there is a tremendous number of people who vote in the normal way. She is also right—and so am I—in that it refers predominantly to the marksman type of illiterate. It certainly includes very few of the unfortunate cases to which the honourable member referred. It is like any other law. One will find individual cases, and the situation is perfectly right. These people are denied certain things because of their unusual and

unhappy circumstances. However, there are extremely few of them and there is no way by which provision can be made to get around that situation.

The Hon. R. F. CLAUGHTON: It is not so much that there is no way by which provision can be made; it is the will to find the way that is lacking on this occasion. I think mention has been made already about a situation which could occur if the by-election for the Kimberley seat were held on the same day as the coming Federal election. In the Federal election an elector can enter the booth with a how-to-vote card, and the presiding officer will ascertain how the elector, who is handicapped, wishes to vote, and then record the vote. It is a simple process. If the Government was concerned it would have adopted that method. However, the truth is that the Government is not concerned about enabling these people to vote, but about depriving them of the opportunity to do so. That is the whole issue.

The situation becomes even more incongruous when it is realised that any other person can take a how-to-vote card into the booth even though he does not fully understand it or care whether or not his vote is valid. No fuss is made about that sort of person, but because an elector cannot read or write the Government is taking this discriminatory action. It is as plain as a pike staff so that even blind Freddie can see it, to use mixed metaphores as the Minister attempted earlier.

Those who will be most affected by the amendment are the Aborigines. They will be deprived of their vote.

The Government may feel that it has successfully perpetrated a further trick in the Kimberley election, and perhaps we could say, as I have done on other occasions, that very likely the Government will succeed. However, in the long term those who genuinely desire to express their views through the ballot box will be forced to take other measures. It would be unfortunate if, as a result of the legislation, they believed that the only way justice could be obtained for them was by force. I do not think even the Government would desire that, but it is a possible outcome.

I regret very much that the Government has been so lacking in principle and so power-mad that it has stooped to this sort of provision. I hoped that some members of principle on the Government benches, with a strong belief in democracy, would vote against the measure. I can only express my very strong opposition to the Bill as a whole, and to this clause in particular.

Amendment put and a division taken with the following result—

Ayes 15

Hon. G. W. Berry	Hon. R. G. Pike
Hon. T. Knight	Hon. I. G. Pratt
Hon. A. A. Lewis	Hon. J. C. Tozer
Hon. G. C. MacKinnon	Hon. R. J. L. Williams
Hon. M. McAleer	Hon. W. R. Withers
Hon. I. G. Medcalf	Hon. D. J. Wordsworth
Hon. N. F. Moore	Hon. G. E. Masters
Hon. O. N. B. Oliver	*(Teller)*

Noes 8

Hon. D. W. Cooley	Hon. R. T. Leeson
Hon. D. K. Dans	Hon. F. E. McKenzie
Hon. Lyla Elliott	Hon. Grace Vaughan
Hon. R. Hetherington	Hon. R. F. Claughton
	(Teller)

Pairs

Ayes	Noes
Hon. N. McNeill	Hon. R. H. C. Stubbs

Amendment thus passed.

The Hon. G. C. MacKINNON: I move an amendment—

> Page 3, line 12—Insert after the word "writing" the passage, ", with or without any oral statement,".

Amendment put and passed.

Clause, as amended, put and a division taken with the following result—

Ayes 15

Hon. G. W. Berry	Hon. R. G. Pike
Hon. T. Knight	Hon. I. G. Pratt
Hon. A. A. Lewis	Hon. J. C. Tozer
Hon. G. C. MacKinnon	Hon. R. J. L. Williams
Hon. M. McAleer	Hon. W. R. Withers
Hon. I. G. Medcalf	Hon. D. J. Wordsworth
Hon. N. F. Moore	Hon. G. E. Masters
Hon. O. N. B. Oliver	*(Teller)*

Noes 8

Hon. D. W. Cooley	Hon. R. T. Leeson
Hon. D. K. Dans	Hon. F. E. McKenzie
Hon. Lyla Elliott	Hon. Grace Vaughan
Hon. R. Hetherington	Hon. R. F. Claughton
	(Teller)

Pair

Ayes	Noes
Hon. N. McNeill	Hon. R. H. C. Stubbs

Clause, as amended, thus passed.

Clause 5: Section 211 amended—

Clause put and a division taken with the following result—

Ayes 15

Hon. G. W. Berry	Hon. R. G. Pike
Hon. T. Knight	Hon. I. G. Pratt
Hon. A. A. Lewis	Hon. J. C. Tozer
Hon. G. C. MacKinnon	Hon. R. J. L. Williams
Hon. M. McAleer	Hon. W. R. Withers
Hon. I. G. Medcalf	Hon. D. J. Wordsworth
Hon. N. F. Moore	Hon. G. E. Masters
Hon. O. N. B. Oliver	*(Teller)*

Noes 8

Hon. D. W. Cooley	Hon. R. T. Leeson
Hon. D. K. Dans	Hon. F. E. McKenzie
Hon. Lyla Elliott	Hon. Grace Vaughan
Hon. R. Hetherington	Hon. R. F. Claughton
	(Teller)

Pair

Ayes	Noes
Hon. N. McNeill	Hon. R. H. C. Stubbs

Clause thus passed.

Title put and passed.

Report

Bill reported, with amendments, and the report adopted.

Third Reading

THE HON. G. C. MacKINNON (South-West—Leader of the House) [3.06 a.m.]: I move—

That the Bill be now read a third time.

THE HON. D. K. DANS (South Metropolitan—Leader of the Opposition) [3.07 a.m.]: Mr President, because the Opposition is implacably opposed to this legislation, which we believe is most undemocratic, we will leave the Chamber during the third reading.

[Labor Party members left the Chamber.]

Question put and passed.

Bill read a third time and transmitted to the Assembly.

RESERVES AND ROAD CLOSURE 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) [3.08 a.m.]: I move—

That the Bill be now read a second time.

Members will be aware that the Bill now before the House, traditionally and for practical reasons, is introduced at a late stage in the session to give the Minister for Lands the opportunity to place before Parliament in the one Bill as many proposed variations to Class "A" reserves as is possible. This is done to prevent the holding over of certain proposals in connection with these reserves until the following year, or until the next session of Parliament.

The Bill proposes variations to 15 separate Class "A" reserves and I will give a brief coverage of the actions involved. Class A reserve No. 25270 at Hopetoun was set apart in 1959 for "camping, caravans and protection of flora" to provide facilities for the public while ensuring that the environment of this beach-front area could be adequately protected. The reserve is vested in the local authority with power to lease, on the understanding that the terms of any lease would protect trees from clearing, vandalism, and fires. Part of the reserve consists of fragile beachfront sand dunes and current planning provides for inclusion of this section with adjacent lands in a reserve for "recreation and parkland" while extending the area available for camping and caravans by inclusion of some Crown land adjoining on the north. As the sand dune section is to be excised and the terms of leasing protect the trees on the balance, the purpose of Class A reserve No. 25270 can also be amended to "caravan park and camping."

In 1898, Reserve No. 5692 was set apart as a post office site to serve Subiaco and was classified as of Class "A" in 1900 in conjunction with several other public utility reserves. The Commonwealth Government obtained title as a routine measure and transferred the land to the City of Subiaco several years later when a new post office was constructed on freehold land acquired through the council. It was mistakenly assumed in 1925 that acquisition by the Commonwealth Government when it took over the post office had cancelled Class "A" reserve 5692. This is incorrect, as the consent of Parliament is required before such reserves can be cancelled.

Horrocks Beach is subject to an approved town planning scheme promulgated by the Shire of Northampton. Class "A" Reserve No. 29151 is set apart for "camping and public recreation" but it is no longer desirable to permit camping on this site, and it has been replanned for recreational use only.

Class "A" Reserve No. 331 in the Moresby Range was an old quarry site originally until its purpose was changed to "protection of native flora" in 1930. A later proposal to create a national park including this reserve lapsed with the adoption of an alternative that it be set apart for "conservation of flora and fauna". The Shire of Chapman Valley agreed to the alternative, subject to the reserve being vested in an appropriate authority, in this case the Western Australian Wildlife Authority.

Lake Parkeyerring and its banks contain about 404 hectares set apart as Class "A" Reserve No. 10733 for "recreation" in 1907. A study of reserves throughout the State by the Environmental Protection Authority resulted in a recommendation that this reserve purpose be altered to include conservation of flora and fauna to safeguard a most important refuge and feeding place for waterfowl. It is also proposed to extend

the reserve to include about 300 hectares of adjacent Crown land comprised in Little Parkeyerring Lake and its banks to provide an additional refuge area.

The holiday resort at Emu Point, Albany, is established on Reserve No. 22698, which is vested in the Town of Albany for "recreation and associated business purposes". It was formerly administered by a board which in 1970 agreed to relinquish control of portion so that a substantial recreation ground could be constructed and administered by the town council. The area involved was surveyed as Albany Lot 1200, excised from the parent reserve and set apart as Class "A" Reserve No. 30815 and vested in the council. In 1971 a further section of Reserve No. 22698 was released, surveyed as Albany Lot 1231 and added to Class "A" Reserve No. 30815 to allow establishment of the planned sportsground.

In late 1973, the Town of Albany decided that lack of a suitable water supply and prohibitive cost of development, together with projected development of the Albany regional sporting and recreational complex in another locality could be expected to remove the need for major facilities at Emu Point. Investigation and discussion resulted in agreement that Lot 1231 should be returned to Reserve No. 22698, with Lot 1200 being retained as a separate reservation for "caravan park". As there is no extraordinary significance attached to a caravan park it is considered desirable to cancel the classification as of class "A" of Reserve No. 30815 as well as changing its purpose to "caravan park" and excising Lot 1231.

An area of 3.3994 hectares within Pemberton townsite was set apart as Class "A" Reserve No. 23904 in 1953 for "protection of flora" to retain some natural bush near the town centre. It has now become a suitable site for a small children's playground, with the balance being more useful for recreation as the reserve now has little value for conservation purposes. A standard truncation has been provided at the corner of Lefroy and Robinson Streets.

Class "A" Reserve No. 12570 at Onslow was set apart for recreation in 1910 but is now redundant. It is in the old townsite, which is being converted to a reserve for "historical site and buildings" which requires cancellation of small internal reserves.

The car park between Spring Street and William Street is administered by the City of Perth on land included in the design of the Narrows interchange. Much of the area is Crown land but a proportion is set apart as Class "A" Reserve No. 23123, which is controlled by the City of Perth for a "vehicle park and gardens". A small part of Class "A" Reserve No. 23123 is to be absorbed in the surrounding road system, with the balance to remain part of the car park, and it is convenient to cancel this reserve and create an entirely new class "A" reserve for "vehicle park and gardens" to identify the whole of the land involved. It is also expedient to use this Bill to close a short stretch of road included in the car park design, and this is dealt with later in the Bill.

The purpose of Class "A" Reserve No. 5574 at South Perth was changed from "botanical gardens" to "public recreation" in 1926 and is known as Richardson Park. In 1932, the City of South Perth was authorised to enter into leases for any term not exceeding 21 years, subject to approval by the Governor and to retention of right of free access at all times for the general public. The park has been developed for various sports with amenities including a pavilion and toilets. It is the home ground of the South Perth Cricket Club, which wishes to obtain exclusive right to a suitable section so that the club can apply for a liquor licence, and it has been agreed that in view of the terms of the vesting order, a site for "pavilion and club premises" needs to be excised and set apart as a separate reserve.

Class "A" Reserve No. 11059 at Doodlakine is vested in the Shire of Kellerberrin for "parklands" but portion has been used for dumping rubbish. It is not feasible to restore this section and it is proposed to excise the area from Class "A" Reserve No. 11059 so that it can be set apart as a separate reserve for "sanitary depot", which will ratify its use. There is an existing reserve for sanitary depot adjoining but it has not been used and is still unspoiled bushland which will be included in Class "A" Reserve No. 11059 to offset the excision.

The old Pingelly courthouse which stands on Class "A" Reserve No. 10705 became redundant when a new courthouse was constructed on a different site and the Shire of Pingelly wishes to use the old building to establish a museum. The Public Works Department has no objection to the proposal and the purpose of the reserve needs to be changed from public buildings to district museum.

The environmental authority recommended and Cabinet agreed that the purpose of Class "A" Reserve No. 24522 known as Nambung National Park should be changed from "preservation of caves and national park" to "national park and water". This recognises the paramount importance of water and that national parks form a major component of any region's water resources.

Class "A" Reserve No. 27632 is an area of 625 343 hectares on the Nullabor Plains set apart for "primitive area for preservation and study of flora, fauna, geological and anthropological features" and is vested in the Western Australian Wildlife Authority. It is known as Nuytsland Wildlife Sanctuary and fronts onto Eyre Highway at Cocklebiddy. The Main Roads Department needs to establish a depot at Cocklebiddy and wishes to construct a compound adjacent to the garage and settlement on a site within this reserve so that valuable tools and equipment can be stored for lengthy periods with reasonable security. The Western Australian Wildlife Authority has agreed to the proposal in these circumstances.

The City of Perth car park between Spring Street and William Street has been partly dealt with earlier in this Bill, and the relevant section cancels an existing class "A" reserve as part of a procedure to re-establish the vehicle park and gardens as a new class "A" reserve on an enlarged site surveyed as Perth Lot 894. The boundaries of this new lot include a small section of public road and it is expedient to close this stretch of road in this manner to avoid considerable work and expense involved in road closure under the Local Government Act, 1960.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. R. F. Claughton.

STAMP ACT AMENDMENT BILL

Receipt and First Reading

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

Second Reading

THE HON. G. C. MacKINNON (South-West—Leader of the House) [3.18 a.m.]: I move—

That the Bill be now read a second time.

This Bill seeks to amend the Stamp Act, 1921-1976, to prevent a serious loss of the State's revenue through the recent discovery of a loophole in the law.

I should point out to members that although the Stamp Act is currently the subject of a general review it is not anticipated recommendations in that regard will be put forward for consideration in Parliament until the latter part of next year.

In the meantime it is essential that urgent interim action be taken to amend the law as a recent adverse decision in the Supreme Court has exposed the fact that a serious weakness exists in the present legislation. Also it has revealed that the judgment handed down on that occasion casts serious doubts upon the Crown Solicitor's interpretation of the law in another duty avoidance situation.

As the use of these arrangements in any large numbers may well result in the loss of millions of dollars of revenue in any one year, the Government has agreed that urgent remedial action is necessary to prevent serious inroads being made into the State's revenue collections.

An estimate of the amount of revenue involved has been made from a record kept of only one of these types of arrangements and the numbers indicate a loss in the region of $1.2 million.

However, the publicity given to the recent adverse decision could well lead to a substantial increase in the number of each of these schemes coming forward in the future and a revenue loss of $5 million from both these duty avoidance arrangements may not be unrealistic.

The first of these arrangements is known as the "option agreement". Under this type of agreement, A the owner, gives B an option to purchase his property.

As with any normal option arrangement, the agreement states the consideration to be paid for the purchase of the property, the amount to be paid for the granting of the option and the period in which the option must be exercised.

However, in the particular type of option agreement to be covered by the proposed amendment there is an additional and unique provision. This is a clause agreeing to the property being transferred from A, the owner, into the name of B, the option holder.

The reason for such transfer of legal ownership is generally stated to be for the protection of B's interest, as option holder in the property.

At this stage B is only the option holder and has probably paid only $100 for the right to acquire this interest. The amount of stamp duty paid on $100, being the consideration paid for the option, is only $1.25.

The next step in the scheme of things is to effect a transfer from A, the owner, to B, the option holder. The stamp duty payable on the transfer, in pursuance to the terms of the option agreement, is only a nominal amount of $1.

The assessment of nominal stamp duty in these cases was confirmed in the recent court decision. At this stage the property is now registered in the

name of B the option holder, and very little stamp duty has been paid.

Then the option holder verbally exercises the option and pays over the remainder of the purchase price recited in the option agreement. As the option is exercised verbally, no other document exists upon which the balance of the stamp duty—normally payable upon a sale—can be assessed.

The property is now registered in the name of B, who was the purchaser, and no further action is necessary. The *ad valorem* stamp duty assessed on a normal sale between a vendor and a purchaser has been avoided.

It is a fairly simple but ingenious scheme to avoid the payment of stamp duty and not only results in a substantial amount of revenue being lost but also produces inequities as between taxpayers.

This Bill proposes to amend the existing legislation by including a provision to ensure that any option agreement containing a clause whereby property can be transferred to the option holder will be assessed with *ad valorem* stamp duty.

In a normal situation, the property is not transferred into the name of the purchaser until the option is exercised and the full purchase price has been paid.

Therefore, normal option arrangements will not be affected by the proposed amendment.

The amending legislation will contain also a proviso to allow the *ad valorem* duty, already paid, to be refunded should the option not be exercised and the property is re-conveyed to the original owner, provided the option holder did not use the property as a beneficial owner during the period he had possession of it.

Any refund of *ad valorem* duty will be reduced by the amount of duty normally payable on an option agreement. The re-conveyance of the property will attract only nominal stamp duty.

The second type of arrangement is commonly known as a "bare trust". It is referred to in this way simply because it is a trust situation which is not dressed up in any manner.

Until now, the current legislation was thought to have adequately covered the situation. However, the judgment handed down in the recent case of the option agreement creates some doubt about the validity of the application of the existing law. Therefore, it is also necessary to counteract this type of arrangement or any modification of it.

Briefly, the scheme is either to set up a "trust" by the preparation and execution of a deed of trust, followed by a transfer in pursuance to the trust, or, alternatively, a direct transfer to a trustee.

Property is then transferred by the owner to the trustee, who purports that he holds it in trust for the owner. A transfer of property to a trustee, who purports that he holds it in trust for the owner, attracts only nominal duty of $1. In normal circumstances, transfers of property to a trust carry *ad valorem* stamp duty. In the "bare trust" situation, the parties are generally related to each other in one way or another.

The next step is to arrange a sale, outside of Western Australia, between the owner and the trustee and thus avoid the payment of *ad valorem* stamp duty in this State. The conditions of the sale may be agreed to verbally or set down in writing.

As the property has been transferred already into the name of the trustee, who was the subsequent purchaser and is now also the owner, no other document is necessary to conclude the arrangement.

The legal ownership of the property has passed, upon the payment of nominal stamp duty, and the *ad valorem* stamp duty has been avoided successfully.

Currently the existing legislation automatically provides that only nominal duty of $1 will be paid on property transferred to a trustee, provided no beneficial interest in the property is passed over.

This proviso is to cover the genuine trustee type of arrangement. It is proposed that this situation will continue and, therefore, genuine trustee type of transfers will still pay only nominal duty.

However, it is proposed by this Bill to grant the commissioner discretionary power, thus enabling him to examine the cirumstances of any other type of transfer and satisfy himself that the beneficial interest in the property has not been transferred.

The usual rights of objection and appeal will be available to any taxpayer who disagrees with the commissioner's assessment of stamp duty on a transfer of property to a trustee.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. D. K. Dans (Leader of the Opposition).

METROPOLITAN WATER SUPPLY, SEWERAGE, AND DRAINAGE ACT AMENDMENT BILL

Second Reading

THE HON. I. G. MEDCALF (Metropolitan—Attorney-General) [3.26 a.m.]: I move—

That the Bill be now read a second time.

This Bill provides proposals relating to two matters. The first of these is definitions. It is proposed that the definition of "waterworks" be expanded to more fully cover the subject.

The second matter is related to the Metropolitan Water Supply, Sewerage, and Drainage Board (Validation) Act introduced earlier in this session. As explained at the time of presenting the Bill for that Act, certain sections of the Metropolitan Water Supply, Sewerage, and Drainage Act, 1909-1976, have been misinterpreted, at least since the board was reconstituted in 1964, leading to a number of administrative deficiences.

The validation Act serves to correct the inadvertent deficiencies in administrative procedures in relation to past works. It is now desired to suitably amend those provisions of the Metropolitan Water Supply, Sewerage, and Drainage Act, 1909-1976, which are clearly impractical of compliance and also to clarify, by appropriate modifications, the associated sections of the Act.

The proposed amendments to the definition are minor in nature and are designed to be more specific in describing the facilities included in that definition.

The other amendments will overcome the discrepancies between past practice and the strict requirements of the Act which led to the need for the validation Act. This will be achieved without any significant disadvantage to ratepayers or departure from the principles embodied in the Act. Related changes to the same sections of the Act will simplify and clarify the requirements of those sections and will abolish also some requirements which it is often not possible to comply with, because of the complexity of present day water supply, sewerage, and drainage systems. The amendments which are proposed will achieve the following: They will retain the power of the board to maintain, alter and repair any works and the requirement for the board to obtain the approval of the Governor prior to the construction of any works, other than any category of reticulation or other minor works which the Governor will be empowered to exempt by order from this requirement. This latter exemption eliminates the need for submitting every minor item of work to the Governor for approval, a requirement inherent in the present Act and the prime cause of need for the validation Act.

The validation Bill foreshadowed deletion of the existing requirements for the preparation of an estimate, a statement showing net earnings to be obtained from the proposed works, and the rateable value of property to be benefited. The proposed amendments in this Bill will achieve this. In a complex system such as we have today, many parts of the system have a general function which cannot be related to the supply to a particular area or to a specific financial benefit.

Sections and specifications required by the present Act are essentially matters of technical relevance, rather than of concern to the public, whose main interest is in the location and general nature of the proposed works. To require preparation of this technical data before public inspection of the plans would cause significant delay to commencement of construction of services and further delays if they had to be modified as a result of objections. Elimination of this requirement is therefore proposed.

The procedure for dealing with objections would be amended by this Bill to require the board to make such alterations as are appropriate, taking account of the general public interest. When the board then submits the proposals to the Governor for approval, it will be required to indicate the nature and extent of the alterations effected.

The Governor may approve the proposals, decline to approve, or require that any amended proposal be re-advertised and further objections invited. These arrangements are similar in principle to the present practices, but are more specific as to the duties and responsibilities of both the board and the Governor.

If the board desires to make minor deviations to proposals already approved by the Governor, it will be permitted to do so without re-advertising only within prescribed limits and constraints including, normally, the consent of the owner and occupier of the land on which the works are located. The present legislation is silent on this subject.

As at present, minor works coming within the category of any order exempting them from requiring the Governor's approval before construction will also be exempt from the requirement for public review and for the Governor to approve deviations to them if they

have been advertised because they form a part of larger projects which do require to be advertised.

I commend the Bill to the House.

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

LEGAL AID COMMISSION ACT AMENDMENT BILL

Second Reading

THE HON. I. G. MEDCALF (Metropolitan—Attorney-General) [3.30 a.m.]: I move—

That the Bill be now read a second time.

This Bill contains amendments in accordance with the arrangements made between the State and Commonwealth Governments arising out of staff transfer and ancillary matters and, in addition, some further amendments suggested by the Legal Aid Commission after a detailed consideration of the original Act by the commission.

It should be noted that before and during negotiations between the State and Commonwealth Governments in relation to the Legal Aid Commission Act, 1976, it was made clear that the State Government would be prepared to agree to such reasonable amendments as might be required after discussions had been held with the Commonwealth Government in regard to the agreement between the Commonwealth and State Governments arising out of the proposed transfer of staff and ancillary matters.

In a number of public statements, it was also indicated that the State Government would be prepared to agree to and sponsor amendments of legislation in matters of detail where considered necessary in the interests of providing a more effective legal aid service.

Generally speaking, the amendments comprise the following.

Applications for legal aid will be decided by a legal aid committee or the director or a staff member of the commission in accordance with directions of the commission in that regard. The commission will be given power to give directions as to what classes of applications shall be decided by legal aid committees and the director, or staff, respectively.

The Bill sets out a clearer expression of the role of the salaried lawyer being involved in professional work with additional provision for the protection of the private profession.

Authority is given to establish consultative committees which will be formed where necessary to advise and assist the commission. These will be appointed by the Attorney-General, who will take into account the views of the commission as to the establishment of such committees. Some may be appointed to serve in particular localities.

The Director of Legal Aid will be a member of the Legal Aid Commission with voting rights, but will be required to absent himself when matters in which he might be personally involved are under discussion.

The commission will be required to make recommendations in regard to matters of law reform which may come to its notice. Members of the commission and its various committees must declare any direct or indirect pecuniary interest but this will not debar them from participating in the discussions of the respective committees. This is in accordance with modern company practice and, further, it is apparent that with various legal practitioners serving on a number of committees it would not be fair, either to them or the persons requiring their services, to prevent them from being available to render legal assistance.

Membership of the commissioner or of one of its committees should not debar such a member from accepting an assignment under the Act. This is already implicit in the Act, but to clarify possible doubts it will now be set out specifically.

There will be a power in the commission to provide financial aid to voluntary bodies formed for the purpose of providing legal assistance out of funds appropriated by Parliament for the purpose.

Provision is made for authority for the State to enter into agreements with the Commonwealth, both for establishment and operating costs of the commission.

The commission and its committees and staff will be required to have regard to recommendations of the Commonwealth commission in regard to "Commonwealth matters" as defined. These include not only causes arising under Commonwealth laws and matters involving Federal jurisdiction, but also certain classes of persons for whom Commonwealth is regarded as having a special responsibility.

Provision is made for liaison and co-operation with the Commonwealth Legal Aid Commission in order to furnish such commission with statistical information as required.

The commission will also have the power to make reciprocal arrangements with other commissions to facilitate the transfer of professional staff.

The determination of staff terms and conditions

will be the subject of the basic agreement between the Commonwealth and State Governments but an amendment is included in the Bill to provide an additional safeguard as requested by staff organisations.

Authority is given to the commission to operate an account or accounts at the State Treasury in addition to the usual bank accounts.

The Commonwealth Attorney-General's nominee on the commission will be allowed to have more than one deputy in order to facilitate attendance or representation on behalf of the Commonwealth Attorney-General.

There will be power for the commission to take on articled clerks who will be articled to the director, this being a corollary to the Legal Practitioners Act Amendment Bill, which has already been introduced into the Parliament.

Review committees to handle appeals by persons refused legal aid will be empowered to deal with arguments between the commission and legal practitioners in regard to costs and fees. It should be added that review committees will be the one exception to the provision referred to earlier that members of committees will be able to take part in deliberations if they have a pecuniary interest.

Should a member of a review committee have a pecuniary interest, he will be required to disclose it and will thereafter be debarred from participating in the deliberations in respect of which he or she has a pecuniary interest.

The Director of Legal Aid will be empowered to make a general delegation to a staff member to act in lieu of himself as a member of a legal aid committee subject to the approval of the commission. However, the permission of the commission will be required only in the case of a general direction and the existing power in the Act to nominate a delegate to attend a particular meeting will continue to apply without the commission's approval being required.

Legal aid committees, or the director or staff as applicable, will be able to vary the nature and extent of legal aid as well as granting an application for legal aid in the first place. Hence the legal aid committee, or the director or staff member respectively, will have more flexible roles in assisting the processing of changes in the situation or circumstances of applicants and their current cases. Any such variation will, of course, be subject to review by a review committee at the request of the assisted person.

Opportunity has been taken to tidy up one or two minor technical or grammatical anomalies in the Act through the amending Bill.

The basic amendments have been agreed with the Commonwealth Attorney-General and it is hoped that the passage of the Bill will now facilitate the commencement of operation of the new comprehensive legal aid scheme.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. D. K. Dans (Leader of the Opposition).

ADJOURNMENT OF THE HOUSE: SPECIAL

THE HON. G. C. MacKINNON (South-West—Leader of the House) [3.34 a.m.]: I move—

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

Question put and passed.

House adjourned at 3.35 a.m. (Wednesday).

QUESTIONS ON NOTICE

FISH

Mercury Content

229. The Hon. R. THOMPSON, to the Leader of the House:

(1) Are local wetfish tested for mercury content by the Department of Fisheries and the Department of Public Health?

(2) How many tests have been carried out by each department during the past three months?

(3) What types of fish have been tested?

(4) What were the mercury readings for each type of fish tested?

(5) What is the accepted level of mercury for—

(a) local fish; and

(b) imported fish?

(6) Has any local or imported fish been released for public consumption which contain mercury above the accepted level?

The Hon. G. C. MacKINNON replied:

(1) Yes.

(2) Fisheries, nil;
Public Health, 5.

(3) Shark.

(4) Shark Av. 0.55 Hg p.p.m.

(5) (a) 0.5 Hg p.p.m.;
(b) 0.5 Hg p.p.m.

(6) Although every effort is made to prevent this it would not be possible to guarantee complete success. However, the acceptable level is related to the individual total consumption of fish and the Honourable Member may be assured that there is no health hazard. 86 samples of imported fish were examined for mercury content in this period and the results were satisfactory.

CONSUMER PROTECTION

Vehicle Window Tinting

236. The Hon. R. J. L. WILLIAMS, to the Minsiter for Transport, representing the Minister for Consumer Affairs:

(1) As most Australian cars fitted with factory air conditioning now have side and rear window tinting, could the Minister inform the House what standards and methods are used to evaluate their solar and heat control properties?

(2) (a) Is the ASHRAE Standard 74-73 used;
(b) if not, why not?

(3) For these tinted windows what figures are given as the standard percentages for the following—
(a) Total Solar Transmission;
(b) Total Solar Reflection;
(c) Total Solar Absorption;
(d) Visible light transmission;
(e) Infra Red Transmission;
(f) Ultra Violet Transmission;
(g) The Shading Coefficient;
(h) The Summer U-Factor;
(i) The Winter U-Factor;
(j) Solar Heat Gain; and
(k) Total Heat Gain?

(4) Would the Minister supply any other fenestration data in relation to these tinted windows such as light transmission?

The Hon. D. J. WORDSWORTH replied:

(1) to (3) I am advised the standard quoted mainly relates to heating and refrigeration of buildings and I am not aware of any such standard at present applying in Australia to integrally tinted side and rear windows of motor vehicles.

(4) The Bureau of Consumer Affairs has had no cause to carry out research in this direction.

TRANSPORT

Frozen Goods for Railways

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

(1) Why were tenders not called for the transport of frozen goods following Westrail's withdrawal from this service?

(2) Who is responsible for determining freight rates for the road transport operators who now convey this traffic?

(3) Will the Minister give an assurance that—
(a) freight charges will not exceed those charged by Westrail as at the 31st October, 1977;
(b) freight charges in the future will be altered in conjunction with Westrail announcements; and
(c) any percentage increase will not exceed that of Westrail?

The Hon. D. J. WORDSWORTH replied:

(1) Tenders were not called because there were already registered road transport operators who were servicing particular routes in country areas licensed for the carriage of freezer goods. These existing operators had their current licences extended to allow them to also carry chiller goods, thereby in many cases making them able to utilise idle capacity.

(2) Freight rates have been subject to scrutiny and approval by the Trasnport Commission. They were considered equitable for the service provided and will be kept constantly under review.

(3) (a) No—but there are financial advantages in direct door to door deliveries, which provide more effective control.
(b) No, as Westrail freight rates have no bearing on the private road transport service provided.
(c) Answered by (b).

UNEMPLOYMENT

Job Creation Scheme

238. The Hon. M. McALEER, to the Attorney-General, representing the Minister for Works:

Could the Minister advise—

(1) What is the total amount of money approved for the Employment Stimulation Scheme as listed in the schedule of works approved under allocation No. 1?

(2) What proportion of these funds have been allocated for works in country areas?

(3) (a) Whether further allocations of funds for similar works may be anticipated; and

(b) if so, when will these be made and what amounts will be provided?

The Hon. I. G. MEDCALF replied:

(1) $1 961 650.

(2) $1 472 650.

(3) (a) Yes;

(b) a further schedule is currently under consideration. An announcement can be expected in the near future with the balance of $4 million to be expended this financial year.