Legislative Council

Tuesday, 16 November 1982

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

GOVERNMENT AGENCIES: STANDING COMMITTEE

Report

THE HON. R. J. L. WILLIAMS (Metropolitan) [4.32 p.m.]: I have the honour to present the first report of the Standing Committee on Government Agencies. I move—

> That the report be received, and ordered to be printed.

Question put and passed.

The report was tabled (see paper No. 539).

Personal Explanation

THE HON. R. J. L. WILLIAMS (Metropolitan) [4.33 p.m.]: I seek leave of the House to make an abbreviated report on the written material.

Leave granted.

The Hon. R. J. L. WILLIAMS: The appointment of the committee and its terms of reference are well known to the House, and I will not bore members with the subject matter of them. The Standing Orders of the committee are contained in amendments to Standing Order No. 38 of the Legislative Council made on 7 April 1982, and those Standing Orders are attached to the report as appendix 1.

In the matter of staff, Dr Martyn Forrest was appointed to the position of secretary to the committee on 7 July 1982, and Ms Lynley Coen was employed as typist-office assistant on 9 August 1982.

Portions of the report read as follows—

> 6. THE PURPOSE OF THIS REPORT
>
> The task which the Committee has been given is enormous—it is believed that well in excess of three hundred separate government agencies are operating in the State—and in its first few months of operation much of the Committee's time has been necessarily spent on preliminary research. At the time of reporting none of its major inquiries has been completed. However, in view of the considerable time that will elapse before the Legislative Council next meets (the difficulties this brings for the Committee's operations are dealt with separately below) it was deemed appropriate to provide some indication of both the Committee's general approach to its task and the specific inquiries it has initiated.
>
> 7. THE APPROACH OF THE COMMITTEE
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> Support for the Committee's appointment derived from a number of sources whose common concerns were the limited amount of information available about the range and operation of government agencies; some disquiet about the manner in which certain agencies were operating and a general belief that many agencies were not fulfilling their responsibilities by accounting to Parliament for the manner in which they have undertaken the tasks delegated to them by statute. These issues have been influential in determining the form and the approach of the Committee's preliminary inquiries which are detailed in the sections below.
>
> 8. THE SIZE AND SCOPE OF THE AGENCY SECTOR
>
> A substantial proportion of the Committee's time and resources have been spent on an attempt to compile a full list of the government agencies in operation in Western Australia along with details of the functions they undertake. A comprehensive knowledge of the size and the scope of the agency sector is seen as a necessary condition for achieving greater accountability and the Committee has been surprised by the limited amount of information that is presently available. The "Administration of Departments, Votes and Statutes", published annually in the *Government Gazette*, provides some guide, but has a number of serious lacunae, while other limited information can be gleaned from the budget papers, industrial award agreements, departmental reports and the answers to Parliamentary Questions. But as far as the Committee can determine there is no single document in which the entire agency sector is detailed. However the

Committee is pleased to note that, at least in regard to membership of agencies, the Public Service Board has now compiled a central register.

The Committee intends to publish, as soon as possible, a full list of the government agencies in operation in Western Australia.

Other matters under investigation in this area include the establishment of a scheme of classification of agencies and research into questions such as the overall running costs of agencies, their economic impact, their loan liabilities, their significance as employers and their legal and constitutional status.

Then follow paragraphs 9 and 10 dealing with accountability and annual reports. I will read just one part of paragraph 10, as follows—

The second problem relates to the standard of reporting. It is the Committee's opinion that at the present time while some agency reports are extremely good, the general standard leaves a lot to be desired. The Committee intends devising and publishing an "Annual Reporting Code" whose criteria it is expected agencies will adopt in the compilation of their reports. This code will be used by the Committee as the basis for its judgement on the adequacy of annual reports.

The third problem concerns the time taken to table reports in Parliament. While some agencies are consistently prompt at least one has not managed to get any of its last three reports tabled in less than fourteen months. The Committee intends, in its code of reporting, to recommend deadlines for the tabling of reports. It will seek the necessary legislative changes to ensure that reporting deadlines are included in the statutes of all government agencies. Failure to meet these statutory deadlines will invite inquiry by the Committee into the circumstances surrounding the delay.

I continue—

11. LAND RESUMPTIONS

In addition to its work on accountability and related topics the Committee is also conducting, at the present time, two major inquiries into particular administrative functions undertaken by a number of different agencies. The first of these relates to the acquisition and resumption of land for public purposes.

The Committee has been told that the capacity to acquire and resume land is held by more than twenty separate agencies. Representations made to the Committee have suggested shortcomings with the existing legislation and the manner in which it is being implemented by different agencies within the Committee's jurisdiction. Public submissions have been invited and the Committee intends making a comprehensive review of the procedures involved in an administrative process which, the evidence suggests, can be extremely disruptive and distressing to those most closely involved.

12. OCCUPATIONAL REGULATION

The second of the administrative functions under examination by the Committee is the system of occupational regulation by a number of separate statutory boards.

Mr President, the committee went on to consider the matter of prorogation of Parliament, and this has been laid out in detail in the report. I commend the report to the House.

GOVERNMENT DEPARTMENTS AND INSTRUMENTALITIES: BOARDS

Appointees: Personal Explanation

THE HON. R. G. PIKE (North Metropolitan—Chief Secretary) [4.42 p.m.]: I take this opportunity to correct an answer I gave in the House recently when I was asked about the constitution of the members of the sports-culture lottery advisory committee, specifically as it concerned sport. At the time, I indicated that only Mr Dettman was over the age of 70 years. I have since been informed that Mr Bernie Prindiville, who I understand is 71, is a member of the committee *ex officio* by virtue of his being President of the Western Australian Cricket Association. I thank the House for giving me the opportunity to correct the information I provided previously.

QUESTIONS

Questions were taken at this stage.

CULTURAL AND RECREATIONAL FACILITIES: SELECT COMMITTEE

Report

The Hon. A. A. Lewis submitted the report of the Select Committee inquiring into cultural and recreational facilities, together with minutes and transcript of evidence.

Ordered: That the report and recommendations be printed.

The report was tabled (see paper No. 540).

Report: Personal Explanation

THE HON. A. A. LEWIS (Lower Central) [5.22 p.m.]: I seek leave to make a short statement on the report.

Leave granted.

The Hon. A. A. LEWIS: I thank the House. I believe it is incumbent on the chairman of any committee to thank people not only in the report, but also in this place. I place on record my thanks to the Clerk and his assistants, especially Kevin Hogg who has worked manfully as secretary of the committee. As members will see, a certain amount of paper work has been undertaken by the committee and Mr Hogg has performed that job very well.

I also thank *Hansard*. I guess that, over the years, *Hansard* staff have become a little accustomed to having Mondays and Fridays off. Bearing in mind the number of Select Committees of this place and another place, *Hansard* staff have probably worked harder in the last 12 or 18 months than at any other time since I have been a member. I thank Mrs Bussola, the reporters, and typists from *Hansard* for the magnificent job they have done.

I thank also my fellow committeemen. At times we had a most enjoyable time working on this committee. I remember the football match we attended at the Melbourne Cricket Ground which, I suppose, comes under the heading of "Recreation" and it was quite enjoyable. Other occasions, such as attending a performance of Hamlet in French, and the ballet, may not have been areas in which we were experts, but we enjoyed them thoroughly.

The Hon. P. G. Pendal: Were you in it?

The Hon. A. A. LEWIS: No, I was not in the ballet.

I guess I should not move to adjourn the House, but I urge members and the Whips to allow as many members as possible to attend the Sadler's Wells Royal Ballet.

The Hon. R. G. Pike: Hear, hear!

The Hon. A. A. LEWIS: Some of us had the privilege to attend the ballet last night and it was magnificent. I was a little disappointed to read the review in the local paper tonight which referred to the lethargy of the company. I guess all companies have off nights, but the total production was magnificent and I urge members to go and see it.

I may be pre-empting another matter, but it was interesting to read on the back page of the programme that Benson & Hedges were one of the sponsors of the Sadler's Wells Royal Ballet.

To Mr Lockyer and Mr Leeson: Thank you for your help; thank you for the work you put in. I know you, Mr President, used to look into my office or the Select Committee room over the last six or eight months and say, "What—meeting again?" I believe both Mr Leeson and Mr Lockyer put much effort into this committee and I thank them for it.

LOCAL COURTS AMENDMENT BILL

Returned

Bill returned from the Assembly without amendment.

WHEAT MARKETING AMENDMENT BILL

Receipt and First Reading

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

Second Reading

THE HON. G. E. MASTERS (West—Minister for Labour and Industry) [5.26 p.m.]: I move—

That the Bill be now read a second time.

Wheat marketing legislation in Australia is comprised of a Commonwealth Act and complementary State Acts.

This Bill incorporates in the complementary wheat marketing legislation changes which have been requested by the Australian Wheatgrowers' Federation, following an extensive examination of grain marketing arrangements by all sections of the industry at the Australian grains industry conference in October 1981.

The requested changes were considered and accepted by State Ministers for Agriculture and the Commonwealth Minister for Primary Industry at the Australian Agricultural Conference meeting in July this year. The Bill will come into force on the day the Commonwealth Wheat Marketing Amendment Bill comes into operation.

The Bill will enable the Australian Wheat Board to operate on futures markets both in Australia and overseas to hedge wheat prices, exchange rates, and interest rates. The board's futures operations will be restricted by guidelines determined in writing by the Commonwealth Minister for Primary Industry.

The guidelines will ensure that the board's futures operations are restricted to hedging operations as defined in the proposed amendments to the Act. Allowing the board to undertake futures operations will allow it to compete more effectively with its competitors on world markets, and provide it with greater freedom to maximise grower returns.

This Bill also allows the Australian Wheat Board to provide growers with options as to when they receive the guaranteed minimum price for the wheat they deliver to the board, rather than having to accept the full guaranteed minimum price on completion of deliveries as at present.

Under the amendment, growers will still be able to receive the GMP as a lump sum following harvest, or opt to receive the GMP as two or more payments on such terms and conditions as are agreed between the board and the grower concerned. The only restrictions imposed by the Bill on these terms and conditions are that they do not create inequities between growers.

This amendment should benefit growers by providing them with greater flexibility in timing their cash flow and will enable the board to spread its borrowing requirements more evenly throughout the year, thereby reducing its peak debt load.

The Bill also empowers the Australian Wheat Board to make provisional allowances for quality and provisional charges for rail freight, handling and storage, and other costs currently deducted from the guaranteed minimum price. At present, the board may only set quality allowances on the GMP before harvest starts. It cannot vary the allowances subsequently if the price received for a particular quality wheat differs from its estimate. At present, any differences between estimated and realised quality differentials are equalised in subsequent pool payments to growers. This results in cross-subsidies between growers delivering wheat of different qualities.

Similarly, charges deducted from the GMP must be set by the board before the GMP is paid. Any subsequent alterations to these charges must be paid by growers in all States, even though the increase may occur in only one State.

This amendment, therefore, will enable any alterations to charges or differences between estimated and realised quality allowances to be deducted from, or paid to, the growers concerned, through later payments. If the board needs to recover funds from growers for quality allowances or charges, and the amount concerned exceeds the amount of equity remaining in the pool, the board can recover the funds in a court of competent jurisdiction.

This amendment will allow price signals, for quality differentials in particular, to be more accurately reflected back to growers.

The third set of amendments in the Bill allows growers who have delivered wheat to the board to purchase back that wheat at a price equivalent to the GMP they were paid for that wheat, adjusted for various costs, rather than at the prevailing stockfeed wheat price. The wheat must be used for stockfeed at the property at which it was harvested, or an associated farm approved by the board.

The quantity a grower can buy back under this agreement will be limited to the amount he delivered, provided he purchases it before the "final purchasing day" which will be the "final delivery day" or some other day determined by the Commonwealth Minister for Primary Industry. The price at which the grower buys back the wheat will be adjusted for any difference in quality between the wheat he delivered and the wheat he buys back for stockfeed. Moreover, he will continue to receive pool payments on the quantity of wheat he delivered but did not purchase back.

Finally, the Bill allows the Australian Wheat Board to make payments subsequent to the guaranteed minimum price without the approval of the Commonwealth Minister for Primary Industry. This will provide the board with greater flexibility in making progress payments. The need for Ministerial approval of subsequent pool payments has been diminished since the board now borrows commercially all its requirements for financing the GMP, rather than from the Reserve Bank.

In conclusion, the amendments incorporated in this Bill will enable the Australian Wheat Board to operate more efficiently, flexibly and competitively, and also will provide growers with a range of payment options.

I commend the Bill to the House.

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

BULK HANDLING AMENDMENT BILL (No. 2)

Receipt and First Reading

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

Second Reading

THE HON. G. E. MASTERS (West—Minister for Labour and Industry) [5.32 p.m.]: I move—

That the Bill be now read a second time.

This Bill will come into force on the same day that the Wheat Marketing Amendment Bill comes into operation. The Bill amends the Bulk Handling Act so that the appropriate handling charge for wheat in Western Australia will be as determined by Co-operative Bulk Handling Ltd., rather than by negotiation between CBH and the Australian Wheat Board as at present.

In setting the charges each season, CBH will need to have regard to any remuneration agreement in existence between itself and the board at the time. Under the Bulk Handling Act at present, the appropriate handling charges for wheat and other grains compulsorily marketed are negotiated by CBH with the appropriate marketing authority. This amendment will ensure that the appropriate charge for wheat is that determined by CBH alone. However, those for other compulsorily marketed grains handled by CBH still will be as negotiated between it and the relevant marketing authority.

The amendment complements a similar amendment to section 55 of the Commonwealth Wheat Marketing Act incorporated in the current Commonwealth Wheat Marketing Amendment Bill. This amendment specifies that the remuneration for receiving, handling, etc., will be as determined by the relevant authorised receiver from time to time. As a consequence, this amendment to the Bulk Handling Act will avoid any conflict between the two Acts which might have occurred otherwise.

The amendment to the Commonwealth Act became necessary to ensure that authorised receivers in each State retained autonomy over the setting of their handling charges without the board's having its accounts qualified by the Commonwealth Auditor General, as has occurred over the past few years. In the past, handling charges were equalised between all States and it was necessary for the Australian Wheat Board to negotiate with each authorised receiver to try to maintain similarity in charges. However, now that growers in each State pay the handling charge set by the authorised receiver in that State, the need for negotiation with the board has diminished. This is especially the case in Western Australia where all grain growers are shareholders of CBH and consequently have the opportunity to voice their concerns about the handling charges set in the State.

I commend the Bill to the House.

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

ACTS AMENDMENT (MINING) BILL

Assembly's Message

Message from the Assembly received and read notifying that it had agreed to the amendment made by the Council.

ACTS AMENDMENT (ABORIGINAL AFFAIRS PLANNING AUTHORITY) BILL

Receipt and First Reading

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

Second Reading

THE HON. R. G. PIKE (North Metropolitan—Chief Secretary) [5.36 p.m.]: I move—

That the Bill be now read a second time.

The Bill before the House seeks to amend the Aboriginal Affairs Planning Authority Act 1972-1973 and the Petroleum Act 1967-1981 and is aimed at streamlining procedures for issuing routine permits to persons wishing to enter Aboriginal reserves. The Aboriginal Lands Trust currently has no power to delegate its functions in connection with reserve entry permit applications. As the trust meets only quarterly this, on oc-

casions, has created administrative difficulties in processing applications in the periods between full trust meetings.

The amendment introduced to the Aboriginal Affairs Planning Authority Act will provide for a delegation to be issued to a nominated member or members of the Aboriginal Lands Trust or a nominated officer or officers of the Aboriginal Affairs Planning Authority to sign reserve entry permits. The new section will, however, restrict this delegation to ensure that the delegate cannot sign a permit allowing a person to enter a reserve who could exercise some right over the land, for example, the right to remain on the land or to conduct exploration or mining activities.

In relation to exploration or mining, however, subsection (3) of proposed new section 21A will allow the delegate to approve a permit covering changes in company personnel requiring entry to reserves where that company already has been issued with a permit for its personnel for that same period under the terms of the Aboriginal Affairs Planning Authority Act. It is a regular occurrence for mining and exploration personnel to change as part of normal field operations and it has become administratively inefficient to process separate approvals each time such changes occur.

The amendment to the Petroleum Act seeks to ensure that the requirement to obtain a reserve entry permit will prevail in cases where mining and petroleum exploration is proposed on Aboriginal reserves. It will bring the Petroleum Act into line with amendments to the Mining Act in providing that where rights are granted under either of these Acts, such rights do not prevent, or in any way affect, the application of section 31 of the Aboriginal Affairs Planning Authority Act, which provides for the separate authorisation of entry by persons onto Aboriginal reserves. It is the Government's view that the power to grant the right of entry onto Aboriginal reserves should be in the hands of the Minister for Community Welfare.

I commend the Bill to the House.

THE HON. PETER DOWDING (North) [5.39 p.m.]: This Bill is not opposed by the Opposition, but I wish to make now some comments in relation to it. In the first place, the Opposition is deeply concerned about the continuing failure of the State Government, in the passage of this type of legislation, to consult with Aboriginal people, and particularly with the authorities it has set up to represent those people.

The Minister's failure to consult with the Aboriginal Lands Trust and the chairman of that trust before this legislation was introduced into Parliament, and after this legislation was drawn up, is typical of the way in which this Government treats the Aboriginal people of this State. To that extent, the Opposition is extremely concerned that the legislation should have been prepared and introduced in that way.

The legislation follows administrative conditions that have been exercised by both Aboriginal communities living on reserves and the Aboriginal Lands Trust in issuing permits for persons to go on the reserves for purposes perhaps completely unassociated with exploration or mining activities. The day-to-day problems that occur as a result of these conditions have not been addressed by this Bill.

The Bill does not give the right to the Aboriginal people themselves or a representative of the Aboriginal people in a particular community—such as the chairman or the council of that community—the right to issue a permit to an electrician, engineer, or plumber to go onto the reserve to fix facilities in that community if the matter is urgent. That person cannot be issued with a permit urgently. At the moment, a permit must be sought from the Aboriginal Lands Trust, and after this Bill is passed, from an officer of the Aboriginal Planning Authority, or a member of the trust, if the Minister delegates that power.

The point the Opposition wishes to make is: Why cannot that power be further delegated to a representative person or a member of the Aboriginal community? After all, most Aboriginal communities have incorporated associations, and most have councils, a chairman of those councils, or any number of persons who can act to issue these permits. It appears the Government does not trust the Aboriginal people to look after themselves, otherwise it would have installed a provision of that sort in this legislation.

The second aspect of this whole issue of permits is that the situation primarily arose because the Government was unhappy with the power to issue permits contained in the Aboriginal Affairs Planning Authority Act and it took that power away from the commissioner, by amendment to regulation 8, in order to give the Minister political power over the issue of permits. That was done to overcome the problems as the Government perceived them at Oombulgurri in the far north where the Aboriginal people were seeking some control over their destiny.

The Opposition takes the view that there is a need for the communities and the individuals in the communities to have a say in the management of their affairs, rather than have this continued paternalistic attitude that the Government holds

up as the best Aboriginal affairs policy it can come up with.

The protection that is given to communities is given to them for a very significant reason. No doubt, the Government—although in its Press statements states it seeks to deride that protection—intends to retain that situation. It is equally important that the power should not create a prison and that people on Aboriginal reserves should be permitted to give permission to people of their choice to enter their reserves for particular purposes. I have instanced the situation of a person being required urgently, at a time when it is inappropriate or impossible to seek a special permit from either the trust or an officer of the trust.

The Opposition does not intend to oppose this legislation but makes the point that this Government will not be in a position, in the next sitting of Parliament, to pass such legislation because we will occupy the Government benches.

THE HON. R. G. PIKE (North Metropolitan—Chief Secretary) [5.45 p.m.]: I thank the honourable member for his comments and point out to him that I have a notation of the remarks made by Mr Isaacs in a letter dated 14 September requesting the Minister to give serious consideration to the amendments to the law which are now proposed by this legislation.

I understand that the Minister in another place has communicated with Mr Isaacs, who was unaware at that time that the reference he made related to this legislation.

The Hon. Peter Dowding: Was he aware that legislation was going to be introduced into this place?

The Hon. R. G. PIKE: The answer was "No." I will pass on the honourable member's comments to the Minister whose portfolio I represent and I will ask that the communities have a greater and more constructive say in the planning for their communities.

I support the Bill.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (the Hon. R. J. L. Williams) in the Chair; the Hon. R. G. Pike (Chief Secretary) in charge of the Bill.

Clauses 1 and 2 put and passed.

Clause 3: Section 21A inserted—

The Hon. PETER DOWDING: The Premier of recent times has sought to beat up the land rights debate to suggest that in some way the proponents of land rights, or people seeking land rights, are seeking to divide the State into separate areas for black and white.

That sort of nonsense is no doubt arising out of the Liberal Party's desperation about trying to win the next election by hoping that that sort of talk will appeal to people in metropolitan areas who do not understand or fully appreciate the issues.

It seems to be sad that this Government is maintaining a situation where entry onto Aboriginal reserves is not permitted to people without permission of somebody. The argument the Opposition adopts is: Who should be the somebody to make that judgment? Primarily, if there is no aspect of land rights—which is the subject of the Premier's comments—it is this question of entry with or without permits which needs to be answered by this Parliament. Some comment needs to be made in relation to this clause and the permits given for special reasons because of the unique position of the Aboriginal people. I would be very interested to hear whether the Hon. Norman Moore suggests that permits are not necessary; in other words, that entry onto Aboriginal reserves should be open to everyone.

The Hon. N. F. Moore: You know my position on that.

The Hon. PETER DOWDING: No doubt the member will say he is unhappy with the permit situation and would like to see everybody given the right to go onto Aboriginal reserves.

The Hon. N. F. Moore: That is quite right, and I have made no secret of it.

The Hon. PETER DOWDING: As long as it is understood. The Hon. Norman Moore is at loggerheads with his own political party.

The main point that needs to be mentioned is that there is no mechanism for resolving the disputes about the issue of permits or applications for the issue of permits and it is to be hoped that early in the new year, after the Labor Party wins the election, we will be able to introduce legislation which will benefit all the people in this State, both white and black, to ensure some method exists whereby the question of entry onto reserves can be resolved without it being simply thrown around the political arena, as it is at present.

Clause put and passed.

Clauses 4 to 6 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. R. G. Pike (Chief Secretary), and passed.

ACTS AMENDMENT (BETTING AND GAMING) BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by the Hon. R. J. L. Williams, read a first time.

Second Reading

THE HON. R. J. L. WILLIAMS (Metropolitan) [5.52 p.m.]: I move—

That the Bill be now read a second time.

The Government recently has undertaken a review of provisions in the Police Act relating to betting and gaming. Most of the Statute as presently exists has been contained in the Police Act since 1892 and derives its origin from the English Gaming Act of 1845.

This Bill sets out to—

achieve the retention of what is generally believed now to be the law;

avoid changes in principle; and

make clear what was obscure.

In addition, the Bill will make changes in three significant penalty areas, as has been announced previously by the Minister for Police and Prisons.

It will increase the maximum penalty for operating an illegal gaming house from $1 000 to $10 000 and bring within the scope of that penalty those associated with the management of such an establishment. Imprisonment for that offence as with other like offences will be deleted.

The penalty for being found in an illegal gaming house is to be increased to $100 and an infringement notice will be issued under normal circumstances to those persons found on the premises. Infringement notices will carry a penalty of $50.

Provision is made also for the law to be effective in providing for the confiscation and forfeiture of the instruments and related furnishings used in an illegal gaming operation.

The Bill does not set out to make unlawful that which is presently lawful, or to make lawful that which is presently unlawful; but a provision in the Bill will permit regulations to be made to exempt from the general prohibitory provisions any game or gaming on such conditions as may be prescribed. The purpose of this is to ensure that the new provisions do not prohibit, unintentionally, existing activities which are not unlawful. The Government has no intention of using this provision for any general extension of lawful gaming.

The Police Act at present does not define what is a "common gaming house" and neither does any one decision of the more usually decided court cases. These court cases generally tend to emphasise one or more of the requirements of proof which have been identified, are not infrequently contradictory as to other requirements, are not generally known to the public, and rely for their authority on old English Statutes as applied in the State.

The meaning of those English Statutes is not at all clear. They go back at least to 1541 and amongst other things made "tennys" and "bowles" unlawful, as they may be still in Western Australia. They consist of a great many Acts, the language of which includes double negatives, and expressions the meanings of which have changed with time.

The generally understood concepts requiring proof that a place is a "common gaming house" are numerous, but because all the requirements are most difficult to define most Statutes fall back on evidentiary devices whereby some or all of the necessary concepts may be presumed. It is also most relevant that historically the common law relied heavily on knowledgeable local judicial recognition of what in the morals of the time and place constituted a public nuisance, and on acceptance of that moral judgment in a judicial context.

An explicit definition of a "common gaming house" is contained within this Bill in such a manner as to enable the points requiring proof to be apparent, and the evidentiary devices and the circumstances when those devices can be used, are so set out as to show how and when that proof can be given with their aid.

The Bill repeals all the existing provisions relating to gaming and common gaming houses and sets out a new substantive law of gaming which amounts to a re-statement of the law as it is generally thought to be.

The Bill provides a mandatory direction to the court to order forfeiture, extending to related furnishings, unless it is shown that the item was not related to the offence. Provision is made to give a right to third parties to make claims to the court in respect of items likely to be forfeited.

The Bill sets out an embargo notice procedure, similar in most respects to that in the Misuse of Drugs Act, to apply where items are too large or inconvenient to be seized and taken into custody but may be liable to forfeiture. The provisions relating to gaming in the Criminal Code, which are synonymous with those contained in the Police Act are to be repealed. They have been rarely used and in the main embody the same problems as are found in the existing Police Act.

Section 39 of the Evidence Act is to be repealed. The substance of this section appears in the proposed section 85(6)(b) of the Police Act, so that evidentiary matters relating to gambling are embodied in one piece of legislation. It is not the intention of the Government to change the law, but the opportunity has been taken, in proposing increased penalties, to update and review the legislative provisions and common law. Without changing the law as it is understood, a significant reform of it is proposed.

I commend the Bill to the House.

THE HON. PETER DOWDING (North) [5.59 p.m.]: The Opposition does not oppose this legislation because to some extent it is an advance on the 1892 Police Act that in many respects has governed gambling in this State until now. We wish however to make some observations about the Bill. The first is that I would have thought it was a gross irony that the Hon. John Williams should be asked to read the second reading speech since he was asked to head a back-bench committee of the Liberal Party to look at this question of gaming, and no-one took the slightest notice of the report he produced. The second observation I would make is that it does none of the things that the 1974 Adams Royal Commission into gambling said needed to be done. It goes no way at all down the track towards determining what games are legal, and in fact it leaves that open to the regulations to determine.

Sitting suspended from 6.01 to 7.30 p.m.

The Hon. PETER DOWDING: Before the tea suspension I was making the point that it is a pity that the Government has not really come to grips with the issue of gambling. Certainly it has not dealt with the central issues which have been raised in the general public debate, and in the report of the 1974 Royal Commission about what ought to be and ought not to be legal or illegal gambling activities.

Mr Adams QC and the other members of the committee said, in the final summary of recommendations which appears on page 120 of the report—

> Gaming rooms for cards and two-up should be established and should be operated and controlled by a Gaming and Betting Board or other public statutory authority by means of agents or managers in a manner similar to that whereby the T.A.B. conducts the off-course betting shops. Initially the gaming rooms should be established in Perth and Kalgoorlie and later in country centres where a demand arises for such facilities.

What is so unfortunate about the Bill presently before the House is that it does not address itself to the issue of whether it is intended, or it is the wish of the public, that, say, two-up ought to be prohibited. Under the amendments to the Police Act, two-up will be prohibited and it will be an offence to play two-up; yet anyone who has been to a country race meeting, or who has read the Department of Tourism's brochures for Kalgoorlie, will be aware that two-up is played regularly by a large number of people.

Speaking for myself, and for myself only, I cannot see the evil in two-up. Obviously a large section of the populace cannot see that evil either.

The issue to which the Government has failed to address itself in its desperate attempt not to upset people prior to the election, is whether the people ought or ought not to be permitted to engage in these activities. Under the proposed legislation, the activities will be illegal.

The problem then comes down to the same old issue that we have seen year after year—whether the Government will pervert its political responsibilities and put them on the shoulders of the Police Force to run what is coyly called the "policy of containment and toleration".

That is one point not addressed by this Bill. A vast number of activities are regarded by society as innocuous, and large numbers of people in society engage in those activities. At country race meetings, even members of the establishment can be seen at the two-up ring after the races; yet they are committing an offence. Ought that to be a situation to which the Government turns a blind eye, or winks about, or ignores so that the people go on committing an offence which is tolerated, because that is the decision of the political masters of the day? That is a major issue which is not addressed by this Bill.

I do not want to keep the House *ad infinitum* on this issue; but another area to which the Bill has not addressed itself is the question of ethnic clubs. The committee chaired by Mr Adams, in recommendation 6 on page 121, said the following—

> It should not be unlawful for members and their guests to play cards for money in a "non-profit" members club, nor for the club to conduct "Calcutta" sweeps and other forms of sweep on horse racing for the entertainment of the members and their guests.

This Bill makes the most remarkable attempt to provide for some form of gambling, some form of cards activity, which is not illegal; but we have the situation where, although it does not apply to the ethnic clubs, the Bill may in fact catch a Peppermint Grove social group which plays bridge on Friday nights, if they do it regularly and they have more than the prescribed number of people in attendance. What is the point of that? No-one for a moment thinks that the police will jump through the window and arrest those people.

The PRESIDENT: Order! There is far too much audible conversation. I ask honourable members to cease conversing while the Hon. Peter Dowding is addressing the Chair.

The Hon. PETER DOWDING: It must have come as a terrible surprise to the Liberal candidate for Mt. Hawthorn when the police raided his Liberal Party fund-raising night.

The real issue is: Do we or do we not want to prevent people from engaging in what are, essentially, social activities? If we do want to prevent them, let us address ourselves to that clearly in this legislation, instead of ignoring the gravamen of the problem, which is really what has happened here.

We have an election in the wind, and Mr O'Connor is trying to say "Yes" to please everybody. I am pleased to see that we will have a price-fixing policy for Western Australia. I look forward with interest to seeing the legislation on that introduced before the end of this session of Parliament!

The PRESIDENT: Order! When that piece of legislation is introduced, the honourable member will be able to refer to it. In the meantime, I suggest he stick to this one.

The Hon. PETER DOWDING: Yes. I said it in the context that the Government is so concerned about its failing popularity that it has introduced this piece of legislation, which does not address itself to the real problems, in the hope that the people who might wish to disagree with some of its final conclusions will not vote against it because, of course, no-one really knows what its final conclusions are in respect of gambling.

It is interesting to read in the second reading speech the comment that we can change the law; we are reforming it. It does not appear to me that we are doing much of either of those things.

Two major issues are not addressed by this Bill. The first is whether a whole range of activities ought or ought not to be illegal. The second matter not addressed by the Bill is how the Government will change the enforcement patterns. Undoubtedly, in the Bill, we have a great deal of material which will assist in the evidentiary problems that are alleged to exist in relation to the nabbing of illegal gambling houses; but I read the following in *The West Australian* of 25 November 1981—

> Ninety-two men and seven women were arrested, searched, fingerprinted and held in the East Perth lock-up exercise yard after a police raid on a Perth gambling club early yesterday.

I drove past the gambling club identified in that newspaper article, and I saw no evidence from the footpath—I am not brave like Mr Williams, going into these haunts of iniquity—that it was other than a thriving, economically viable activity, as of two days ago.

The Hon. J. M. Berinson: What, the lights were still on?

The Hon. PETER DOWDING: The lights were still on. On Saturday night, people were still observed by me to be coming and going—entering through the electronically-controlled door.

It is silly to tell any sensible person, including me, that the police had any trouble in sheeting home those 99 charges. No evidence exists that they have any problem sheeting home convictions on those matters at the club in James Street. Yet since that date, the club has been permitted to act illegally for a year.

If no evidentiary problems are experienced—as proved to be the case in November last year—what on earth will change with this legislation? Will we still be faced with these shy, reticent admissions that because of the difficulties of sheeting home convictions it is all up to a police policy of containment and toleration; or will it be the case that the police will act and close down the illegal activities? That is the problem to which the Government does not address itself. That is the issue in the on-going toleration of the gambling clubs of Perth.

The Leader of the Opposition said quite clearly that a Labor Government would ensure an adequate and legal avenue for this type of gambling activity for the people who wish to engage in it, and to do so in a controlled way. The people who wish to gain millions of dollars from illegal activities will not be permitted to do that.

It is not clear from anything the Government has said that it is committed to stamping out il-

legal activities in Western Australia. In fact, a very strong suggestion can be made that the Government's proposals are not directed to stamping out illegal activity at all, but to turning the risk of being caught into a purely economic, commercial risk. Of course, that is a policy which will do no more than ensuring that only the richest and wealthiest illegal gambling clubs are permitted to continue.

As it turns out—I make these comments from my personal view of the legislation—under this Bill, it will be an entirely economic risk to be weighed up by the entrepreneurs of the gambling clubs. If they want to go on and take the economic risk, no doubt they will do so because no ultimate penalty of imprisonment will be enforced.

If the activities are multi-million dollar activities, and they are successful, and they will not be threatened by police raids once or twice a day, that simply brings the penalty issue down to a question of turnover, and whether it is economically viable. Of course, that means ultimately that the smaller illegal activities will go out of business and that the very big ones—the ones with links to major illegal activities which may extend beyond those of simple gambling—will be able to continue without any threat of other than economic penalties being imposed upon them.

As I have said, the Opposition does not oppose this Bill, but it does make the point that it is a very unimaginative, timid, and in many cases quite unsatisfactory response to a compelling social issue.

We understand that the Government is concerned about its electoral position and wants to pass something at least in this last session of Parliament so it can say it has addressed itself to the problem.

A final matter about which I would comment is this: To the present time in respect of ensuring that updated copies of amended Statutes are available, the Government parties have acted pretty poorly. Amongst the legal profession and others can be found a general and proper level of dissatisfaction with the Government's performance. In relation to this legislation, I hope the Government will move to ensure that the Police Act is issued in an amended form incorporating these amendments so at least those people who have of necessity to read the Act will be able to do so.

THE HON. R. T. LEESON (South-East) [7.46 p.m.]: I am somewhat surprised to see a Government Bill introduced by a member of the Government back bench; certainly it is somewhat unusual and has not been done very often.

The Hon. G. E. Masters: As a back-bencher I did it two or three times.

The Hon. R. T. LEESON: It has not occurred often in the 12 years I have been a member. I can but wonder why this situation should prevail at this time.

As Kalgoorlie is in my province, I wish to make a couple of observations on this Bill and on gambling generally. As far as I can remember, gambling has always been a part of my life and a part of the life of my friends and relatives. I find it sad that the Government should introduce a Bill of this nature when none of us really knows the full story behind this issue. God forbid I should relate some of the stories I know of gambling.

The Hon. A. A. Lewis: It would make interesting reading.

The Hon. R. T. LEESON: Yes, it would.

This Bill is a sledgehammer to crack a peanut, because as those of us who know anything about this issue realise, if we wanted to close down the clubs in James Street, William Street, Fremantle, Kalgoorlie, and Port Hedland—

The Hon. Peter Dowding: Oh, surely not Port Hedland!

The Hon. R. T. LEESON: —all we would have to do is pick up the telephone and make a call and those places would be closed, and would remain closed. We do not have to kid ourselves by going through this charade as to what the final outcome would be. However, for political reasons this Bill is before us, being supported by Government members and by members of the Labor Party. I do not believe either party is on the right track. This Bill, which is virtually a repeal Bill, should be replaced.

Over the years we have talked about a casino for the metropolitan area and a proposed casino for the country area. We have read newspaper reports and heard comments about the millions of dollars made in James Street, the centre of our cultural activities in years to come. That idea makes me laugh a little because the Western Australian Government is gradually buying up all the blocks in the area and building theatres, libraries, and museums. However, with the little experience I have of this game, I know the money which is thought to be made in this area just does not exist.

Gambling houses—and this is something we do not give much thought to—provide for some people who virtually have nowhere else, a place to go to blow off steam, for want of a better term. We have compulsion in many areas involving alcohol, drugs, cigarettes, and so on. Unfortunately

to some degree we also have compulsion in gambling. We must understand that certain people are compulsive gamblers who like to attend any sort of card, dice, or penny game. The mistake many people make is that they are not the sort of people who run around with bow ties and dinner jackets with lots of money bulging from their pockets. Many of these people do not have much money, or much of anything else. All they are doing is looking for somewhere to go. What worries me about the idea of this Bill being passed is that it will make a lot of compulsive gamblers—for want of a better word—redundant; they will be wandering around the town not knowing what to do or where to go. They will look for any sort of game to play at any time of the night or day. That is my first concern.

My second concern has not been mentioned by anyone and involves something highlighted over the last few years—unemployment. The clubs in Perth, the one in Fremantle, and the country clubs currently employ 150 people on a full-time basis. That is a fact, whether or not we like it. These people do not make tractors like Chamberlain John Deere Pty. Ltd., or harvest wheat, but they do ply a trade learnt honestly outside Western Australia. They go interstate or overseas and learn their profession. Some come back to Perth and ply their trade while others wander off to other areas. But currently 150 people are employed in these illegal gambling places in Western Australia. I will not say "illegal casinos" because they are not casinos; the police have never allowed them to play roulette because they believe if roulette wheels were played the clubs would be too much like casinos and things would get out of hand. The police told the clubs that they must put their roulette wheels away and be satisfied with dice—or three dice so that a result is obtained each time—blackjack, miller, Russian poker, and two-up with pennies. That is about as far as it goes in Western Australia; currently they are about the only games allowed.

I should mention for those who do not know, that at no gambling venue in Western Australia, to my knowledge, has liquor been allowed. The people who run these places and the police themselves are to be commended for ensuring this situation continues, because I have been to places where gambling and the consumption of alcohol have been mixed, and things have been somewhat of a cocktail, and a Molotov cocktail on one or two occasions.

The point I have been trying to make is that what has taken place has not been of any real consequence to anyone, except that it has allowed compulsive gamblers to do what they love to do most and to do what they will do whether or not this Bill is passed. I do not believe there is much wrong with the present situation.

The police have a policy of containment, and I know in a legal sense that does sound bad; but I see a lot of sense in it. This policy has worked well in my province for 80 years and, without making any rash statements, this activity has taken place in Perth for at least that time. When people talk about two-up and brothels they immediately mention Kalgoorlie; I cop a barrage of comments which I have to duck. However, when members think about it, they will realise these activities were introduced into this State before Kalgoorlie was founded and they have been here without a break ever since. Gambling is something we have learned to live with over the years and it is something I believe will continue in one form or another. We are all grown up; it is 1982 and we should understand some sort of legalised gambling should be permitted in Western Australia, especially if we are to consider ourselves not to be as backward as other people are inclined to tell us we are. I will be sad to see this Bill passed under these circumstances, without facing a battle.

The provisions in the Bill are not much different from what exists at the moment except that the penalties will be increased substantially. A maximum penalty of $10 000 is provided, whereas the present maximum is $1 000. That will frighten a lot of people, but the great problem really is the forfeiture clause in the Bill, which provides that anyone using gambling equipment may have it forfeited. I can see Kalgoorlie carpenters in full flight making new kips. I can imagine people running around trying to find old pennies to replace those confiscated. It will be a little different outside Kalgoorlie, because some very expensive tables are used to play games, and people will not be able to have a table made overnight.

I am speaking a little tongue-in-cheek, and I do not mind admitting it. It is fairly hard to speak otherwise because we are in a ridiculous situation. The whole matter is politically motivated and it has been see-sawing between the Liberal Party and the Labor Party over the last seven or eight years. Finally pressure was applied approximately 18 months ago for something to be done about it; consequently we are now in a situation where for one reason or another we will all support the Bill and say that it will rid Western Australia of gambling forever.

The police will not be very happy with this Bill. At least they have been able to contain known gamblers. At a guess, approximately 500 people

would gamble in Perth every day and night of the week. At least the police knew they were contained within a couple of blocks of the city, but that situation will change when this Bill is passed and these establishments go out of business. In the future in Western Australia we will need to cater for gamblers and introduce a type of casino; but not the lavish type we hear so much about because this game just has not the money that many people think it has. The Alice Springs casino operates on a six-hour day. It was hoped that casino would be open 24 hours a day, as is the case with casinos in Las Vegas and parts of Europe. Darwin casinos are starting to feel the pinch. A new casino was opened recently in Launceston that will be in competition with others. With hindsight, the Tasmanian Labor Government quickly got off the ground and did Hobart and Tasmania well by building the Wrest Point Casino. Those casinos will be like pepper and salt.

Because of the overheads involved in running a casino, the money is not available to sustain their existence. I would have been satisfied to see the Williams committee report adopted so that some clubs would be licensed until a policy was brought down by the Government in power; and if a change were to be made some other form of gambling would take place immediately thereafter so that a lot of people were not let loose around the city in the future who would not know what to do with themselves. These people are not the dinner suit types with a lot of money in their pockets.

The Hon. A. A. Lewis: They are not silvertails either.

The Hon. R. T. LEESON: Mr Lewis informed me that they are not silvertails. Some of them are silvertails.

The Hon. N. E. Baxter: Ordinary run-of-the-road types.

The Hon. R. T. LEESON: Yes, the ordinary run-of-the-road types, as Mr Baxter said. A lot of these people are even on the dole; that does not stop them from gambling. That is the type of person they are and I worry about what is happening to them, as I do about other problems which will be caused by these people wandering around Perth. I presume the Police Force also is a little concerned about this problem.

I do not want to say any more about the Bill except that I hope in the near future we will come to grips with the situation and look at the needs of activity as closely as we do in respect of most other activities, and that we do something constructive about it rather than just pass legislation of this kind which we all know just will not work in the long term.

THE HON. G. C. MacKINNON (South-West) [8.05 p.m.]: I intend to support the legislation but I want to ask some questions of the honourable member handling this Bill. I will preface my questions with an explanation. Over the years we have seen a gradual change in attitude towards gambling. At one time it was the purview of the silvertail; at least those wealthy enough to be able to afford it, those persons about whom Mr Leeson spoke.

Thimblerig and the walnut game have always been frowned upon. When I was a lad fellows worked happily at the back of the tents at shows working games such as thimblerig, the three-card trick, the walnut game, the half-walnut game, and those sorts of games; and they used their come-on guy to bet £1 or 10 shillings. He would win a couple of times and would go away and that would induce all the mugs to play the game. That practice was frowned on by the police.

The Hon. Peter Dowding: Why?

The Hon. G. C. MacKINNON: Because it separated poor people from their money and it was grossly unfair, as anyone who has watched a person with three walnuts, three cards or three pieces, knows.

The Hon. Peter Dowding: Any more than a dartboard or a clown with its mouth open?

The Hon. G. C. MacKINNON: I will come to that in a minute. Most members have at some time been involved in fund raising for an organisation and know it is easier to make money if the prize is money. Generally I am talking about people who intend to give money to that organisation anyway. They can lose their money quicker if they play for five 20c pieces. Usually the cash prize is contained in an envelope. Long before I learned this practice was strictly illegal and I became a respectable member of Parliament, I recall these games being conducted and the police giving the organisers an hour or an hour and a half in the early part of the day when the men could play such games and the organiser would make a few shillings. I am going back 40 years, long before Mr Dowding, who has been asking so many questions, was even born.

Nevertheless, those sorts of things did go on. Over the years they were stamped out and the only games played in the sideshows were dart games, cards, and hoop-la, which has now disappeared. If one goes down sideshow alley one will find dart games offering big prizes. There are games where one puts a coin in a slot and everyone receives a prize, and there are games which

require some skill; that is a matter of personal opinion and I will return to that in a minute. Some games such as the bulldozer game involve money and one has to insert 20c pieces in front of the machine in such a way that it will push two or three 20c pieces at the player.

The Hon. D. K. Dans: Most of those 20c pieces are glued down.

The Hon. G. C. MacKINNON: The cascade game has wooden doors pushing along 20c pieces and the player puts a 20c piece in a slot in the hope that he will receive four 20c pieces in place of his one 20c piece. The arm machine pushes articles off a revolving disc.

The Hon. D. K. Dans: They are glued down too.

The Hon. G. C. MacKINNON: They have $5 and $20 notes on the back of them.

The Hon. H. W. Gayfer: He was at the Margaret River show on the weekend.

The Hon. G. C. MacKINNON: I was, as a matter of fact, and I would recommend it to anyone.

The Hon. Garry Kelly: Did it have a sideshow alley?

The Hon. G. C. MacKINNON: Yes, it had a very small sideshow alley. These items could come within the definition of "gaming". I again refer to a comment made by the Hon. Ron Leeson; he doubted whether the police would welcome this legislation. Bear in mind that as Mr Leeson correctly pointed out, the person with the front line job is the policeman.

Things have changed radically during the lives of many policemen and it is possible that a policeman, not knowing the definitions, might look at some of these games and immediately come to the conclusion that they are illegal, and do something about them. Proposed section 86(5) states—

> Any constable or other person apprehending any person charged with an offence against this section may seize and take . . .

At a prosperous sideshow such as at Brunswick Junction, for argument's sake, at 10 o'clock in the morning an enthusiastic policeman with the best intentions might close down some of the machines and the operator would lose a day's work; the sideshow organisers inform me that one day at Brunswick Junction is worth a week at any other show. Quite a lot of money can be lost.

My question of Mr Williams is: What assurances do we have in respect of shows which have been running quite happily and on which people lose a moderate amount of money—some skill is involved, although some people might say it is purely luck, and it is a subjective judgment which each of us has to make? What guarantee do we have that we will have a precise definition of which games will be allowed to be played and will be legal? Where may these games be played and where may they not be played? Games can be changed overnight. Tokens, coins and all sorts of things can be changed to alter the means by which the game is played; so it would not be satisfactory to describe a game in those terms.

In other words, can people invest in games, from the hurdy-gurdy to the cascade, to tent operation machines, as they are called, or slot machines? The people concerned are responsible citizens who pay their taxes and support their families, and we have previously allowed them to do this. Will they be able to continue in the knowledge that their activities are orderly and legal, and if they modify their activities in any way will they have the wrath of the law brought down upon them?

These people are citizens and are as deserving of our attention as anyone else. While I know nothing about the ramifications of the higher order of gambling which have been explained by the Hon. Ron Leeson, I have been made aware of some of the more humble forms of games of chance and I put the case forward on behalf of those people.

THE HON. P. H. LOCKYER (Lower North) [8.16 p.m.]: I enter briefly into the debate. While I support the Bill before the House I would not like the Hon. Ron Leeson's comments to pass unnoticed without the support of the House. His comments were the type of honest comments that are required in this place. The whole question of hypocrisy has worried me in relation to this Bill. I agree wholeheartedly with the honourable member's comments that this State has no requirement for a massive casino. In my view there is no way we can stop what is freely going on now.

No doubt this Bill is aimed at pleasing a certain section of the community and it will make some people happy that fines will be increased in respect of offences that occur in places which flourish so well in Northbridge. The roulette wheels which are valuable items of a gaming house will be confiscated, and this will give satisfaction to those people who dreamed up this Bill. However, the Bill will not stop gambling because the people concerned will find another game to start.

The honourable member spoke of two-up. I can say in this House that it is not an untruth that the game of two-up is freely played in my own province. Not one country race meeting is held at

which two-up is not played after the meeting. I have refrained from attending these events because the Premier would frown upon my playing the game. I did play it when I was not a member of this House and I enjoyed it very much.

The Hon. Garry Kelly: Did you win?

The Hon. P. H. LOCKYER: Over the years I have found I have enjoyed the game. What the Hon. Ron Leeson has said in this House is something that would have been said sooner or later. It would be wrong of any Government to take up the matter without providing to people the facility to play simple games.

After the election which faces us in the next few months—and perhaps the Hon. R. J. L. Williams would like to comment on this—an attempt may be made to appoint a joint bi-partisan committee to investigate this matter. Unfortunately we will never please the entire public. Imposing severe fines and making rules in relation to confiscation of gaming equipment will not solve the problem. If the Bill will not solve the problem, let us look at the matter objectively and consider the recommendations made by the Williams committee in relation to smaller-type gambling establishments which the Hon. Ron Leeson has suggested. This would certainly bring the matter into the open and perhaps it would allow the race clubs in the country areas to obtain a permit to run a two-up game after a race meeting. This would stop the game being run illegally and the people responsible for it would not suffer the possibility of having the police raid the game and arrest those involved. Two-up is regarded as a national game and part of the Kalgoorlie race round, and the incident that occured recently, which was an exercise in pure futility, was brought to the attention of this House.

The Hon. Ron Leeson has been honest in what he has said. While I support the Bill before the House I have sympathy for his comments.

THE HON. H. W. GAYFER (Central) [8.21 p.m.]: The passage of this Bill is a pathway to the establishment of legalised gambling in this State. This is necessary legislation which must be brought in by any Government or any group of people in parliamentary circles who believe ultimately that the whole system of gambling should be organised. This Bill attempts to alter the method of gambling in this State, something which happens to be the way of life of many people.

Some members in this Chamber would have visited the gambling areas in Northbridge as I did quite recently and as I have done on several occasions. I do not visit the area only to ascertain if the games are being run in the way I have been told they are run; I do not mind admitting that I enjoy having a flutter and I do not see anything wrong with that.

Anyone in this House who is hypocritical enough to get up and say gambling is wrong without having visited the area, is talking through his hat. These gambling venues are carefully conducted and scrutinised and a person who is under the influence of alcohol is not permitted to enter.

The venues are not patronised by the wealthy. The games are conducted in a moderate fashion as they are in Kalgoorlie or in any other place where one can participate in a game of chance.

The Hon. J. M. Berinson: It is only that they are illegal.

The Hon. H. W. GAYFER: It is the lawyers who confound the system by dotting every "i" and crossing every "t". If it were not for their friends in the Parliament we would have no trouble in this place.

The Hon. J. M. Berinson: Why not move to legalise it?

The Hon. H. W. GAYFER: The Hon. Joe Berinson may contribute to this debate at a later stage and, as usual, we will go to sleep.

This Bill tries to immediately force the legalisation of gambling by the establishment of casinos in this State. The next step will be to legalise gambling.

The Hon. J. M. Berinson: That is assuming it will be enforced.

The Hon. H. W. GAYFER: Mr President, I appeal to you to please shut up the honourable member.

The next step undoubtedly will be the establishment of casinos; but that will not occur with my consent. I am afraid the next argument will be in respect of where the casinos will be established.

I am the son of the person who many years ago banned poker machines in the district club of my home town of Corrigin because he believed that style of gambling was wrong and he considered the people who wanted to get rid of their money should do so in other ways. Those people who want to visit casinos will do so in the same way as those people who want to take fishing trips do so. I believe that will be the time to give district clubs the power to run these frowned upon poker machines and other forms of gambling which are now prohibited. After all, why should a casino be set up in Geraldton, Rottnest or Kalgoorlie and be the only place or places permitted to attract people who wish to spent their money on gambling? Why should not the clubs in our own

districts, which are suffering financially at the present time because people are not able to imbibe at clubs because they may have to drive 10 or 12 miles home and could be apprehended for driving under the influence, be able to operate poker machines and other forms of gambling?

Why should not the local people be allowed to spend their own money in this way in order that the profits obtained may provide more amenities for the clubs? As soon as casinos are established the local clubs will suffer as a consequence; this is what could happen to the RSL clubs in New South Wales.

Why is the Government trying to get rid of something which is working already? No-one has abused the privilege of the two-up game in Kalgoorlie or the old Fremantle barns where it used to be played. These games have been available to everyone in the past and no-one has been allowed to abuse the system. Disorderly people have not been permitted to enter. This is different from the situation that pertains at Wrest Point and places of that kind. I believe this Bill represents the start of organised gambling in this State; it will be brought in by popular demand because the other outlets are not available, as the Hon. Ron Leeson has said.

Once casinos are established the argument will be: Why should this district or that district have the right to gamble? Open slather will be required by every town so it can share in the profits that will be obtained. If one looks at the situation that prevails in New South Wales it can be seen that profits certainly are available.

Personally I believe the situation would be better if the games were contained by the police as they always have been. Unfortunately the do-gooders and lawyers were trying to dot every "i" and cross every "t". It is Mr Berinson's fraternity that has brought this Bill into this place. We had no trouble before and we were able to handle these matters. However, when the brains trust came into this House—

The Hon. J. M. Berinson: Was it the lawyers who got rid of SP betting?

The Hon. H. W. GAYFER: Yes.

The Hon. J. M. Berinson: Would you prefer not to have the TAB taxes?

The Hon. H. W. GAYFER: I do not know whether that is similar to this matter. I do not see anything wrong with the situation which exists and which this Bill is endeavouring to stamp out. Really, I do not know what time Mr Berinson has to spend gambling.

The Hon. D. K. Dans: Very little I would expect.

The Hon. H. W. GAYFER: He would be too cautious.

The Hon. D. K. Dans: Too sensible.

The Hon. H. W. GAYFER: I would agree with the Hon. Ron Leeson that some people enjoy gambling and they do not do any harm to anyone. They have a couple of dollars to spend and when it is gone they stand around and watch the game being played.

They are what I would call sensible gamblers. The other people are the impulsive gamblers, who will go to the Eastern States or anywhere else to gamble or to set up an illicit game of blackjack or baccarat. We will support the Bill; it will be passed.

The Hon. Garry Kelly: Why not oppose it?

The Hon. H. W. GAYFER: All right then, I will, just for the heck of it.

The Hon. J. M. Berinson: You are a hard man to convince.

The Hon. H. W. GAYFER: This Bill is about as useless as that. It is only a vehicle for the ultimate introduction of casinos in this State; that will be the next stage. Then we will have arguments between the various country towns as to where the casino will be sited. We will have the problems of the small country towns and country clubs being bypassed, and saying, "Why should the casino have the sole right? Why shouldn't we be allowed the right to attract some of the money of our local people?" That is the situation which will occur, and on which we must decide. In my opinion, this is only a part-time measure and a vehicle to facilitate other things which will follow.

THE HON. R. J. L. WILLIAMS (Metropolitan) [8.31 p.m.]: I thank members for their contributions, particularly the Hon. H. W. Gayfer, whose contribution was based on an honestly-held opinion.

The Hon. H. W. Gayfer: You will see, in 10 years' time.

The Hon. R. J. L. WILLIAMS: Mr Gayfer said the intention of the Bill was merely to prepare a pathway for the introduction of casinos. Indeed, perhaps the Government may be assisting the Labor Party in this respect. After all, if it is successful at the next election—

The Hon. Garry Kelly: And we will be.

The Hon. R. J. L. WILLIAMS: That is a matter for conjecture, and I am not dealing with conjecture. To continue, if the Labor Party is successful at the next election, it has promised to es-

tablish two casinos, one in Perth and one in a country area. So, on that basis, the hypothesis put by the Hon. H. W. Gayfer may be correct.

The Hon. H. W. Gayfer: I will bet you I am correct.

The Hon. R. J. L. WILLIAMS: What do you want—six to four or 10 to one?

The Hon. H. W. Gayfer: I will take whatever you have got.

The Hon. R. J. L. WILLIAMS: The intention of the Bill is not to make lawful that which is presently unlawful, or to make unlawful that which is presently lawful.

The Hon. G. C. MacKinnon: Can you give me a list?

The Hon. R. J. L. WILLIAMS: I can do better than that; I can inform the Hon. G. C. MacKinnon that when a game is proposed to be established, the police are called and asked, "Do you consider this to be an illegal game?" The games of cascade and bulldozer have been mentioned; the West Australian Showmen's Association (Inc.) has been assured they are legal. The game of thimblerig has been mentioned. Thimblerig is played with either three half walnut shells, or three thimbles, and a pea. The person must decide under which shell the pea is situated.

The Hon. D. K. Dans: The Government is very skilful at thimblerig.

The Hon. R. J. L. WILLIAMS: Thimblerig is not a game of chance or skill such as, for example, the game of darts. However, it is sleight of hand.

The Hon. Peter Dowding: What is your authority for that?

The Hon. R. J. L. WILLIAMS: The legal definition which I came across many years ago is that the game involves sleight of hand.

The Hon. H. W. Gayfer: Do not quote your source, or we will have an argument on that.

The Hon. Peter Dowding: That does not make sense to me.

The Hon. R. J. L. WILLIAMS: I do not mind my not making sense to the Hon. Peter Dowding; that is the description given to the game of thimblerig. In point of fact, if the person moves the pea around with his finger he can make quite a lot of money from the game.

The Hon. Peter Dowding: It is still a game of chance from the participant's point of view.

The Hon. R. J. L. WILLIAMS: The pea is manipulated by sleight of hand, therefore chance and skill are eliminated.

The Hon. Garry Kelly: So that is the reason for outlawing it?

The PRESIDENT: Order!

The Hon. R. J. L. WILLIAMS: It is already in the Act.

The Hon. Garry Kelly: What about the regulations?

The PRESIDENT: Order!

The Hon. R. J. L. WILLIAMS: Let me refer members to learned counsel's opinion expressed on this very subject after a debate in another place; I hope it will satisfy the Hon. G. C. MacKinnon. The opinion provided is that regulations may be made under the Bill to declare a game lawful or unlawful. Every game played in a gaming house—because the game takes place in a gaming house—is unlawful. However, until now, only one game has been declared by law to be unlawful in this State, wherever it is played, and that is thimblerig.

The Hon. Peter Dowding: What is your authority for saying that games not played in a gaming house—

The Hon. R. J. L. WILLIAMS: I will touch on that point later, because it is contained in some legal opinion I have been given. I do not have the benefit of the training of the Hon. Peter Dowding, and I am sure he will be interested in the opinion of learned counsel. We know that regulations can be made to declare a game lawful or unlawful.

The Hon. Garry Kelly: Which is now either lawful or unlawful?

The Hon. R. J. L. WILLIAMS: I did not say that.

The PRESIDENT: Order! The member will address his remarks to the Chair and ignore interjections.

The Hon. R. J. L. WILLIAMS: In relation to the query raised by the Hon. Graham MacKinnon, learned counsel has provided the following opinion—

> ... regulations under s. 86(3) providing that subsections (1) and (2) shall not have effect in relation to amusements with prizes provided at a pleasure fair consisting wholly or mainly of amusements provided by travelling showmen and which is held—
>
> (a) on any day of a year on premises not previously used in that year on more than 21 days for the holding of such a pleasure fair; or
>
> (b) in conjunction with any Agricultural Show or other event conducted—

(i) by, or at the showgrounds of, the body known as the Royal Agricultural Society of Western Australia;
(ii) by, and at premises customarily utilised by, a body affiliated to the Royal Agricultural Society of Western Australia; or
(iii) by a person or body of persons with the prior written approval of the Commissioner of Police,

The Hon. Peter Dowding: From what are you reading?

The Hon. R. J. L. WILLIAMS: From learned counsel's opinion on the legality of amusements conducted at the showground.

The Hon. Peter Dowding: Whose opinion?

The Hon. R. J. L. WILLIAMS: Learned counsel from the Crown Law Department.

The Hon. G. C. MacKinnon: You are replying to my query, not to a point raised by the Hon. Peter Dowding.

The Hon. R. J. L. WILLIAMS: The opinion continues—

> —where the opportunity to win prizes at amusements to which the regulations apply is not the only, or the only substantial, inducement to persons to attend the fair.
>
> The regulations could impose conditions as to—
>
> (a) the amount paid by any person for any one chance to win a prize;
> (b) the aggregate amount that may be taken by way of sale of chances in any one determination of winners, and as to when and how the determination and declaration of the result is made;
> (c) the maximum distributable amounts applicable to money prizes; and
> (d) other matters considered appropriate—

I conclude with the following very important sentence—

> —after the relevant local requirements are negotiated with the W.A. Showmen's Association.

The Hon. H. W. Gayfer: Could the game of raffles be legalised in the same way?

The Hon. R. J. L. WILLIAMS: It does not come under gambling, games of chance, or sleight of hand.

The Hon. G. C. MacKinnon: Are you authorised by the Minister to say that?

The Hon. R. J. L. WILLIAMS: I am simply quoting to the House learned counsel's opinion in response to a query on the same matter raised last week in another place. I cannot say that the Government intends to implement such proposals; however, it seems to me to be common sense. In fact, in his opinion learned counsel culled a substantial part of the provision which has been operating in the United Kingdom for the last 20 years. I hope that satisfied the Hon. Graham MacKinnon.

The Hon. G. C. Mackinnon: Yes.

The Hon. H. W. Gayfer: We are a world within a world again.

The Hon. R. J. L. WILLIAMS: I turn now to the comments of the Hon. P. H. Lockyer. I reiterate that the Bill does not seek to solve the "gambling problem" within the State. The Bill is designed only to rectify our present laws. It will not add to them or detract from them. It seeks merely to increase current penalties.

The Hon. Garry Kelly: In other words, it does nothing.

The Hon. R. J. L. WILLIAMS: The Bill makes the position quite clear.

The Hon. Peter Dowding: To whom? You are using an expression used by the Hon. Gordon Masters.

The Hon. R. J. L. WILLIAMS: I would suggest it will be clear to learned counsel employed for the defence. The Bill does not seek to solve the moralistic problems to which members have alluded.

Members could ask whether the Bill will result in advantages accruing to the law enforcement officers in their enforcement of the law. One of the objections previously raised was the deployment in the evenings of policemen to conduct large-scale raids on gambling clubs, with the result that the next four or five hours of their time is spent transporting people to the lock-up, photographing and fingerprinting them, and going through the whole process of charging them and arranging for bail.

The Hon. H. W. Gayfer: That could happen to a person standing by the side of the road, doing nothing.

The Hon. R. J. L. WILLIAMS: Perhaps the next time Mr Gayfer will receive an infringement notice. Under this legislation, infringement notices will be issued to these people.

The Hon. R. T. Leeson: How long will that last once a few false names and addresses start coming in?

The Hon. R. J. L. WILLIAMS: The Bill contains evidentiary requirements under which, if the officer taking a person's name and address is not absolutely satisfied with the information provided, he may request the person to provide further evidence of identification and, indeed, may then arrest the person and take him to another place and require him to produce satisfactory identification. That is how I read the Bill.

However, if the officer is satisfied he has been provided with the correct name and address, he will issue the infringement notice, and it will then be up to the person to pay the appropriate fine. So, the Hon. P. H. Lockyer can play two-up to his heart's content; provided he uses his correct name and address, the Premier will never know. All he need do is pay the fine to the appropriate authority.

The Hon. R. T. Leeson: Let us say the person does not have any identification, such as would be available when a driving charge is being laid, where the person can provide either his driver's licence, or his vehicle registration. If in the first wave, 20 out of 90 people are found to have given false names and addresses, how long will it be before the legislation will be back before this place for amendment?

The Hon. N. E. Baxter: Certainly, not before next September at the earliest.

The Hon. R. J. L. WILLIAMS: The situation suggested by the Hon. R. T. Leeson is quite unreal. In such cases, we would rely upon the knowledge and experience of the officers involved. I have reason to believe some of these men are extremely skilful in detecting whether a person is Joe Blow or in fact is his brother, Tim Blow.

The Hon. Peter Dowding: The point is that the amendment to section 50 does not secure the proper performance of a person's obligation to provide his true name and address. If he gives a false name, the constable simply would write it down.

The Hon. R. T. Leeson: He could say he was Mickey Mouse.

The Hon. Peter Dowding: If he said, "Mickey Mouse" the constable might write that down.

The Hon. R. J. L. WILLIAMS: I can deal with that matter in Committee if the member wishes, but my first remark was quite pertinent: It would depend largely upon the skill of the officer asking the question.

The Hon. Peter Dowding: Or whether he cared.

The Hon. R. J. L. WILLIAMS: I have never known a police officer not to care at the time he is taking one's name and address. As far as I am concerned, they take all the care in the world.

The Hon. Peter Dowding made one or two points which are pertinent to the Bill. He questioned the lack of legality in relation to certain clauses and, if he wishes, I shall deal with that in the Committee stage.

I have been asked about my part in the Bill. The whole Bill has nothing to do with me or with what I did before. I reassure the House that, in the previous committee, I merely gathered evidence and expressed that evidence as an opinion in conjunction with the Hon. Vic Ferry and the member for Murchison-Eyre. They were not my opinions; they were not my beliefs; they were deduced from evidence produced at that place at that time.

I was thrilled when the Hon. Ron Leeson solved the age old problem—I do not know whether he realised he had done so—and cured the gambler, because he said that, if we passed this law, gamblers would be redundant. I have never heard previously of such an instant cure for gamblers!

I see the Bill as perhaps a precursor to a general review and certainly a definite tidying up of an archaic law which refers back to 1514. Mr Phil Sharp QC, in his report to the Royal Commission, referred to playing bowls and tennis instead of archery, because times had changed since the days of Henry VIII.

Religious fervour was attached to a number of the remarks made in the previous debate in this House in relation to gambling, which is a touchy subject. Different people have different ideas on the matter. At least the Government has had the courage here to seek the advice of counsel, not just in the Crown Law Department, but also outside. I refer here to Mr Paul Nichols to whom I pay tribute for his book on this subject which is respected in this State. He was of the opinion that Mr Sherriff of the Crown Law Department had made a very good job of a most difficult situation when presumably his brief was, "Do not make any alterations to the content of the Bill, to alter the penalties or otherwise".

I thank members for their co-operation.

Points of Order

The Hon. PETER DOWDING: Under Standing Order No. 151 I request that the member table the document from which he has quoted.

The Hon. R. J. L. WILLIAMS: I have no reason not to table the second reading notes I have here.

The Hon. PETER DOWDING: I am sorry—I meant the legal opinion that the member identified and from which he quoted.

The Hon. R. J. L. WILLIAMS: I will table it. I am sure the member will—

The PRESIDENT: Order! Under Standing Order No. 151 the Hon. Peter Dowding has asked that the honourable member who has just resumed his seat table the document from which he was quoting. One of the requirements is that he identify the document; it is the requirement that the honourable member identify the document and table it.

The Hon. R. J. L. WILLIAMS: I can identify the document. I may be going beyond my brief, but be it on my head. It is a letter from the Crown Law Department to the Minister for Police and Prisons. It does not embarrass me in the slightest, because it is merely a reply to the debate in another place by counsel expressing his opinion. When the debate has finished, I shall table it, as you so order.

The Hon. PETER DOWDING: On a point of order, Standing Order No. 151 speaks about the tabling of the document on request immediately upon the conclusion of the speech and my point of order is that it should be tabled now.

The PRESIDENT: Order! There are two matters: Firstly, the member raising the point of order also ought to read paragraph (a)(i) which says that he ought to have asked for the document to be identified at the time that it was quoted—

The Hon. Peter Dowding: With respect, I did, and the member did—

The PRESIDENT: Order! I am speaking and when the President is speaking, the honourable member knows—or ought to know and will shortly find out, just in case he has not learnt by this stage—he must remain quiet. I am suggesting to the honourable member that the document ought to have been identified at the time. I have asked the Hon. R. J. L. Williams, nevertheless, to table the document.

It is obvious to me that the document is required by the honourable member and, in the interests of allowing the Committee stage of this debate to continue, I do not think it is unreasonable for me, on behalf of the members of this Chamber, to suggest that the honourable member be permitted to table the paper at the conclusion of the Committee stage of the Bill. That is the second point: He needs the document now to continue with this debate, but, at the conclusion of his handling of the Bill, I suggest that the honourable member table the document.

The Hon. PETER DOWDING: Standing Order No. 151 does not permit a period to elapse between the request and the tabling. Standing Order No. 151(a)(i), with respect, does not, as I read it—perhaps it will be the subject of your ruling in due course—require a member to seek the identification, if the document is identified. The onus to identify the document is on the member quoting from it and in fact I did request identification. Mr Williams did identify the document from which he was quoting, so that Standing Order No. 151(a)(i) has been complied with, even if it requires that identification.

However, Standing Order No. 151(a)(ii) does not say that the document may be tabled at some later stage. With respect, it says that a document shall on request be tabled. I am quite happy that the document be given back to the member, if he needs it during the course of the Committee stage, but I submit with respect that it must be tabled now and, as a tabled document, is available to members of the Opposition to read, if they wish.

President's Ruling

The PRESIDENT: Order! The honourable member is quite entitled to his view upon what Standing Order No. 151 says. I am suggesting to him that, as far as I am concerned, I am going to rule—and have already ruled—that the document be tabled at the conclusion of the handling of this Bill.

The honourable member is quite at liberty to disagree with my ruling, if he wants to; but unless he does that I suggest in the meantime that he resume his seat and, if this Bill is going to go into the Committee stage after I put the question, that the Hon. R. J. L. Williams retain the document until after that stage; otherwise, he will table the document now. I am about to put the question.

Dissent from President's Ruling

The Hon. PETER DOWDING: Mr President, under Standing Order No. 98, I move—

That your ruling be disagreed with.

The Hon. N. E. Baxter: You have to give it in writing.

The Hon. PETER DOWDING: Grow up! You should know your Standing Orders—you are always bleating about them.

Several members interjected.

The PRESIDENT: Order! The Hon. Peter Dowding has moved that objection be taken to the ruling I have given with respect to the interpretation of Standing Order No. 151. Is there a seconder?

The Hon. FRED McKENZIE: I second the motion.

The Hon. PETER DOWDING: You, Sir, have made a ruling which, with respect, has absolutely no possible basis on the terms of the Standing Order. Not one iota of material in Standing Order No. 151 permits any delay between the request and the tabling. If you, Sir, can find such material in the Standing Order, all I can say is we must have different copies, because not one word of the Standing Order permits that delay. In fact I suggest that the effect of your ruling is to defeat the right that is given to members under that very Standing Order, because you, Sir, could order that the document not be tabled until next Wednesday week, until the rising of the House, or until next year; and, of course, that would be as futile a directive as any other directive.

In my respectful submission, Sir, you have absolutely no right to direct any delay in the tabling of the document and you have never done so on any occasion that I have been required to table documents. Not once have you suggested that there is any right at all for me to delay the tabling of those documents. In fact the request to delay tabling of this document did not come from the honourable member—it came from you.

I do not know why we should suddenly have a totally novel interpretation of Standing Order No. 151 from the Chair for no better reason than apparently Mr Williams might have some problems during the Committee debate. On any occasion on which I have been required to table documents, it has never been suggested that I might be inconvenienced by not having the documents available until the conclusion of the debate. Apparently what is sauce for the goose is not sauce for the gander. I do not believe it is a fair ruling for you to originate off your own bat without a request from the person who is being asked to table the document and it certainly is not proper on the wording of Standing Order No. 151.

Last year the Standing Order was amended after this issue arose. With respect, Sir, you are wrong also in suggesting that, while the member is speaking, another member has to get to his feet and ask for the documents to be identified. The obligation to identify the document is on the member quoting from it. It has nothing to do with whether or not I want to identify it. The point is that when a member quotes from a document, he is obliged to identify it. It is not for me to leap up in the middle of the member's speech and ask for the document to be identified.

With respect, that is what the amendment to the Standing Order was designed to avoid—interference in the middle of the member's speech. In any event, the member was asked to identify the document and he did so.

The problem you raised, Sir, is simply not relevant to this issue. I know Mr Gayfer hates reading the actual words of Statutes and Standing Orders and likes to say that lawyers should not do it, but, as a member of Parliament, will he forgive me for a minute if I suggest that the plain meaning of the words might be—

The Hon. P. G. Pendal: We will excuse you for a week.

The Hon. PETER DOWDING: —of some assistance to him and to members of the House.

If it is desired to give the President discretion to direct the later and subsequent tabling of documents, the Standing Orders should provide that discretion. Standing Order No. 151 states—

> (a) A document quoted from by a Member not a Minister of the Crown shall—

It means that it is mandatory. To continue—

> (i) at the time such quotation is made be identified; and
>
> (ii) on request from any Member immediately upon the conclusion of the speech of the Member who has quoted therefrom, be tabled.

The Hon. H. W. Gayfer: I would have to get a legal opinion!

The Hon. PETER DOWDING: I would not have thought one would need much more than one's native and intuitive cunning to understand what is meant by that Standing Order. It provides that the document shall be tabled, and shall be returned after 72 hours.

Mr President, what you are suggesting is that you could direct that the document not be tabled for 72 hours, and then under subclause (b) of the Standing Order it would have to be returned immediately. That is not what the Standing Order says, and it is not what the Standing Order is designed to effect. I know members may see this matter as one on which they should vote on party political lines, but I would suggest that if we are simply to run in the face of Standing Orders we will continue the problems of this Chamber, whether or not members opposite have a majority in it. The Standing Orders must be complied with. They do not give a discretion; they require the mandatory tabling there and then of a document quoted.

The Hon. G. C. MacKINNON: It is well that we have members present who were on the Standing Orders Committee which drafted this Stand-

ing Order, because it is a classic example of a Standing Order being quite difficult to interpret.

I agree with the Hon. Peter Dowding, but I must admit that he makes it extremely difficult for anyone to agree with him. It is funny how certain people have that knack. Obtaining agreement certainly is not his forte. I shudder to think of the situation in which he might find himself if ever he were a Minister with a minority in this House. Be that as it may, I still think clause (a)(i) of this Standing Order means that the member on his feet should identify the document forthwith as he refers to it. That is a standing rule of this place, and we all do that. I am sure it was an oversight on the part of Mr Williams—

The Hon. J. M. Berinson: He did identify it.

The Hon. G. C. MacKINNON: Very well; we all do that. However, we are all a little furry on the point of the Hon. Peter Dowding, who would have us believe that the tabling of the document is clear-cut. If it were as he intimated, the Committee would have included the word "forthwith" at the end of Standing Order No. 151(a)(ii).

The Hon. Peter Dowding: It would equally apply.

The Hon. G. C. MacKINNON: The provision cannot apply to both. I think it means that the member who wants the material tabled does not interfere with the speech. I agree with Mr Dowding on this as well; he must wait until the conclusion of the speech to make his request. I think that is the interpretation. If the committee meant that the document be tabled forthwith it would have included the word "forthwith". I hope that Mr Williams has been able to photocopy forthwith this document, and will have a copy sent to each member, but that is a decision for him. He may indicate the page in *Hansard* on which the material is recorded.

It would be interesting to hear from members of the committee as to whether they think the word "forthwith" should have been included. I wonder whether they believe reference should have been made to the document's being tabled at some convenient time during the debate. My interpretation is that the latter possibility is the strict interpretation of the Standing Order.

The Hon. V. J. FERRY: This matter raises one or two interesting situations. Mr President, I believe your ruling is reasonable in the context in which the matter has occurred tonight in this House. Standing Order No. 151 has been quoted, and the Hon. Graham MacKinnon pointed out that the Standing Order provides that the document will be tabled at any time of the debate associated with that document. In the context of working in this House, it is not unreasonable that certain documents be retained temporarily by the member who has agreed to table those documents. If there were some urgency that the documents be scrutinised by the member requesting that they be tabled, they could be made available to that member on a temporary basis, on the understanding that they were handed back to the member on his feet.

The Hon. Peter Dowding: I agree with that, but Mr Williams will not.

The Hon. V. J. FERRY: That way of proceeding would be better than our having the House tied to a set time.

The Hon. Garry Kelly: What is the point of tabling the document after the debate?

The Hon. V. J. FERRY: It would be a public document; it could be used by anyone.

The Hon. Peter Dowding: No, it's tabled for only 72 hours.

The Hon. V. J. FERRY: I did not mention any time limit.

The Hon. Peter Dowding: I did.

The Hon. V. J. FERRY: Good luck to the Hon. Peter Dowding. A member may request that the member on his feet make available the documents being quoted, and the member on his feet may agree that they be made available. In that situation there would be no argument. Mr President, I see your ruling as a practical way for the working of this House. I do not see any difficulty with it.

The Hon. J. M. BERINSON: This is not a large enough issue to protract, but I think a small and practical point is worth bringing into the argument. As well as the literal meaning of the Standing Order, which must be understood in the terms suggested by the Hon. Peter Dowding, there is the important practical consideration raised by interjection by the Hon. Garry Kelly that relates to the purpose of the tabling provision. One purpose, indeed, may be for public scrutiny at leisure, but another purpose, at least as important, is to enable an examination of that document for the purposes of reply in the course of the same debate.

Mr President, in terms of your ruling we have a position in which Mr Williams is not required to table his document until the debate is concluded. In that ruling, I see no restriction to the debate on the motion for the second reading; in fact we are talking about the whole debate. In the circumstances of proceedings tonight that means the document would not be tabled until the Bill is passed through the House and has satisfied all the

requirements for enactment. I put it to you that that is preventing the possible use—a perfectly legitimate use—of that document by members of the Opposition. I do not think a scrap hangs on the actual document—I do not think we will want to use the document even if we do see it now—however, the point is that something quite novel has been raised which, on a future occasion, could have more important implications. On that basis it is worth our while to take care of the situation, and not create a precedent which at some future time could have more serious results.

The Hon. FRED McKENZIE: Mr President, if your ruling in respect of the tabling of all documents is agreed to I envisage a problem occurring. The situation might arise in which a debate is adjourned to save a member having to table a document on the night or at the sitting during which a request was made for its tabling. If a debate were adjourned until the next sitting of the House, the intent of the Standing Order would be destroyed. If the debate were adjourned we might not have the particular document tabled for some time.

The Hon. Garry Kelly: It could be two weeks or three years.

The Hon. FRED McKENZIE: In fact, the document may never be tabled if the debate is not resumed. The intention of the Standing Order is perfectly clear; upon the request of any member, the member on his feet immediately upon the conclusion of his speech must table the document requested to be tabled.

Mr President, if your ruling is agreed to, in the future we may be in the situation of documents never being tabled. The debate may be adjourned, or the matter before the House may lapse, or the Parliament may rise. This could happen for any reason whatsoever.

The Hon. P. G. PENDAL: I will make a brief contribution to this debate. Quite clearly, I will support your ruling, sir, because we have reached here the height of absurdity. A comment was made by the Hon. Peter Dowding, and unfortunately added to by the Hon. Fred McKenzie to the effect of asking what would happen if you were telling us that the document did not need to be tabled until the end of the Committee stage. The point was made by the Hon. Fred McKenzie that it could be two weeks, six months or a year before the document was tabled. That is how absurd this situation has become. You have ruled that the document must be tabled after the Committee stage, so we will have it within the space of approximately 15 or 30 minutes.

The Hon. Peter Dowding: It could be longer.

The Hon. Garry Kelly: It would not be during the Committee stage.

The Hon. P. G. PENDAL: I wish these parrots would be quiet. I will come to this point in a moment. We have the absurd situation of members suggesting that a document may not be tabled for three weeks, three months, or three years. That is how ridiculous is the situation. I asked myself a few moments ago, "What on earth does this sort of nonsense do for the people of Western Australia and the people Mr Dowding and others purport to represent here?" We are merely wasting time. We are told we have important legislation coming here within the next 48 hours in order that we can end this parliamentary session, but we are being held up, not as a result of any serious point of order, but as a result of theatrics. That is the best and most charitable interpretation I can put on the matter. I suggest we get on with the task that should be before us.

In regard to your ruling, Mr President, I could be wrong but I suspect—I have been here all the time this matter has been discussed, so I did not have the opportunity to sit beside you—that one of the reasons you made the ruling was that the member handling the Bill in this place is a private member. If that fact has played any part in your decision, I commend you for it. Members of this House can expect a Minister to have all the answers; even on the occasions a Minister cannot answer a query, members often are charitable enough to say, "None of us has the wisdom of Solomon." I suspect your ruling has been given with the point in mind that this rather complicated Bill is being handled by a back-bencher, albeit a senior and competent back-bencher. If the intent of your ruling is to permit the back-bencher handling the Bill to retain access to an opinion from the Crown Law Department, QCs, certain learned gentlemen, or whomever he has referred to, until such time as the Committee stage of the debate has been completed, I commend you for the good sense—the plain, ordinary sense—you have adopted. I have become a little fed up by our spending so much time in this House arguing points of law and—if one likes—parliamentary etiquette which have absolutely no bearing on the ordinary people of Western Australia.

A couple of weeks ago an outcry occurred in this State when it was alleged that the opinion of Mr Ian Temby QC on the retrospective legislation before the Federal Parliament was abused and misused in the Western Australian community. I had some sympathy for the alleged misuse of that QC's opinion and said so in this House in defence of Mr Temby, who was put in an untenable and embarrassing situation. I would have thought that

after that sort of experience and the fact that it was so recent in the mind of the Hon. Peter Dowding, he might have had the ordinary, common decency not to put any learned counsel in the position in which he is putting that person tonight.

The Hon. Peter Dowding: Don't talk nonsense.

The Hon. P. G. PENDAL: We are discussing the people who send us here and we are discussing them at the behest of the member, who has raised a point of order that is nonsensical. In view of the fact that the President has ruled we can gain access to that legal opinion within 15 to 30 minutes, from the Table of the House, I suggest the reason the member is seeking the tabling of documents is not to gain information from that legal opinion but to make mischief.

The Hon. D. K. DANS: I rise to disagree with your ruling, Sir, and I refer members to Standing Orders in order to remind them what is involved. Any member in this Chamber, provided he acts within the Standing Orders, can move anything he so desires. Members should not complain on Friday morning when we are still here arguing this nonsense. I will not complain on Friday morning; I can give a written guarantee of that. I will not complain on Friday, Saturday, or Sunday morning.

The Hon. P. H. Wells: Well, come back next week.

The Hon. D. K. DANS: Mr President, you would be very well aware of the reason that this Standing Order was changed. It was changed when Mr Cooley was asked to table a document. The Standing Order was found to be not sufficiently explicit, and it was changed.

Mr Cooley was asked to table a document and someone said that he had altered it. He could well have; I do not know. The document was tabled after the tea adjournment. We all agreed that the Standing Order be changed and it is quite plain to me that the Standing Order means what it says, which is—

> (a) A document quoted from by a Member not a Minister of the Crown shall,
>
> (i) at the time such quotation is made by identified; . . .

Mr Williams was asked and he identified it. There is nothing wrong with that. To continue—

> (ii) on request from any Member, immediately upon the conclusion of the speech of the Member who has quoted therefrom, be tabled.

I may stand corrected, but I understand that after some initial confusion by Mr Williams—and I understand his confusion because he had been putting a case on behalf of a Minister—he said he would table the document—not after the Committee stage; he said he would table the document. That is what the Standing Order says—

> . . . immediately upon the conclusion of the speech. . .

It continues to say—

> (b) Documents tabled by a Member in accordance with this Standing Order shall be returned to that Member after the expiration of 72 hours.

If this Chamber does not agree with that I would suggest we do what we did previously, when the situation occurred with Mr Cooley. That is how the Standing Orders change. Perhaps we should amend it again so that it will say "when the debate is concluded". It stands to reason that if we want the document tabled during the currency of the debate, it would be so that it could be perused and used in the Committee stage.

When listening to the Hon. John Williams, I did not note anything underhand in the document; however, in order that the Standing Order is clear I ask members to consider what occurred before the change was made. Mr Cooley had a blank sheet of paper but said he had written out another document.

If anyone wishes to argue the contrary, I suggest we do not need a Queen's Counsel or learned counsel; because if a document is tabled that is the end of the matter. I disagree with the President's ruling.

The Hon. R. G. PIKE: I have followed this debate closely and would like to put forward my point in order that I understand the matter and have it clear in my mind.

The PRESIDENT: Order! I ask the honourable member to speak up because I am a bit interested.

The Hon. R. G. PIKE: You have a proclivity to change, Sir. The President said that if we were to enter the Committee stage after his ruling, the document should be tabled after the Committee stage. I understood you, Sir, to say, if the Committee stage were postponed, the document would be tabled at the end of the second reading, that is, before we went into Committee at a later time. The ruling is important and I wish to make it clear in my mind that this is exactly what we are debating.

The PRESIDENT: Order! The honourable member cannot ask me that question.

Several members interjected.

The Hon. Robert Hetherington: It is a rhetorical question.

The Hon. R. G. PIKE: I make the point that I support your ruling, Sir, and in the absence of confirmation from you, I think that is the ruling we are debating, I wanted to make it clear for the purpose of the debate.

The Hon. ROBERT HETHERINGTON: I wish to disagree with your ruling, Sir. I think I have no choice but to disagree with your ruling. This House has no room for judge-made law or President-made law. The Standing Order is quite clear. I know it is clear because I helped to write it.

The Hon. P. G. Pendal: That is probably why we are arguing now.

The Hon. ROBERT HETHERINGTON: I was only one. However, it is quite clear that it says a document quoted from by a member, not a Minister of the Crown, shall, on request from any member, immediately upon the conclusion of the speech of the member, be tabled. It does not say "immediately upon the conclusion of the debate", and it does not say "immediately upon the conclusion of the second reading". It says that it shall be tabled immediately upon the conclusion of the speech of the member in which it was identified.

The Hon. R. J. L. Williams: Don't go crook at me, he made the ruling.

Several members interjected.

The PRESIDENT: Order!

The Hon. ROBERT HETHERINGTON: As far as I am concerned it has nothing to do with common sense; it has nothing to do with desirability; and it has nothing to do with whether we are going to sit here on Friday, Saturday, Sunday, or Monday. It has to do with the Standing Order, and the Standing Order says that immediately upon the conclusion of the speech of the member the document shall be tabled. If we are not to follow that Standing Order we are to break the Standing Orders. As far as I am concerned, if we have Standing Orders to run a House of Parliament it is important that we do not breach them. It is quite an important thing; it is important to the Parliament and it is important to the people of the State. It is important to everybody.

If we do not like the Standing Order we should change it. Because of the occurrence with Mr Cooley in the last Parliament we decided we did not like the Standing Order and we changed it.

The 72-hour rule was placed in the Standing Order because otherwise if something were tabled in this House it would belong to this House for all time. Therefore, I cannot see that your ruling, Sir, can stand because it is contrary to the words of the Standing Order.

We must in our Standing Orders, as we must in law, read the words. The words of the Standing Order are quite clear in that once the member has completed his speech and another member has requested it, the document must be tabled.

I suggest to members opposite and to the Leader of the House, who is an eminent lawyer, that they should agree with this on this occasion, no matter how unpalatable they may find it to agree with the Hon. Peter Dowding.

The wording of the Standing Order is quite clear, therefore, I regret I have to disagree with your ruling, Sir. I believe the House should disagree with the ruling; otherwise the words of the Standing Order will mean whatever the President wants them to mean and therefore place us in an Alice-through-the-looking-glass situation.

The Hon. I. G. PRATT: The honourable member who has just resumed his seat is obviously wrong. If we consider what he has said we note that he took the last paragraph of the Standing Order and claimed that is what it referred to. If we consider the beginning of the paragraph we note it obviously refers to when a request must be made. It states "on request from any Member, immediately upon the conclusion of the speech. . ." That is when he has to make his request.

I support the President's ruling and make the point that the Standing Order applies also to the position of a Minister introducing a Bill who obviously has some privileged information.

The Hon. Robert Hetherington: He is not a Minister.

The PRESIDENT: Order!

The Hon. Robert Hetherington: I was not aware that Mr Williams was a Minister.

The Hon. D. K. Dans: He is in the box seat, he has agreed to everything and nothing is happening.

The Hon. I. G. PRATT: I hope *Hansard* recorded that ridiculous interjection. It is very clear that this Standing Order is there to protect a Minister who is introducing a Bill, so that he does not have to provide information which is contained in other documents.

The Hon. Peter Dowding: We all know that.

The PRESIDENT: Order!

The Hon. P. H. Lockyer: He is as thick as two short planks.

The Hon. I. G. PRATT: It is a losing battle trying to talk sense to him.

It is clear it is to give protection to a Minister. In this case a back-bencher has introduced a Bill.

Clearly, it is a Government Bill, and if a need exists for the Minister to have some protection for privileged information, a similar need exists for a person in Mr Williams' position to protect any privileged information he may have.

The Hon. Tom Stephens: Change the Standing Order.

The Hon. I. G. PRATT: If the member will be patient I will make a suggestion.

The Hon. Tom Stephens: It is difficult when you hear speeches like yours.

The Hon. I. G. PRATT: I have yet to hear one from that member which makes sense.

It is necessary to give protection to a person in Mr Williams' position. I will take that further—it is probably necessary for Standing Orders to give protection to a private member who is introducing a Bill; for example, the Hon. Lyla Elliott introduced a Bill in this House recently. It is possible she would need reams of information, some of which might be of a private and privileged nature. I believe it is reasonable she should have the same protection. Now perhaps the interjectors might understand what I am talking about.

The Hon. Tom Stephens: Change the Standing Order rather than support a bad ruling on the existing Standing Order.

The PRESIDENT: Order!

The Hon. I. G. PRATT: What the impatient interjectors do not realise is I am suggesting a need exists for us to review this Standing Order and perhaps—

The Hon. Garry Kelly: Again?

The Hon. I. G. PRATT: It is my impression that we need to review continually our Standing Orders to keep up to date with the requirements of the House. This is something the Standing Orders Committee should look at—whether the privilege given to a Minister of the Crown should be extended to any member who moves a Bill in this House, whether a private member's Bill such as that introduced by the Hon. Lyla Elliott, or a Bill on behalf of the Government such as that Mr Williams has introduced.

The Hon. Tom Stephens: He wants retrospective Standing Orders.

The Hon. Robert Hetherington interjected.

The Hon. I. G. PRATT: I do not know whether Mr Hetherington is looking for retrospective Standing Orders. I have not suggested it.

The Hon. Tom Stephens: Why are you supporting the President on this?

The Hon. I. G. PRATT: Because the President happens to be right.

The PRESIDENT: Order! I ask the Hon. Mr Stephens to cease his interjections. If he wants to make some comment on the matter, there is plenty of time.

The Hon. P. H. Lockyer: Insufficient intelligence to get up.

The PRESIDENT: Order!

The Hon. I. G. PRATT: I did not say we should change the Standing Orders; I said the Standing Orders Committee should look at the matter. If the committee did that and the order was changed we would not waste time on nonsense motions. No doubt exists about the situation. You have ruled, Mr President, that the papers will be tabled; the honourable member has agreed they will be tabled. We are not facing the situation that we had with Mr Cooley, as Mr Dans would like—

The Hon. D. K. Dans: That was the real reason.

The Hon. I. G. PRATT:—when the President left the Chair while Mr Cooley made his private arrangement and we came back later. There is no suggestion that will happen here.

The Hon. D. K. Dans: That is why the Standing Order was changed.

The Hon. I. G. PRATT: The papers are here and are not about to leave the House. What is the danger? Some itty-bitty nit-picking is going on. I support your ruling, Mr President. You have ruled the papers will be tabled; everyone agrees they will be tabled. I suggest the Standing Orders Committee look at this order and clarify it with a view to extending the privilege that Ministers have to any person moving a Bill in this House. That should apply whether it is a back-bencher moving a private member's Bill, or a member moving a Bill on behalf of the Government as Mr Williams is doing.

The Hon. GARRY KELLY: I must disagree with your ruling, Sir. I refer to the comments of the Hon. Joe Berinson in which he alluded to an interjection I made in respect of the reasons that documents are tabled in the first place. The first reason is to make them public so they have the privilege of Parliament, and the second is to assist the debate. In this case, the second reason is germane because if the debate is to proceed forthwith into the Committee stage the Opposition wants to be in a position to look at the documents. Whether or not they are important, the fact is the Opposition has requested they be tabled, and Standing Order No. 151 demands it. If they are to be tabled at the end of the Committee debate under the terms of your ruling, they will be of no use to the Opposition during the debate. I also

understand the reason you may want the backbencher in this case to have access to the documents so he can refer to them himself; that is fair enough.

There is a way out. Under Standing Order No. 151 the document must be tabled immediately otherwise there is no point in having that provision in the Standing Orders. If the order is applied as I understand it, the document should be tabled immediately, and in these days of modern technology a device exists called a photocopier; the documents could be removed and copied, and copies distributed to people on this side and to the member in charge of the Bill. He would then have a copy of the document to refer to during the Committee stage and the original could be kept on the Table of the House until 72 hours have expired. In that way the debate will be facilitated, both sides will have access, and Standing Order No. 151 will be complied with in toto. Your ruling must be disagreed with in order to uphold the integrity of Standing Order No. 151, as changed in 1981.

The Hon. A. A. LEWIS: It is fascinating to hear the Opposition's arguments. The first thing members opposite assume—and I have not been in the Chamber but I have heard the majority of the arguments from other places—is that the member handling the Bill is dishonest; he is not reading from the opinion.

The Hon. Garry Kelly: That has nothing to do with it.

The Hon. A. A. LEWIS: I heard Mr Kelly in silence; I hope he will give me the same courtesy which is something he has not given to other members of the House for a long time.

The PRESIDENT: Order!

The Hon. A. A. LEWIS: I have plenty of time; I will be here all next week. If members want to join me it does not worry me one iota. It appears to me that every speaker on the Opposition side assumed the Hon. John Williams is dishonest and was not reading from the document.

The Hon. Peter Dowding: Rubbish!

The Hon. A. A. LEWIS: We are beginning to hear them squealing about it now. It may be, as Mr Kelly suggested, a good idea to get a photocopy of the document; but did Mr Dowding ask whether he could have a copy of the document?

The Hon. Peter Dowding: I have since.

The Hon. A. A. LEWIS: That is the nub of the question. Mr Dowding probably is frightened to go to the member and ask for a photocopy because of his own disgraceful conduct, so he is delaying the House on a pettifogging issue. If he were a man he could have walked around and asked for a photocopy which Mr Williams would have given him. Has Mr Williams at any time denied the member access to the quoted material or failed to say what was the piece of paper? It shows how inane the Hon. Peter Dowding is getting with his disagreement to your ruling, Mr President. He is trying to set you up, and to set up this House. I will not be set up.

Point of Order

The Hon. PETER DOWDING: I am exercising my right under the Standing Orders, not setting you up, or setting the House up. I ask that the words be withdrawn.

The PRESIDENT: Those words are not unparliamentary. There is no point of order.

Debate (on dissent from President's ruling) Resumed

The Hon. A. A. LEWIS: I will willingly withdraw them and say the member has a habit of playing with Standing Orders to make publicity for himself and to gain kudos among some people. Mr President, I think your ruling was an intelligent one because the running of the House demanded it. The Standing Order does not demand that the paper be put immediately on the Table; the request is the immediate thing. It is a great shame that so-called educated people—you and I, Mr President, are common people—who have had the opportunity of studying in the high halls of learning, cannot read the English language. I think it is a disgrace that ex-university lecturers, lawyers and suchlike cannot read English, and cannot read the Standing Order.

The Hon. J. M. Berinson: We could read it if we had a majority.

The Hon. A. A. LEWIS: That is an intelligent type of interjection. I am sorry it came from a gentleman who I know has been sick; it was as inane as are his leader's remarks.

The Hon. Peter Dowding: You are full of bile tonight. What happened? Was the wine too hot?

The PRESIDENT: Order!

The Hon. A. A. LEWIS: If I were the Hon. Peter Dowding I would ask for that to be withdrawn. However, as I have had no wine tonight I will not do anything about it except to say that Mr Dowding by innuendo is trying to smear another member. It is typical of his attitude.

The Hon. Garry Kelly: You are being hard.

The Hon. A. A. LEWIS: I will rip into Mr Dowding—and into Mr Kelly if I have much more of him. He makes even sillier statements

than Mr Dowding. He defeated the whole of the Opposition's case when he started to talk about photocopiers. The Hon. Peter Dowding admitted he did not go to Mr Williams and ask for a photocopy, or whether he might have a photocopy. Right through the Hon. John Williams' speech he said, "Sure, you can have it."

The Hon. Peter Dowding: He didn't say that at all. He has refused it.

The Hon. A. A. LEWIS: Mr Dowding should read *Hansard*.

The PRESIDENT: Order!

The Hon. A. A. LEWIS: Mr Williams has not refused it.

Point of Order

The Hon. R. J. L. WILLIAMS: Am I to understand I am being accused of refusing to table it? I have not refused to table anything.

The PRESIDENT: Order! The member is not being accused of anything. The Hon. A. A. Lewis.

Debate (on dissent from President's ruling) Resumed

The Hon. A. A. LEWIS: This is a very enjoyable debate because Mr Dowding a few seconds ago said Mr Williams was quite prepared to give him a copy. Do we believe this man who at 17 minutes to 10 said Mr Williams would not give him a copy, and a few minutes ago said that he would have given him one?

The Hon. Peter Dowding: I did not say that.

The Hon. A. A. LEWIS: Mr Dowding should read his interjections in *Hansard*. He should stick to the truth and not try to be smart. He should not try to set up the whole of the House—the member can take objection to that if he wishes. Mr Dowding by interjection has changed his mind twice since I started to speak. Is this the sort of thing we want in this House; the sort of behaviour we want?

The Hon. Tom Stephens: Members changing their minds while you are speaking?

The PRESIDENT: Order!

The Hon. A. A. LEWIS: The member might interject from his own seat!

The PRESIDENT: Order! The honourable member is not allowed to interject from anywhere, and he is certainly not allowed to interject from where he is sitting.

The Hon. A. A. LEWIS: The honourable member has not been here for very long, and, like the Hon. Peter Dowding, he has a lot to learn about the forms of the House. I believe that your ruling was a common sense one, Sir, and that this House should refuse to support such a nit-picking motion.

The Hon. N. F. MOORE: I wish to support your ruling, Sir. It is quite clear that the word "immediately" in the Standing Order refers to a request for a member to table a document. It does not refer to anything else. It says that at the end of a member's speech, another member may request the tabling of the document.

The Hon. Robert Hetherington: Do you mean they can table them any time they like after that?

The Hon. N. F. MOORE: The Standing Order does not use the word "immediately" in respect of the timing of the tabling of a document.

The Hon. I. G. MEDCALF: It is quite clear, Sir. The construction you have placed upon this Standing Order is quite tenable. It has been quite well aired already, and the construction is perfectly tenable.

The Hon. Robert Hetherington: Not correct.

The Hon. I. G. MEDCALF: It is certainly very practical, particularly when a member is speaking in this House on behalf of a Minister in another place, as happened on this occasion. I think your ruling deserves support.

The Hon. TOM McNEIL: I disagree with your ruling, Sir. This is going on for so long that it is like the Lindy Chamberlain case. Some of the comments made are really quite ridiculous.

The Hon. A. A. Lewis interjected.

The Hon. TOM McNEIL: I do not want to be here any longer than necessary. If the Hon. Sandy Lewis wants to come back on Saturday, that is all right for him. The Standing Order is quite explicit and it is rather ridiculous that members are trying to back you up, Sir; but I can understand it.

Several members interjected.

The Hon. TOM McNEIL: I can understand members trying to back up the President, but the suggestion in regard to the use of the word "immediately" is stupid. For the benefit of members, I will refer to the Standing Order. It says—

> (a) A document quoted from by a Member not a Minister of the Crown shall.

And that is Mr Williams. It continues—

> (i) at the time such quotation is made be identified; and
>
> (ii) on request from any Member, immediately upon the conclusion of the speech of the Member who has quoted therefrom, be tabled.

The Hon. Robert Hetherington: It is quite specific. It does not say you can wait a year to table it.

The Hon. TOM McNEIL: I disagree with your ruling, Sir.

The Hon. PETER DOWDING: I am sorry that members opposite have not addressed themselves to the central issue. Members will be aware of the old adage that hard cases make bad law. It is quite clear that this is a hard case that could make bad law. If the Hon. John Williams had wanted to avoid placing the President in the situation of having this debate, all he had to do was supply me with a copy of this opinion. However, he chose not to do that. Let us get it quite clear: I invite the Hon. John Williams now to put us in a situation where the motion may be withdrawn.

Several members interjected.

The Hon. PETER DOWDING: I invite the Hon. John Williams now to give me a copy of the document and the motion to disagree with the President's ruling, with the leave of the Council, may be withdrawn. We would not then put the President in this situation. This is my invitation: To avoid the problem of creating a precedent under Standing Orders in a case that quite frankly might cause concern equally to members opposite and to us in the future, the Hon. John Williams could interject, subject to the President's ruling as to the propriety of it, to say that he will do that.

The Hon. R. J. L. Williams: Subject to the President's ruling?

The Hon. PETER DOWDING: I am not asking him to table the document; I am inviting him to let me have a copy and in this way to avoid the necessity to table the document. There is the invitation.

The Hon. R. J. L. Williams: Subject to the President's ruling? The President said that I am to table it during the Committee stage.

The Hon. PETER DOWDING: I invite the member to supply us with a copy of it. I invite him now to interject to say that he will agree to give us a copy at any stage before the conclusion of the debate on clause 4.

The Hon. R. J. L. Williams: If I were to supply you with a copy of this, it would not alter the President's ruling.

The Hon. PETER DOWDING: No, but I would withdraw the motion to dissent. It is in the member's hands.

The Hon. A. A. Lewis: He has said it four times.

The PRESIDENT: The Hon. Peter Dowding is the only legitimate speaker, and I recommend that members listen to him.

The Hon. PETER DOWDING: Thank you, Mr President. I invite the Hon. R. J. L. Williams to avoid this House's wasting time—

The Hon. G. E. Masters: The arrogance of the man! Twisty!

The Hon. PETER DOWDING: —on a ruling that may cause members opposite as many problems in the future as it will cause us. It may necessitate perhaps an amendment to the Standing Orders. Mr Lewis has said that I have not asked before—

The Hon. A. A. Lewis: Mr Williams said it four times during my speech.

The Hon. PETER DOWDING: If the honourable member will listen for 30 seconds, he might find out.

Several members interjected.

The PRESIDENT: Order!

The Hon. PETER DOWDING: I do not believe we should be subjected to silly games.

Several members interjected.

The Hon. PETER DOWDING: Members opposite can say that it is a silly game. I simply take the view that if Mr Williams wants to avoid the necessity for this motion to go to a vote, he can right now, or at any time before we get to the debate on clause 4 of the Bill, give us a copy of the document, and that will put an end to the motion. I note, for the purpose of *Hansard*, that I will give him 30 seconds' silence.

The Hon. A. A. Lewis: Who do you think you are?

Point of Order

The Hon. R. J. L. WILLIAMS: On a point of order, Sir, I do not like ultimatums of 30 seconds, or indeed ultimatums at all. My point of order is this: If I now put this document on the Table—

The Hon. Robert Hetherington: Nobody asked you to do that.

The Hon. Peter Dowding: Just give us a photocopy.

The Hon. R. J. L. WILLIAMS: —am I not in contempt of your ruling which is now being adjudicated, and which was to the effect, "You will do this after a certain thing"? If you, Sir, tell the House distinctly that you clear me of that contempt, I will agree gladly to the honourable member's request.

The PRESIDENT: My ruling is not the point to which the honourable member ought to be ad-

dressing himself. My ruling was that ultimately those documents had to be tabled. The point of order that the honourable member has raised escapes me. I cannot comprehend what he is asking. He has been told already that the document has to be tabled, so tabling the document will certainly not be in contempt of anything I have said. However, the Hon. Peter Dowding has the floor, and I ask him to continue.

Debate (on dissent from President's ruling) Resumed

The Hon. PETER DOWDING: So there is no misunderstanding, Sir, as I understand your ruling it was permissive and not mandatory. In other words, at any time between now and the expiration of the debate the member could table the document. It does not mean that if he tables it before the end of the debate he is in contempt of your ruling. That is my interpretation of your ruling, and I invite the member now to put an end to all this.

The Hon. A. A. Lewis: He has already said he is going to table it.

The Hon. PETER DOWDING: If the honourable member wants to table the document while I am on my feet the problem is at an end. However, this is a fundamentally important proposition and I am surprised at the Attorney General considering it to be a permitted interpretation of the Standing Order. The whole point of the Standing Order is that if a member quotes from a document, during that debate there must be an opportunity for other members to look at the document.

The Hon. I. G. Medcalf: And so there will be.

The Hon. PETER DOWDING: But not until the debate is over.

The Hon. I. G. Medcalf: It is certainly open to the interpretation the President put on it, and I think you ought to confine yourself to that particular argument.

The Hon. PETER DOWDING: With respect, I cannot accept that. Really the Attorney General would be hard pressed—

The Hon. A. A. Lewis: You have been beaten so many times it doesn't matter!

The Hon. PETER DOWDING: —to support that as a principle for statutory interpretation, where there is reference to a mandatory requirement and no reference to any permitted delay. One imports a delay particularly when the reason for the Standing Order is primarily to facilitate a debate. If the document is not tendered and presented until the end of the debate, how on earth can it facilitate the debate?

I am very concerned that members opposite should choose not to listen to the arguments because they take exception to me personally or because they want to use their numbers. How can they come to a conclusion on a Standing Order which will subvert its entire purpose? I am told now, and I ask for your confirmation, Sir, that the document has been tabled.

A Government member: You have had your Whip's confirmation—don't you trust him either?

The PRESIDENT: The honourable member must understand that he is to confine his comments to closing this debate. As far as I am concerned I have made a ruling and he has moved to disagree with my ruling. He is perfectly entitled to do that. He has made certain suggestions to members, and I am not in a position to guide anyone. I ask him to complete his remarks.

Point of Order

The Hon. PETER DOWDING: I ask you as a point of order, because it is important to the debate, whether or not the document has been tabled. Surely, Mr President, I could know that?

The PRESIDENT: I am advised that the document has been tabled.

Debate (on dissent from President's ruling) Resumed

The Hon. PETER DOWDING: In the circumstances, the document having been tabled, I make the remark that, with respect, it ought to have been tabled at the outset. That course would have saved an hour's debate.

The Hon. A. A. Lewis: You are challenging the President.

The Hon. PETER DOWDING: I am saying—

The Hon. A. A. Lewis: Small minded little man!

The Hon. PETER DOWDING: —that it ought to have been tabled—

The Hon. A. A. Lewis interjected.

The PRESIDENT: I ask the Hon. A. A. Lewis to cease interjecting.

The Hon. PETER DOWDING: —at the outset, and with great respect to you, Mr President, I believe your ruling in the circumstances is in error.

The PRESIDENT: The question is that the motion be agreed to.

The Hon. PETER DOWDING: In the circumstances of the document's having been tabled, I seek leave to withdraw my motion.

Motion (dissent from President's ruling), by leave, withdrawn.

Debate Resumed

Question put and passed.

Bill read a second time.

In Committee

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

Clauses 1 to 19 put and passed.

Clause 20: Sections 86 to 89, 91 and 92 repealed and new Division substituted—

The Hon. PETER DOWDING: I am fortified in my opinion about this clause now I have a copy of the Crown Law opinion which supports the proposition about which we have some concern. The honourable members who spoke nostalgically about the old shows they used to attend appear to have left the Chamber. They may be alarmed to know that the Crown Law officer concedes that showmen and people who run games of chance or mixed chance and skill may be caught by the provisions of this clause, and, if caught, it is proposed to exempt them by regulations. That seems a very strange way of going about it.

The Crown Law officer has supplied suggested wording for regulations; but there is absolutely no guarantee that the regulations will be introduced, if introduced will be passed, and if passed will not be objected to in one or other House of Parliament.

The problem is that between the proclamation of the Act and the introduction of regulations, an hiatus may occur resulting in activities being illegal which, at the moment, are legal. Perhaps the member in charge of the Bill might like to explain that conundrum. The member and I both have copies of the opinion from Crown Law dealing with what Mr Mitchell said. That opinion reads—

> Mr Mitchell's opinion is basically sound if somewhat alarmist, but his clients needs are easily met within the Bill's existing text.

It then goes on to point out that it is intended to have an exemption registration for showmen. If the honourable member believes I am inaccurate, perhaps he could say in what way.

The Hon. R. J. L. WILLIAMS: I can see where the confusion arises in the mind of the Hon. Peter Dowding. I refer him to my opening remarks when I said that this Bill does not set out to make unlawful that which is presently lawful or to make lawful that which is presently unlawful. In other words, if bulldozer, cascade, or whatever, is being played and has been played, and has been approved by the police, nothing under this Bill will make it illegal.

The Hon. Peter Dowding: Where does it say that?

The Hon. R. J. L. WILLIAMS: The Bill provides that there shall be within the Act, once proclaimed, regulatory power where any doubt is raised. In other words, it can be declared, by regulation, a lawful game. That is within the Bill at the moment as a safeguard. At present no game is played at showgrounds which is unlawful. The showmen's guild, which expressed concern about this matter, has been reassured on that point.

Obviously, if a bone of contention existed, the Government would say, "All right, we will regulate for this." It is precisely for that reason that the regulations clause was put into the Bill: to protect something that may, unintentionally, become unlawful.

The Hon. PETER DOWDING: If people are playing dominoes in the Supreme Court Gardens, is that a game of chance in a public place? If it is, what follows from that?

The Hon. R. J. L. WILLIAMS: By definition, I suppose the Supreme Court Gardens is a public place. The game of dominoes is not a game of chance, but a game of skill. The skill is in the manipulation of the cards and the placement of those cards by the various players to achieve a satisfactory solution.

The Hon. Peter Dowding: They are blocks.

The Hon. R. J. L. WILLIAMS: Dominoes are referred to, in domino games, as "cards".

The Hon. PETER DOWDING: Let us assume a game of snap. I am not familiar with the list of games.

The Hon. P. H. Wells: You know more than I do.

The Hon. PETER DOWDING: If children sat in a public place and played a game of snakes and ladders or ludo, would they commit an offence?

The Hon. R. J. L. Williams: Of course they would not.

The Hon. PETER DOWDING: Under proposed new section 86(1)(b), snakes and ladders is a game of chance or a game of skill—

The Hon. R. J. L. Williams: It is a game of skill.

The Hon. PETER DOWDING: Snakes and ladders relies entirely on the casting of dice.

The Hon. A. A. Lewis: I do not think that is right.

The Hon. PETER DOWDING: The trouble with comments by the Hon. Sandy Lewis and others is that they are not even looking at the Bill. I doubt that the Hon. Sandy Lewis has even read proposed new section 86. This is what the Crown Law officer said about this—

> For instance, in U.K. the playing of dominoes or cribbage on premises licensed for the sale of liquor is specifically provided for, we may have local requirements that should be spelt out—but no magistrate would be likely to convict, or impose any substantial penalty if he did convict, in such circumstances.

If one is playing dominoes or cribbage—games which are apparently conceded to be games either of chance or of mixed chance and skill—to say that a magistrate will not convict or will impose a minor penalty does not answer the proposition.

Let us consider snakes and ladders or ludo as games which are purely of chance. If they are played in a public place, under proposed new section 86(1)(b) they will be illegal *per se*. It does not matter, in fact, whether any betting occurs on the games. Surely that is not a desirable situation.

The Hon. R. J. L. WILLIAMS: The Hon. Peter Dowding is drawing the long bow. He has an opinion which I provided to him, but he will not catch me because I probably understand the document better than he does. I will quote the whole paragraph so that the Committee knows what it is about—

> For instance, in U.K. the playing of dominoes or cribbage on premises licensed for the sale of liquor is specifically provided for, we may have local requirements that should be spelt out—but no magistrate would be likely to convict, or impose any substantial penalty if he did convict, in such circumstances. The usual conditions imposed by the regulations are intended to ensure—
>
> (a) that the games are not played on the premises or on a part of the premises in such circumstances as to constitute an inducement to persons to resort thereto primarily for the purpose of taking part in gaming at those games; and
>
> (b) that any such gaming does not take place for high stakes.

So if we have a public place like the Supreme Court Gardens where four children gather to play a game of ludo, which is a mixture of skill and chance, no offence is committed because the Supreme Court Gardens is not a place to which people resort for playing games of chance. It is doubtful that the children would be playing for large sums of money.

Under the law of the United Kingdom, every licensed premises which has seating accommodation is licensed also for the playing of games of darts, cribbage, dominoes, and you name it. The players are formed into leagues, and they play on to finals all around the country.

The learned counsel is merely giving an example of what happens in one place, and what can happen there. I know that the Bill has been amended.

The Hon. PETER DOWDING: I will not delay the Committee unduly; but Mr Williams has not read proposed section 86(1)(b). I invite honourable members to read it. We might have had a barney about Standing Order No. 151; but surely one cannot read this proposed new section in any way other than that, subject to subsection (3), the playing of any game of chance in any public place is unlawful. It does not matter where it is played; it is deemed to be an unlawful game. Proposed new subsection (3) provides that a game can be exempted.

Regulations may be issued to provide that kids playing ludo in the Supreme Court Gardens will be exempted. It is wrong that we should be asked to pass a Statute which provides that those children are participating in an unlawful game. That is a major criticism of the Bill.

I cannot, for the life of me, understand how one can say under proposed section 86(1)(b) it is unlawful.

The Hon. R. J. L. WILLIAMS: The proposed new section reads as follows—

> 86. (1) Subject to subsection (3) of this section, the playing of—
>
> (a) thimblerig;
>
> (b) any game of chance at any public place to which the public have or are permitted to have access;
>
> (c) any game the playing of which is declared to be unlawful, or to be unlawful in prescribed circumstances, pursuant to regulations made for the purpose of this subsection; or

(d) any game that is a variant of, or of a similar nature to, a game of a kind referred to in this subsection and which is played in such a manner that the chances therein are not equally favourable to all the players, is unlawful and any such game, and any game played at a common gaming house, shall for the purposes of this Act and of any other Act which refers to unlawful games or gaming, be deemed to be an unlawful game.

All of that is pursuant to subsection (3) which provides—

(3) Regulations made for the purposes of this section may provide that subsections (1) and (2) of this section shall not have effect in relation to any game or gaming if the game played is of a kind specified in the regulations and is played in such circumstances and so as to comply with such conditions (if any) as may be prescribed by the regulations in relation to that kind of game.

Both subsections (1) and (2) are exempted by subsection (3).

The Hon. PETER DOWDING: That is not an answer.

Let us follow it through. Proposed new section 86(1) provides that certain games are unlawful. Subsection (2) provides that it is not the betting on those games which is unlawful, it is the playing of them. Subsection (3) provides that some of the games that fall within the category may be exempted.

Surely we are not going to have a regulation that exempts ludo, snakes and ladders, and other games that can be bought from shops. Surely we do not make an offence of perfectly harmless activities and then say that at some later stage we will introduce regulations to make them lawful. We do not create an offence in respect of a perfectly harmless act, and then say later we will introduce legislation to make it not an offence. Children playing ludo in Supreme Court Gardens could be fined $1 500.

The Hon. R. J. L. Williams: Rubbish!

The Hon. PETER DOWDING: The point is that proposed section 86(2) provides that they can be fined $1 500. They will not be, but the point is we have created a penalty to cover that situation. Under this subsection it is not betting that is illegal, it is not the gambling that is illegal, but the simple playing of a game of chance that is illegal. Can Mr Williams tell me where I am wrong?

The Hon. R. J. L. WILLIAMS: Proposed section 86(2) does not refer just to playing. It says, "any person playing or betting".

The Hon. Peter Dowding: Let us ignore the "or betting" for the moment.

The Hon. R. J. L. WILLIAMS: Proposed section 86 deals with the hitherto undefined area of unlawful games and replaces the provisions repealed by clause 6 of the Bill. On that point I do not have to go any further.

The Hon. PETER DOWDING: I really think members will be doing their electors a disservice by agreeing to pass legislation which clearly is not responsible. It cannot be responsible to make a whole series of perfectly innocent acts illegal, and then say that, some way down the track, we will introduce regulations to make them legal again, which is what is proposed. If I am wrong, Mr Williams should show me where I am wrong.

Where does the Bill say that games of chance, if played in a public place, are not illegal? The Bill specifies that they will be illegal. It merely says that at some later stage we can have regulations drawn up which will make those games lawful. I find that a repulsive way to legislate. I find it repulsive simply to say, "Let us have a blanket prohibition against a whole range of games and then make them lawful and proper further down the line." In the meantime, the innocent people playing these games can be prosecuted. I ask the Member to obtain information from the Crown Law officer in the Chamber, from the Minister, or from someone else, so that he can provide a response, because if I am wrong, if there is some inaccuracy in my proposition, that is not clear on the face of proposed section 86. It is a matter of great concern to me that all this activity, however innocent, can become illegal.

Let us take the example used earlier by Mr MacKinnon. He mentioned the show and the game of chance where someone places a ping-pong ball in the mouth of a clown and it is delivered by pipe into one of a number of sectors. That is a game of chance played in a public place, and the playing of that game will be an offence unless it is exempted. Will this be true of so many situations merely because the draftsman cannot come up with an adequate definition to encompass the various illegal activities which should be made illegal under the philosophy of the Bill?

The definition of a "public place" actually can be extended into other areas. A public place is an area where the public are permitted to have access if it is for the time being open to the public. That could be a church hall, or a shop where children might play a game in the corner. All these

situations could make the playing of these games illegal. The definition includes a doorway, an entrance, and any ground adjoining and open to that place; it is not simply in a park. It can be adjacent to premises to which the public have access.

Proposed section 86(1)(d) makes illegal a game in which the chances are not equally favourable to all the players. Presumably, if we have a game of chess, we have a game of skill and some chance.

The Hon. R. J. L. Williams: Then it is not an unlawful game.

The Hon. PETER DOWDING: But it may be played in a manner where the chances are not favourable to all the players. If someone said he would begin without two bishops and two rooks, he is giving himself a handicap, so what would happen then? Suddenly the people in Stirk Park in Kalamunda playing chess with those outsize pieces would be committing an offence. I know Mr Gayfer hates lawyers trying to interpret Statutes, but where can Mr Williams show that my interpretation is wrong?

The Hon. R. J. L. WILLIAMS: I come back to the situation of common sense. I would dearly love the Hon. Peter Dowding to defend me in court for playing a rigged game of chance. He would be laughed out of court if the police were able to get me there for a start, and well he knows it. He is drawing the longest of long bows when he says this is possible, when in all his legal experience he has never objected to the provision as it already exists as section 66(6) of the Police Act. This clause is merely replacing that section in the Act. The law has not been altered, and that is the nub of the matter. This is the present law in this State and this is how it will remain.

The Hon. GARRY KELLY: During the second reading debate Mr Williams said the Bill will not make lawful anything that is unlawful. As I understand it, two-up at present is unlawful. As I read proposed section 86(3), regulations could be introduced to make that game lawful. Am I correct?

The Hon. R. J. L. WILLIAMS: "And is played in such circumstances and so as to apply with such conditions as can or as may be prescribed by the regulations in relation to that kind of game"—those words appear in the Bill; so "Yes" it can be made legal. But that is not the intention of the Bill; its intention is not to make anything unlawful that is presently lawful or anything lawful that is presently unlawful.

The Hon. GARRY KELLY: Mr Williams has said that it is not the intention of the Bill to make lawful anything which is unlawful; but proposed section 86(3) could make two-up lawful by way of regulation, irrespective of what the member says is the intention of the Act.

The Hon. PETER DOWDING: I do not accept that this provision has the same effect as section 66(6) of the Police Act, which lists a whole range of games and which, in my submission, would effectively read down the meaning of the words "any game of chance", because the words "any game or pretended game of chance" appear at the end of the list, and this is a penal Statute; the courts inevitably read them down. This will not occur under proposed section 86 where we do not have that list in the same way.

I cannot understand how this legislation should be introduced like this when what we need to do is not to say that a whole range of proper activities will be made legal in due course. Where are these regulations? Perhaps Mr Williams can tell us what will happen after the Bill is proclaimed as an Act and we have a show at Port Hedland or Meekatharra. Will we have the situation where people will be playing games which are perfectly proper, but which really are games of chance? These people will be committing an illegal act unless regulations are introduced to exempt these games. If the regulations are ready, perhaps we can be told what they say.

The Hon. R. J. L. WILLIAMS: As I said in my second reading speech, the regulations are not ready; it was not intended they should be ready. The Bill merely says that provision will be made for making regulations as and when games are found to have been made unlawful. If any game is made unlawful by the introduction of this Bill, a regulation can be introduced to rectify the position.

The Hon. PETER DOWDING: Let me take another tack and draw the attention of the Hon. John Williams to the definition of a game of chance. Up to now we have been hypothesising about pure games of chance. The member has not conceded that games of chance are defined to mean something other than games of chance. The definition indicates that a game of chance does not include any athletic game or sport, but subject to proposed subsection 86(2) it includes a game of chance and skill combined. This means that the game of backgammon would be illegal as it combines both skill and chance; it is defined as a game of chance. The problem is that this broad definition encompasses a whole range of things which surely were not intended to be covered.

Proposed section 86(2) says—

> In determining for the purposes of this Division of this Part of this Act whether a game, which is played otherwise than against

one or more other players, is a game of chance and skill combined, the possibility of superlative skill eliminating the element of chance shall be disregarded.

What is an example? If one is playing—

The Hon. R. G. Pike: The fool?

The Hon. PETER DOWDING: —poker perhaps? As my learned friend Mr Berinson has pointed out, that extension to the definition is not in the Police Act; in other words, a game of chance is not excluded. I do not know whether members really agree with the thought that playing a game of chance or playing dominoes, backgammon, ludo or snakes and ladders, in a public place without any betting ought to be illegal. I do not think members are saying that ought to be illegal, yet that is the effect of the Bill.

I am pleased Mr MacKinnon is here now because he was concerned about the position of the old shows. We have a situation where every single game played at a show will be illegal until regulations are introduced exempting that game. Quoits will be illegal, throwing a coconut, ludo, and snakes and ladders—for the benefit of some honourable members who have not heard this fascinating discussion—will be illegal.

The Hon. H. W. Gayfer: We can hear you from the dining room.

The Hon. PETER DOWDING: Two games are at best mixed games of chance and skill which for the purposes of this Statute will be illegal. Surely that is not what the Government intends to do.

The Hon. I. G. MEDCALF: The honourable member has overlooked the fact that regulations are drawn before an Act is proclaimed. This amendment obviously will not be proclaimed until the regulations are drawn. There is no possibility that the situation that the member refers to could come about because the Act simply will not be proclaimed until the regulations are prepared and gazetted.

The Hon. G. C. MacKINNON: I understand that the right arm of a lawyer's skill is his knowledge of case law, and perhaps this applies to the honourable Peter Dowding. I am glad he warned the Chamber I was coming into it. The principal question the member raised in his last dissertation has been clearly determined by case law.

The Hon. Peter Dowding: No, it has been altered by a proposed section in this Bill.

The Hon. G. C. MacKINNON: I do not think that is true. I think the case law has quite definitely clarified the skill aspect.

The Hon. Peter Dowding: No.

The Hon. G. C. MacKINNON: I will put forward a proposition and I will be interested to hear the Hon. Peter Dowding, the Hon. Joe Berinson and the Attorney General argue it out on their recollections of case law. Perhaps they will tell me whether I am right or wrong. It is my understanding that a decision exists which precludes the need for, say, a total skill as exists, say, in archery or rifle shooting, and it also precludes the area of total chance, as occurs in some games; so there is a clearly determined element of skill. Quoits would be regarded as a game of skill and certainly not a game of chance; indeed, it has been determined even in the games of bulldozer and cascades that sufficient skill can be used in those games for them to be regarded as not entirely games of chance. I do not know. I would be interested if the Hon. Peter Dowding can quote me the case law which would meet my argument. It was my understanding that what he referred to has been determined. Perhaps the Hon. Mr Williams may have something on this subject in his notes.

The Hon. R. J. L. WILLIAMS: For the clarification of the definitions, I refer the Hon. Peter Dowding and the Hon. Graham MacKinnon to the following: The definition of a "game of chance" is taken from section 52(1) of the Gaming Act of 1968 of the United Kingdom, *Hansard*, third edition, volume 14. No doubt the Hon. Peter Dowding is familiar with that law. "Gaming" also is taken from section 52(1) of the Gaming Act 1968 of the United Kingdom. The definition of "player" is taken from section 55(1) of the betting, gaming and lotteries Act of this State. "Premises" is taken from the definition given by Mr Paul Nichols in his book *Police Functions of WA*, page 106.

The Hon. PETER DOWDING: I am a little alarmed by the Attorney General's comments on this Bill because they seemed to me to be a complete abrogation of the responsibility of Parliament. The Attorney General said, "Look, don't worry about it. We will make a whole range of conduct illegal, but trust us because before it actually comes into effect a whole range of conduct that you won't know anthing about and won't have any chance to deliberate on will be made legal." That is the effect of what the Attorney General said and it is a pretty alarming way to run a legislative programme.

The Hon. I. G. Medcalf: That was in answer to your comment that you would not know until a later stage. The Act will not be proclaimed until the regulations are prepared. That is the invariable practice.

The Hon. PETER DOWDING: All right, that is fine; but Parliament does not know when it passes the Act what particular games and behaviour are to be made illegal.

The Hon. I. G. Medcalf: That is another subject altogether.

The Hon. PETER DOWDING: I am glad the Attorney General agrees with it.

The Hon. I. G. Medcalf: I said that is another subject. That is all I agreed with.

The Hon. PETER DOWDING: If the Attorney General is merely saying—

The Hon. I. G. Medcalf: That is not the proposition you made.

The Hon. PETER DOWDING: —that on a narrow point we should trust him to bring down the regulations by the time the Act is proclaimed, I do not really think that is fundamental to the point I am making. What is fundamental to my point is that the Attorney General is asking us to pass legislation when he will not tell us what conduct will be illegal.

The Hon. I. G. Medcalf: Now you are making another point.

The Hon. PETER DOWDING: Perhaps the Attorney would like to answer it.

The Hon. I. G. Medcalf: The first one is disposed of.

The Hon. R. J. L. WILLIAMS: Finally, I reiterate to the Committee that nothing in this Bill will make unlawful anything that is presently lawful.

The Hon. Garry Kelly: You just said two-up will be illegal.

The Hon. P. G. Pendal: He didn't say that at all.

The Hon. Garry Kelly: He did.

The Hon. R. J. L. WILLIAMS: I refuse to listen to that interjection and I merely repeat that statement.

The Hon. Garry Kelly: You keep saying it, but it does not mean it is true.

The DEPUTY CHAIRMAN (The Hon. I. G. Pratt): Order!

The Hon. R. J. L. WILLIAMS: If by any chance anything is produced by the time that this Bill becomes an Act and is proclaimed—and it is possible; anything is possible in life—we could deal with the regulations in due course and table them in this Chamber.

The Hon. Garry Kelly: They will give you a blank cheque.

Clause put and passed.

Clause 21 put and passed.

Clause 22: Section 90 amended—

The Hon. PETER DOWDING: We are very concerned about any provision which requires a person to answer questions and make admissions and we really do not believe that the requirements set out in clause 21 are appropriate. We do not propose to vote against this now because we think this Bill will fall fairly flat until the regulations are drawn and then problems will be found in trying to exclude ludo and other games, and the Government will not be able to deal with the situation. I make the point that from a civil liberties point of view we are very unhappy about any provision that makes that requirement.

Clause put and passed.

Clause 23: New sections 90B and 90C inserted—

The Hon. PETER DOWDING: Proposed section 90B(3) contains a time limit of 21 days for an application to be made to the District Court and it seems to us that the 21-day period should run from the date of service of the embargo notice and not from the date of the embargo notice because the embargo notice might not ever have been served or come to the attention of the owner within that time; hence he might not have 21 days if it runs from the date of the notice rather than from the date of service of the notice.

While I am on my feet perhaps Mr Williams could explain to us why although a magistrate is permitted to make orders for fines of up to $10 000, we must go to the District Court to order forfeiture of gaming equipment. Why cannot that be done by a magistrate?

The Hon. R. J. L. WILLIAMS: Clause 23 adds two new sections applicable to all proceedings under part VI of the Act, not just the betting and gaming definitions. Section 90B(1) gives a right to third parties to make claims to the court in respect of items likely to be forfeited and subsections (2) to (8) set out an embargo notice procedure similar in most respects to that provided in the Misuse of Drugs Act 1981, which will apply where items are too large or inconvenient to be seized or taken into custody.

Section 90C deals with district court applications and orders in relation to embargo notices. As they are taken from procedures within other Acts, they have to go to the District Court. The embargo shall be heard in the District Court.

The Hon. PETER DOWDING: Some injustices might flow if the embargo notice is not served on the date of the notice and the person receiving it does not have 21 days at all. It might be

served on the twentieth day and the 21 days could run from the date of the notice itself.

The Hon. R. J. L. WILLIAMS: I undertake to check that.

Clause put and passed.

Clauses 24 to 29 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

THE HON. R. J. L. WILLIAMS (Metropolitan) [10.46 p.m.]: I move—

That the Bill be now read a third time.

THE HON. PETER DOWDING (North) [10.47 p.m.]: We have completed the Committee stage of this Bill and there is no doubt that it will become law. It is important that I make this comment before the third reading is passed.

With due respect to the Hon. John Williams, he has not answered the criticisms that were raised. This House will now pass a Statute to make unlawful a range of conduct which no-one has any intention to make unlawful and we do so because we are assured that somewhere down the track regulations will be made to make not unlawful that range of conduct. We are not able to debate that range of conduct before the Bill becomes law and before it is defined in the regulations. We can only deal with this matter once the regulations are promulgated. Is that the way the House wants to conduct business, by making a broad range of conduct illegal and saying that somewhere down the line the Minister and the bureaucrats will make the conduct lawful? I take exception to that; it is a travesty of justice and a means of bypassing a full debate.

This is a sensitive issue and the House should debate that conduct which will be legal and that which will not be legal. We should not make conduct illegal without defining the operations that are illegal. It is a subterfuge by the Government which is running for cover before an election because it does not want too much controversy.

Question put and passed.

Bill read a third time and passed.

INDUSTRIAL ARBITRATION AMENDMENT BILL (No. 2)

Returned

Bill returned from the Assembly with an amendment.

Assembly's Amendment: In Committee

The Chairman of Committees (the Hon. V. J. Ferry) in the Chair; the Hon. G. E. Masters (Minister for Labour and Industry) in charge of the Bill.

The CHAIRMAN: The amendment made by the Assembly is as follows—

Clause 30.

Page 18, lines 10 to 18—Delete the definition of "employee organization" and substitute the following definition—

" "employee organization" means—

(a) industrial union of employees, whether constituted, incorporated or registered under this Act or any other Act or under any Act of the Parliament of the Commonwealth and by whatever name called;
(b) industrial association of employees registered under section 67; or
(c) association, society or other body that has applied to be constituted, incorporated or registered as an industrial union of employees referred to in paragraph (a) of this definition; ".

The Hon. G. E. MASTERS: I move—

That the amendment made by the Assembly be agreed to.

I seek the support of the Legislative Council for the amendment made in the Legislative Assembly. The intent of the amendment is understandable and it was the subject of some debate in this Chamber during the Committee stage. The definition of "employee organization" will create the wide cover that was intended to be achieved during the debate in this Chamber. I make it clear that we intended, if possible, to cover some of the unions included in the Federal register. It was felt it was necessary to make an amendment in order to obtain the cover we anticipated.

As a result of questions raised by the lead speaker in the Legislative Assembly in regard to some parts of the legislation, and in particular this clause, a further examination was undertaken. It was considered that if we were to achieve the purpose of the legislation a change was necessary to section 7(1) of the Act, which states that "union" means "a union that is registered". Our advice was that refers to unions registered under the State Act. Obviously we intended to cover a wider area than that in this legislation. We are simply pursuing what was set out in the Bill that was presented to this Chamber. I encour-

age honourable members to support the amendment.

The Hon. D. K. DANS: I oppose the amendment and I remind members that during the second reading stage I addressed myself forcefully to this section. At that time I tried to obtain from the Minister for Labour and Industry exactly what were the Government's intentions in respect of proposed new section 96A. Had he been quite clear during the second reading stage perhaps I would have been sure of what he meant. At no stage in replying to the second reading debate—and *Hansard* is available for the Minister to read—did he confirm or deny what I had put forward to him.

During the Committee stage, if my memory serves me correctly, in answer to the questions raised in relation to this clause the Minister said it was the Government's intention to "get everyone". I asked him what he meant by "get everyone".

Tonight we are presented with an amendment which says what I first thought the clause meant. It means, that it is a definition clause and somehow or other the Government intends, either rightly or wrongly—I cannot speculate—that federally registered unions will be included.

I would like to deal with the dangers inherent in this amendment in terms of industrial relations. I will not canvass the propositions I put forward in this Chamber in 1972 and 1973 which are now being pursued by Mr Ian McPhee. It is not for me to agree with Ministers of the Fraser Government on any issue but I agree with the approach by Mr McPhee on this question more than I agree with the approach being pursued by this Government.

I refer members to the amendment. It is a very sweeping provision. During the second reading debate I said this clause appeared to be aimed specifically at the Builders' Labourers Federation and the Transport Workers' Union. Perhaps one could be charitable and say, "If this is the case, we will forget about it." But now it has been opened up to the light of day and the Government is involving the Waterside Workers' Federation. I remind the Chamber that the WWF already has a High Court decision in its favour in the Hersey case. The Government is involving maritime unions which are very actively engaged in the North-West Shelf, which involves dangerous and hazardous conditions. The presence of those unions at the site is paramount to the successful completion of that operation, for safety and a number of other reasons.

Both of those organisations—and they comprise a number of unions—have, in addition to Federal coverage as unions through agreements and awards, the right to operate under a number of Acts of Parliament. None of the organisations—and I will include the Merchant Service Guild, the Institute of Marine Engineers, the Institute of Professional Radio Operators, and others—has a no preference clause. That might surprise the Minister. What they do have is a union monopoly.

In the case of the maritime unions, the members are governed by tripartite committees set up under the Commonwealth Government, comprising representatives of the unions, the owners, and the Commonwealth Department of Transport. On that score alone, the State Government is moving into a very dangerous area.

Irrespective of what the Government or the Minister intend to do with this legislation, and no matter how wide or narrow they intend to cast their net, they will leave the way open for people to act individually if they feel frivolous or just plain spiteful. The Government will then have to back its own judgment.

To my way of thinking, that will be fateful. If the Government wants to play with fire, that is the easiest way to be burnt. Another saying is that if one wants to lose one's brains, the easiest way is to bash one's head against a brick wall.

If I interpret correctly the Minister's comments in the Press, he seems to be engaged in vacillation. He said, "Well, maybe we will be proved wrong; maybe we will be proved right. Who knows?"

The Hon. Garry Kelly: Self-delusion, I would say.

The Hon. D. K. DANS: I do not know about self-delusion.

I find it difficult to speculate on the outcome of court actions. The only union I would put in the clear here is the Waterside Workers' Federation. I am sure the Minister's advisers would have told him of the High Court decision in the federation's favour. That gave it the unfettered and complete right to recruit labour on the waterfront. I do not know how many thousand dollars that decision cost.

On the basis of good industrial relations, I have to oppose this amendment. It would have been a far better proposition if the definition had been included in the original Bill. I was under the impression right from the word "go" that something was being sneaked through by stealth. Strangely enough, some most eminent people examined the Bill and did not pick that up. I did, because I have been in the Federal field nearly all of my working life, and I have not been as involved with State-registered unions.

It is not a question of whether the Government or the Minister is right or wrong. It is a question of whether section 109 of the Commonwealth Constitution takes precedence. We know it provides that Federal laws are superior to State laws. That was defined in one of the more complex Bills dealing with other matters.

The point is that the disruption this kind of activity can cause will be disastrous for our community. I saw this kind of activity taking place years ago, when the old court of pains and penalties was in operation. In those days, the fines could amount to £1 500 a day. In 1960, that was a fair amount of money. If one offended against an order, it did not matter how one went about it—I am talking about the old Federal industrial court, which was in operation in those days—one had committed an offence. In order to vindicate the action, one had to appear before the Federal court, represented by legal people. That meant the employment of a Queen's Counsel and a junior and the cost of another £1 500 a day, with half the amount for the Queen's Counsel.

The striking thing about this was the large sums of money involved. The ultimate winners were the legal profession. However, that did not prevent the disruption of work by one iota. It went on unabated, despite the pleas to the union officials on many occasions to save the union's money.

That position existed in various forms until the O'Shea case. Now the whole thing is being trotted out again, but in a more pernicious manner.

What will the Government do while the issue is taken to the courts of the land, as it undoubtedly will be? What will happen down on the job? Who will win in the long run? The unions with Federal registration have preference clauses. Who will win in the long run, whatever the decision may be? Does the Minister think that the federally registered unions, which are very sensitive in this area and which are considering this dragnet clause involving the Federal bodies of the unions, will take no action on this? Will the disputation take place only on Multiplex sites, or will it take place on the wharves; on the sea, and in the tugboats which are so vital to the export earnings of this country? The involvement of only a few people could paralyse all of the northern ports. They are the questions I want answered.

Undoubtedly the amendment will be passed. I want to see how it operates. If the legislation is proved to be invalid—it appears it will have to go to the High Court—what will we have we won? Will the Minister mop up the blood and start again, saying, "Sorry, boys, I didn't know the gun was loaded"? If, ultimately, the High Court decides that the legislation is valid, the same situation will arise.

I said this was probably the most dangerous provision in the Bill. I know other clauses have been debated; the argument about preference does not turn me on. People were arguing about preference in 1904, and they will be arguing about it in 2094. It does not matter to me, but it matters to some people. However, that is not the clause to which I am addressing myself; it is the one before us.

If the legislation is upheld by as valid by the High Court, the Western Australian Government will go down in history as having destroyed the whole of the Federal arbitration system, because it would be useless and pointless to have Federal agreements or awards. Why would unions want them? Why would they want to be registered with the court? The more powerful unions would go over to collective bargaining. If collective bargaining is let loose in this country, people will rue the day they ever heard of Mr Gordon Masters.

The Hon. Robert Hetherington: That is true.

The Hon. Garry Kelly: We are ruing it now.

The Hon. D. K. DANS: I outlined that in my speech on the second reading debate.

I read recently about wage rates not only in Canada but also in the United States of America, in terms of the Teamsters' Union and the local in New York, on the collective bargaining rate. The base rate per hour is $13. Let the Minister multiply that by eight!

Here we have a recipe and a blueprint for disaster. I will not be as brave as some people and go into the history of what the Federal court can do and cannot do. I do not know. All I say is that a Federal union either has a preference clause and Federal registration, or it has not. It cannot be half registered. Either section 109 of the Constitution stands, or it does not stand. If the section does not stand in relation to this legislation, it stands for nothing. Boy, does that have some implications!

The High Court will be asked to decide whether section 109 is valid. The Government cannot have it half way. It cannot say, "One half of the law applies to the unions, and one half applies to somebody else." The Government is in a minefield.

Of course, the only losers will be the members of the community at large. We cannot have the situation under this clause where the Government says, "Don't worry about it; it is not going to apply to you. We know where we want to apply

it." The Government cannot apply this selectively, because once the measure is proclaimed, it is out of the hands of the Government.

I know what the Government is saying about the right-to-work legislation. I know what it is saying about standover tactics. The Government trotted out 73 incidents; I do not know if those incidents were correct or incorrect.

I voiced my opinion on a number of things in this Chamber. If the Government had wanted to achieve a certain aim, it could have been achieved simply by amendments to the Criminal Code or to the Police Act. Quite clearly, the draconian effect of the amendment will involve the unions I have just mentioned, and others like them.

The Commonwealth Conciliation and Arbitration Commission may do a number of things: It may grant preference, it may not grant preference, it may bestow a union monopoly, and it may opt for compulsory unionism.

Let us talk about real closed shop organisations of which I have mentioned four or five tonight. The Government now seeks the power to excise those people from the Commonwealth jurisdiction if they happen to be in unions. I refer here, for example, to airline pilots who travel across the country in the course of their jobs. When they are in the State of Western Australia, they will not have the protection of the agreements they signed when they undertook their jobs.

The Government is saying that the number of waterside workers registered in the federation's various branches throughout the country may be increased in the ports of Western Australia, and a number of people either registered or unregistered can be sent into those ports. That is probably not the Government's intention, but that is what this provision means.

If the Government wants to inflate the number of master mariners or registered seamen in the Port of Fremantle, as set by authorities in the Eastern States, it will be able to attempt to do so.

If, in their wisdom, the courts decide the Government's legislation is valid, that is the effect it will have. Laws cannot be applied selectively. The Government is seeking to turn back the clock and I ask: What does section 109 mean? Does it mean half the Commonwealth laws are superior and the other half are inferior or does it mean that 99.9 per cent of the Commonwealth laws are superior and 0.1 per cent are not?

I shall not canvass all the arguments put forward on the last occasion we dealt with the Bill. This legislation was drafted very hastily. One can illustrate a number of examples where the legislation can go wrong, but that would be to no avail.

It must be remembered also that we are dealing with the most fragile part of the industrial relations exercise; that is, people. The legislation does not have to be aimed at any specific area; all that is required is that the people think it is aimed at that area. All one needs is an *agent provocateur* weaving his web in a certain area, either from within or without the union—either accidentally or on purpose—and we will have a first-rate donnybrook on our hands with disastrous consequences. All the fines and threats will be to no avail, because these people are qualified in a number of areas and they cannot be replaced easily.

In the case of the maritime unions the provisions of the Commonwealth Navigation Act arise and, according to the Government, this legislation will supersede those requirements. If my interpretation is correct it will supersede also the requirements of the various Acts of Parliament that govern the employment of waterside labour. Even if I am wrong, let me remind members opposite that the important point is what people think the legislation means.

Undoubtedly the provisions of the Bill will find their way into the courts. That will be a very costly exercise for the State Government and, particularly, the unions. There will not be any winners, because while this action is taking place, work will stop all over the country, and the effects of these provisions will not necessarily be confined to Western Australia. I do not want you, Sir, or the Minister to think I will be happy about that, but it is a possibility and, based on my experience with other penal legislation, it is what is likely to happen.

The comments I made on this clause in my second reading speech are worth repeating. The Minister and his advisers should know the history of penalties in the industrial system. People will tell the Minister that, prior to the O'Shea case, the situation did not mushroom overnight. It all started with the boilermakers' union being fined by the Commonwealth arbitration system. The case was taken to the Privy Council. It was found that the then arbitral system, the Arbitration Court, did not have the power to impose the fines.

With a rush of blood to the head—the same type of rush of blood that the Government has had—the then Government introduced legislation through the then Attorney General (Senator Spicer) to set up the Australian Industrial Court. That body had the power to fine unions and others and, as indicated earlier, Senator Spicer re-

signed when the legislation was proclaimed and became the first judge of the court. From there on in it was a hot time in the old town tonight. Instead of decreasing, stoppages and disputations accelerated alarmingly right up until the time of the O'Shea case.

I do not for one minute challenge the right of the Government to introduce legislation. I understand fully what the Government thinks it is doing about the situation in the work place. However, had the Government wanted to achieve its objectives, it could have done so by using other methods.

By introducing the Bill, the Government has created an explosive situation. Despite the current economic recession, a number of unions are as militant as they ever were and, if they are cornered—that is what the Government is trying to do—they will fight to preserve their identities and the power base from which they operate on behalf of their members.

I see nothing to recommend the amendment which, after all, does nothing more than qualify what I asked the Minister to do in the second reading and Committee stages. I would be very happy if the Minister said, "It does not mean that at all. This is what we mean. This is what we are aiming for." However, I am afraid from my reading of the amendment that it does not mean anything else. While the Government may intend to use the provisions selectively, in fact once it is proclaimed it is out of the Government's hands.

The Minister indicated he wanted to have democracy and peace in the work place, but instead of promoting that, the Government is establishing the conditions for a full-scale war.

I am a little astounded at the breadth of the amendment, and it will do all the things I said it would. Only one incident need occur and unions and other organisations will be lining up to go to the High Court. I do not see this issue being solved in any place other than the High Court. The Hersey case had some parallels and involved two people on the Hobart waterfront who would not pay a levy and were subsequently expelled from the Waterside Workers' Federation. That matter reached industrial and political heights previously unknown in Australia. Eventually the waterside workers obtained the decision in the High Court, and it still stands.

This amendment will set back industrial relations in this State 100 years and undoubtedly it will cause widespread industrial disputation. It will probably cause problems beyond the borders of this State. I return to the point that I do not know how section 109 will be interpreted. It cannot be interpreted in two different ways. I have heard it said that perhaps this matter can be referred to the Federal court, but I do not believe this is the case. Therefore, where do we end up?

I am staggered when I read the amendment, because it covers a number of areas; one which comes to mind is the orders made under the coal industry tribunal. Not only does it relate to the local tribunal, but also if any other organisation were to start operations in this State, those orders could be invalid, because the provision refers to "under any Act of the Parliament of the Commonwealth". Therefore, we are talking about an Act which supersedes the stevedoring legislation, the Navigation Act, and all the other Acts in terms of qualifications and everything else. It is a very wide-embracing amendment. Of course, it qualifies what I said it would do in the second reading and Committee stages.

I am not quite sure that at the end of the second reading stage the Minister knew what the clause was about because he chose not to answer my queries, and at the Committee stage when we dealt at some length with this matter, I received a muttered reply to the effect that the Government intended to get everyone.

The Minister quite often used the term "quite clearly"; it is as clear as a bell what he means by that clause. He has definitely qualified his definition of "quite clearly"; everyone will be able to understand the clause. It only remains to be seen whether, first, it will be applied selectively by the Government; second, what kinds of individuals will get in on the act; and, third, whether the High Court will uphold its previous decision in respect of section 109 of the Constitution. If it does not do that, the Minister will have achieved that which no other person has set out to achieve; he will have effectively achieved the excision of all Federal awards and agreements in this State.

If I were an employee in the transport industry and covered by a Federal award, such as even an airline pilot, I would be reluctant to come to Western Australia; if I were the driver of a trans-Australian train coming to Western Australia, or if I were to join a ship to go to Western Australia, I would not do so if the High Court had found the way I have indicated, because my coming to the State would be of no value whatsoever to me. It would be like my crossing to East Germany from West Germany, except that there would not be a wall to cross.

The Hon. Lyla Elliott: There is the rabbit proof fence.

The Hon. D. K. DANS: That is so, and I may never get out. Perhaps my remarks seem a little

frivolous, but quite frankly it is hard to imagine or to interpret the outcome of what the Government hopes to achieve. If it hopes to achieve democracy in the work place, it is going about that in a funny manner.

Unfortunately I foresee this provision leading to a great wave of industrial disputation. Certainly I will do all in my power to ensure that disputation does not take place until after a ruling of the High Court, but unfortunately the people down on the job become toey about their hard-won rights. If they feel those rights are threatened they may act first without thinking. That is the position, and for the life of me I cannot understand the Government for, first, bringing in the Bill and, second, bringing in this definition clause.

The amendment goes a long way further than the original clause seemed to go, but this amendment will provide virtual open sesame. I do not think I have ever read in the Commonwealth industrial arbitration legislation, or in any Act of Parliament, any provision similar to this. I do not know what are the powers of the State Government, but certainly under this description this State Government intends in a certain set of circumstances to turn over any Federal Act. Until I hear a contrary reply from Mr Masters I must continue to oppose this amendment.

The Hon. ROBERT HETHERINGTON: I do not know what kind of game the Minister has been playing with this Bill.

The Hon. G. E. Masters: I haven't been playing a game.

The Hon. ROBERT HETHERINGTON: While the Hon. Des Dans spoke I read the Committee debate on clause 30. It will be instructive to go over that debate in considering this amendment. On Wednesday, 13 October 1982, at page 3702 of *Hansard*, the Hon. D. K. Dans said—

> This part of the Bill disturbs me and I was quite disappointed that the Minister in his reply to the second reading debate did not answer the question I put to him. There is a feeling that proposed section 96A breaks away from tradition. Let me reiterate what I said during the second reading debate. Firstly, proposed new section 96A defines an employee organisation as a union of employees or an association of unions of employees. It states, "In this Part, unless the contrary intention appears . . ." and it is my view that by reason of those words it is indicated that the definitions in this proposed section override any other definition that might be found in a Western Australian Act. If that is the case, the definition of "employee organization" covers unions which are registered under the Western Australian Act and unions that are not presently registered.
>
> As a matter of law a Federal registered organisation such as the Australian Metal Workers' Union is regarded as an unregistered organisation. Before I continue I ask the Minister to give me an answer on this point.

The Minister's far from clear reply and the discussion that ensued reads—

> The intention of the Government in this part of the legislation is to cover as wide an area as possible and that is why the words "person or persons" have been included—they cover as many groups as possible. If the member's interpretation is that the definition does include other groups, I would accept that is probably the case. I am sure there will be some challenges; but it is the Government's intention to come to grips with the problems that have been brought to its attention. We have tried to comply with the wishes of those concerned in an endeavour to ascertain if the Bill will cover the problem areas. I am sure it will.
>
> The Hon. J. M. Berinson: How are you purporting to cover Federal unions?
>
> The Hon. G. E. MASTERS: "Employee organization" does not necessarily override other groups but it might be wider than the definition under the Arbitration Act. Therefore, it is arguable that it could cover some State branches of Federal Unions.

The debate continued until finally, at page 3703, the Minister said—

> I explained that, as far as the Government is concerned, it would cover as wide an area as possible. My understanding is that the honourable member's comments could well be correct.

This is a highly informed Minister! To continue—

> It is arguable that we are covering as wide an area as we can. I know that there have been a number of very learned interpretations of the meaning of this clause, and certainly we have had our share on the Government side with advice from a Queen's Counsel.
>
> The Hon. Garry Kelly: What do they say?
>
> The Hon. G. E. MASTERS: The opinion seems to be that our legislation will do what we want it to do.

The Hon. J. M. Berinson: Against whom?

The Hon. G. E. MASTERS: Against persons who contravene the Act—against persons who use the sorts of activities that we are trying to combat in this legislation.

What the Minister did not or would not say—or did not know—when this matter was before the Chamber last was just how far the Government intended clause 30 to go, and whether it was intended to cover all Federal unions and organisations. I wonder whether he did not know, tried t lull us into a false sense of security, or tried to blunt the criticisms put by the Opposition. However, I found the Minister's reply inept, but he has kept saying that the clause will do what the Government wants it to do.

It is clear now what the Government wants it to do. I refer members to the words of the amendment where it refers to the definition of an "employee organization". Therefore, this legislation covers any union under a Commonwealth Act. It is serious enough that we have this kind of legislation, with the kinds of provisions it has against employees and employers, who can be used as my honourable colleague said, as *agent provocateurs*, and probably will be so used if this Bill becomes law—the nature of the legislation is bad enough—but now we have a State Government that seems to be determined to challenge the Federal Constitution.

The Hon. P. G. Pendal: That's not before time.

The Hon. ROBERT HETHERINGTON: Whether it is not before time is highly debatable. Perhaps Mr Pendal would like me to read to him section 51 (xxxv) of the Australian Constitution Act. One of the powers given to the Australian Parliament is conciliation and arbitration for the prevention and settlement of industrial disputes extending beyond the limits of any one State. Section 109 of the Constitution, as was quoted for the benefit of the Minister by the Hon. Des Dans, reads—

> 109. When a law of a State is inconsistent with a law of the Commonwealth, the latter shall prevail, and the former shall, to the extent of the inconsistency, be invalid.

Of course, the Commonwealth has passed a great amount of legislation in the industrial arbitration field. One assumes that if the Constitution means what it says, Federal law will take preference over State law. What the Minister says quite clearly is that with this amendment—there is no doubt about it at all—no matter what the Commonwealth law says—in fact, any Commonwealth law—no matter what any Commonwealth tribunal has granted under the powers given to it by the Commonwealth legislation, particularly in regard to preference to unionists clauses, and no matter what else the Commonwealth has done, those laws will be overriden by this legislation.

This matter is very serious. I did not discuss it last time because it was not as clear. I discussed it in general terms, but I will be specific about it now. Once the State acts under this legislation against a Commonwealth registered union which is behaving according to the provisions laid down by the Commonwealth Conciliation and Arbitration Commission, the union will be invited—in fact, the situation demands this—to go to the High Court to test whether the powers of the State are *ultra vires* the Commonwealth Constitution. I am not a lawyer, but for some 20 years I have studied the Constitution, and I have no doubt this legislation will be found to be *ultra vires*. Whether it is or is not does not alter the fact that we will have a whole range of confusion and litigation while this little Government flexes its muscles in order that the Minister for Labour and Industry can carry out his obsessions. It does not matter what anyone says to him, he has determined that his ideology will drive him on with this foolish legislation.

The Hon. P. G. Pendal: Good legislation.

The Hon. ROBERT HETHERINGTON: I would have thought that even if the intent of the legislation were good and if this amendment were made to it at this stage, it would challenge the power of the Commonwealth Government. It is foolhardy and undesirable because it is challenging the very fundamentals of Constitutional law and order in this country. This Government, which talks so much about law and order, is passing laws which contradict laws of the Commonwealth.

It may be all right if this State secedes from the Commonwealth. Is that the intention?

The Hon. P. G. Pendal: It sounds a good idea.

The Hon. ROBERT HETHERINGTON: Certainly, the rest of Australia could do without Mr Pendal. I would be very sorry if Western Australia were to secede from the Commonwealth of Australia. Apart from that, I think it is breaching the very principles that the Liberal Party has parroted—respect for the laws of the country. I presume we do still regard ourselves as part of the Commonwealth of Australia. I presume that even the Minister regards himself as being bound to the laws of the Commonwealth; if he does, why is he passing legislation which will bring him into direct conflict with the Constitution and the laws of the Commonwealth?

If it is possible for a State to override the Commonwealth laws, we are headed for anarchy. We will not know where we stand.

The Hon. P. G. Pendal: You should go back and read the Constitution because you are only talking about the constraints of inconsistency.

The Hon. ROBERT HETHERINGTON: If Mr Pendal realises there is inconsistency—

The Hon. P. G. Pendal: You made the blanket statement.

The Hon. ROBERT HETHERINGTON: I suggest the member should read both the Australian Constitution and the amendments that have been brought forward as well as the rest of the Bill. The Minister seems to be challenging the Commonwealth like a petty dictator in a banana republic.

The Hon. H. W. Gayfer: Part of your argument is all right but really the vernacular is too strong. I do not disagree with a few other parts of your argument either.

The Hon. ROBERT HETHERINGTON: I am afraid I cannot tailor all my speeches so that they are presented in the way Mr Gayfer would wish. If I were to do that I would make very few speeches.

The Hon. H. W. Gayfer: We all love you, Mr Hetherington.

The Hon. G. E. Masters: You speak for yourself.

The Hon. ROBERT HETHERINGTON: The behaviour of the Minister while handling this Bill does not do him any credit. It is an authoritarian Bill and it is anarchistic also. I get a little tired of the comments made in this place about people from universities. At least one knows one thing about a person from an arts faculty of a university; he can read and understand the meaning of words. I am not sure that journalists can always do that. I do not mean all journalists of course.

The Hon. P. G. Pendal: Cut it out, I have some friends here.

The Hon. ROBERT HETHERINGTON: I am describing those on my left.

The Hon. P. G. Pendal: This is the only time I will be on your left, Mr Hetherington.

The Hon. ROBERT HETHERINGTON: I would hope so.

This amendment deals with the placing of a definition into a State Bill which seems to be in direct conflict with the powers of the Commonwealth. This is a serious matter, and I suggest the Minister think about this matter and propose to the Cabinet that this Bill not be proclaimed until it has been looked at again.

I find it rather ironic that I stand here to tell the Minister for Labour and Industry—Mr Gordon Masters of all people—that I think his legislation will help destroy his Government by bringing confusion and inconsistency to our laws. That will be the beginning of anarchy.

This legislation makes the powers of the law unclear and it is unsure what the Government can do. In the meantime this legislation will provoke dire consequences which Mr Dans has mentioned as a result of the knowledge he has from his great experience in the union movement. The Minister is foolish if he does not listen to my theoretical argument and Mr Dans' practical experience. It seems to me we are talking a great deal of common sense and it would be a good idea if, instead of being so concerned and obsessed about destroying the people in the union, whom Mr Pendal regards as vermin, and whom other people regard as undesirable—

The Hon. P. G. Pendal: We are friends of the union movement. I used to be member myself.

The Hon. P. H. Lockyer: He referred to one member only.

The CHAIRMAN: Order! I would like the member to address his remarks to the amendment before the Chamber.

The Hon. ROBERT HETHERINGTON: It seems to me that it would be a good idea if the Minister and his members who sit behind him took a hard look at the amendment which I presume will be passed by this Chamber.

This amendment gives me no joy whatever. I am quite shocked that a Government which claims to be responsible would bring in such legislation, because it will bring confusion into the interface between the powers of the Commonwealth and the States. For this reason, and the reasons expressed so eloquently by the Hon. Des Dans, I cannot vote for this amendment because it makes a bad Bill even worse.

The Hon. D. K. DANS: I wish to direct a question to the Minister and I hope he can answer me. If a dispute situation arose with a federally registered union, either rightly or wrongly through this legislation, who would be called upon to put the settlement process in operation? Would it be the Commonwealth system, or the State system? That is a moot point.

I refer the Minister to the Interpretation Act on page 204. Perhaps he can tell me if this fits in with the point I have just raised. I will read section 22A for the Minister's benefit. It states—

> 22A. Every Act shall be read and construed subject to the limits of the legislative power of the State and so as not to exceed that power to the intent that, where any enactment thereof, but for this section, would be construed as being in excess of that power, it shall nevertheless be a valid enactment to the extent to which it is not in excess of that power.

I believe this is the nub of the whole matter. I have been confused in my life by certain industrial laws, but never in my life have I been quite as confused as I am with this situation. If the Government intends to work within the framework of section 22A of the Interpretation Act, which I quoted, it seems to me that provision is fairly narrow. I could say that the Minister is taking on the appearance of a paper tiger in this case.

To put it another way: Let us say a dispute was pending and the Commonwealth and State could act to prevent it. Who would be called upon in that case? Let us say it involved the train drivers working under a Federal award in the Commonwealth system. Who would be called upon to settle that dispute? What if the dispute involved a union which had workers in the business of shipping? Having regard to the state of Australian shipping, there would be no stoppages on ships in overseas ports.

Let us assume a shipping stoppage took place from Darwin right around the top of Australia down the east coast, across the bottom, through Fremantle and back to Darwin. One would have a fairly complicated situation arising from an incident that happened here. That is a distinct possibility as the Minister knows. Who would be called upon to set in motion the dispute-solving process? One could give a number of other examples, but the Minister knows what I am getting at. Secondly, how does the legislation fit in with section 22A of the Interpretation Act? If the Minister can answer that we may get a glimmer of light. We may be able to see how the Government proposes to operate this Bill and some of the fears I have expressed may not eventuate.

If that is the case, however, this amendment is worded in extreme language. It is extreme to the extent that anyone reading it would come to only one conclusion; no doubt it will be in the Press tomorrow, and I hope they do not come to that conclusion. I am seeking two answers, and I am sure the Minister can give them—who sets the resolution of the dispute in motion?

The Hon. G. E. Masters: If there is a dispute in this State?

The Hon. D. K. DANS: No, if as a result of the Government's legislation a Federal union extends the scope of a dispute across the borders of the State into other States, who is called upon to solve that dispute? Secondly, how does this legislation fit in with section 22A of the Interpretation Act? To return to my first question: If the resolution of the dispute that went beyond the borders of the State involved some repudiation of Western Australian law as a means of settling the dispute, how would that affect the outcome? It comes back to section 109 of the Constitution; one cannot be right in some areas and wrong in others.

I will not speculate on how the High Court measures up to its responsibilities on these matters because speculation on the outcome of court cases is foolhardy. At the same time, I have some experience in this field, and given the High Court's position on the Hobart incident, it can come to only one conclusion.

The Hon. G. E. MASTERS: I could attempt to reply to some of the Hon. Robert Hetherington's comments and talk about ideology and the like, something I thought he felt strongly about.

The Hon. Robert Hetherington: I would rather you talked about the Constitution.

The Hon. G. E. MASTERS: We are pursuing a policy and a principle which is very strong as far as we are concerned, and we believe a majority of the public supports us. I could say that the ILO Convention is supported by the Labor Party in its policy statement.

The Hon. D. K. Dans: How about talking about the amendment?

The Hon. G. E. MASTERS: I could mention the Universal Declaration of Human Rights and the decision of the European courts, but they have been mentioned before so I shall not go into great detail. No-one—least of all the Labor Party—has a heaven-sent right to impose his will on the majority of the people.

The Hon. Peter Dowding: Oh, come on!

The Hon. G. E. MASTERS: We have to get these facts right for a start. I have before me page 204, section 22A, to which Mr Dans referred.

The Hon. D. K. Dans: Are you going to answer my questions?

The Hon. G. E. MASTERS: The information and advice I have is the State could not alter the terms of Federal awards or impose conditions which were inconsistent with a Federal award; but where they were not specific the State law would apply.

The Hon. D. K. Dans: You are saying nothing. Rhubarb!

The Hon. G. E. MASTERS: Let me give an example. Under the Federal award for the building and construction industry, preference to unionists is limited to the point of persons offering for service or employment, and in the case of retrenchment to the point where a person is dismissed from service. So a middle ground exists where the Federal legislation is not specific and we believe the State law would apply. I mention the High Court decision in the case of Clyde Engineering Company Pty. Ltd. *v.* Calburn. This is where an award has been made by the Commonwealth Conciliation and Arbitration Court pursuant to the Commonwealth Conciliation and Arbitration Act, 1904. The Parliament of a State could not alter the terms of the award or confer or impose on the parties rights or obligations which were inconsistent with such terms. I am saying the legislation before the committee has some limited effect, and it will not be effective in some areas. I have no doubt the Hon. Des Dans is right when he refers to the Interpretation Act.

The Hon. Garry Kelly: Is that the only example you can give?

The Hon. G. E. MASTERS: It is the only one I will give now. Mr Dans is right when he says areas will exist in which our legislation will not be as effective as we would wish. Those examples would clarify that point in his mind. He mentioned the arbitration system and said the State Government was placing it under threat.

The Hon. D. K. Dans: I did not say that. I asked you to define how you would handle it.

The Hon. G. E. MASTERS: Mr Dans said we were threatening the arbitration system with this legislation.

The Hon. D. K. Dans: No.

The Hon. G. E. MASTERS: The arbitration system has been going for 83 years.

The Hon. Peter Dowding: And you will bring it down in one.

The Hon. G. E. MASTERS: It seems to me it has not been as successful as any of us would wish, and some people in the community have done all they can to destroy that system. I see that the Hon. Des Dans is nodding his head. A genuine effort has not been made to make sure that it works. I have some doubts, given attitudes as they are at the moment, that we ever will make it work. That may change; we have to face that fact.

With regard to Mr Dans' comments on jurisdiction, a dispute in another State would be dealt with by the appropriate tribunal. In South Australia, the dispute could be in the South Australian Industrial Commission if it related to a State award, and in the Federal commission if it were a Federal award. The State jurisdiction would be limited. The State Act does not apply beyond the boundaries of Western Australia, so the honourable member is correct in saying that the legislation—broad as we would wish it to be—has some limitations. He has rightly pointed out that section 22A of the Interpretation Act would be relevant to this legislation and that limitations would exist, despite the broad brush of which I have been speaking.

The Hon. D. K. DANS: I will not accuse Mr Masters of misleading the Chamber; I do not think he understood what I asked him.

The Hon. Robert Hetherington: Surprise, surprise.

The Hon. D. K. DANS: I have been confused by experts, and that is bad enough, but when one is confused by amateurs, it is disastrous because one does not know the rules under which one is playing. To deal with the first answer he gave to my question about the Interpretation Act: The Minister said limitations existed, and I can only interpret this amendment to be a hopeful clause which the Government hopes may catch a fish under certain circumstances if it is trawling the bottom. "Hoping" is another word for subjective thinking.

The Hon. R. G. Pike: I do not know about that.

The Hon. Robert Hetherington: Having little beliefs.

The Hon. R. G. Pike: You have to think about that.

The Hon. D. K. DANS: What Mr Masters has told me about section 22A of the Interpretation Act does not fit in with this amendment. No-one could claim that it does. I venture to say—and I am being a little frivolous—that it is a little paper tigerish. I asked two questions of the Minister arising from an attempt to implement some of this legislation in Western Australia. Let us give an example of something that is dear to the Minister's heart. I will be really filthy and say, "BLF". That is worse than a four-letter word.

The Hon. G. E. Masters: I am sure it is to you, Mr Dans.

The Hon. D. K. DANS: I will not comment on that. Suppose the Government moves in to deal with the rights of workers on the job, and immediately a dispute takes place. Suppose that one section or group of builders' labourers feels itself threatened in Western Australia by this legislation; the dispute then crosses State boundaries and all builders' labourers who are under Federal awards stop in Western Australia and South Aus-

tralia. The first question is: Who is then called upon to set the dispute-solving apparatus in process? Undoubtedly it must be the Federal Commission, which opens up a very wide field. If the Minister will tell me that, I will ask the next question.

The Hon. G. E. MASTERS: Let me give an example of where I think this legislation could be effective in relation to that dreadful group, the BLF. Let us say one of the BLF heavies goes on the site and puts the hard word on one of the subbies or one of the people working on the site.

The Hon. D. K. Dans: The what?

The Hon. G. E. MASTERS: It has a different interpretation.

Suppose he applies pressure to a subcontractor-bricklayer. If an inspector can get sufficient evidence, he will take action against the person who has used his weight.

The Hon. D. K. Dans: An individual?

The Hon. G. E. MASTERS: An individual. It could pass on. They would be able to apply it to the Federal union; we certainly could take action against that particular individual.

I guess Mr Dans is saying that in the event that action took place, it is likely the BLF throughout Australia would take industrial action. In that case, in the Federal scene, the Australian Conciliation and Arbitration Commission would handle any industrial dispute. We are saying we can only work in limited areas for the reasons mentioned already by the Leader of the Opposition. We think that, in the areas I have mentioned, we will be able to take some action. That is the advice we have received and I believe it will work.

The Hon. D. K. DANS: I am still not quite clear as to what the Minister means, but at least he has endeavoured to answer the queries. He said that the Commonwealth commission would have to resolve the dispute. It has to be resolved—it cannot go on forever. Part of the resolution of that dispute would be a repudiation of what the Minister has just said. It would either be repudiated completely or the union would be advised to do something else with its constitution or awards.

It seems to be a futile exercise. I return to the point that, if what the Minister is telling us now is what he wants to do, the right way to proceed is, as Mr Berinson said, through the Criminal Code or the Police Act. However, what the Minister has said tonight does not fit in with this amendment.

The Hon. G. E. Masters: Yes, it does. It will enable the Government to take the action I have just mentioned.

The Hon. D. K. DANS: This is dangerous legislation. It is so loaded that one does not have to do anything. The amendment refers to, "industrial union of employees, whether constituted, incorporated or registered under this Act or any other Act or under any Act of the Parliament of the Commonwealth and by whatever name called". The Minister would have to agree that one could not have a broader provision and it simply is not applicable. Either it means something or it does not. He is getting into an awful tangle.

I understand what the Minister wanted to do, but I point out that the arbitration system has been in operation for over 80 years and its track record, given the difficult times it has passed through, has been extremely good. The current investigation into the system is timely and should have been taken a long time ago. All industrial power should be vested in the Commonwealth.

The provisions in the amendment are analogous to erecting a poster in a Catholic church calling on someone to assassinate the Pope.

The Hon. G. E. Masters: That is not right.

The Hon. D. K. DANS: The word "any" is used. I do not know who advised the Minister to do this. However, he has now told me that the amendment is not as bad as it seems. He has moderated his approach to an individual. If necessary, the balance of the workers will be covered.

I really do not know where I am and am sure people reading the legislation do not know where they are. When I gave this legislation to friends of mine in Victoria and New South Wales they thought it was a joke, but now they are starting to realise it is very serious. Some of those people are very well qualified in the legal profession and in the industrial field.

No-one challenges the Government's right to do certain things, but it must do them correctly. Tonight I was confused when we started debating these provisions and I am now flabbergasted; I do not know where I am. The Minister has made a genuine endeavour to answer the queries and I cannot accuse him of the things of which I accused him previously, but what he has told me is astounding. This amendment is like a net on the back of a trawler. The Government is going to trawl through the water and see what it can get in its net. It will then bring the net up to the surface and see if the fisheries inspectors—the Commonwealth—let the Government keep what it has caught.

I can come to only one conclusion and it is the conclusion I did not really want to arrive at. The

legislation is deficient in its drafting and its intent will not be realised. I do not doubt that. I do not speculate on the outcomes of court cases, and one comes back to the point that the legislation probably has been put together to deliberately cause industrial disputation. That is the only answer I can arrive at and it is based on the Minister's answers tonight. If I take the Minister's point, notwithstanding section 109 of the Constitution and section 22A of the Interpretation Act, what the Minister is really saying is, "This does not really mean what it says. We are only after individuals and may be we will get a few here and there."

If a widespread stoppage occurs in the Pilbara lasting a week or more, it will cost millions of dollars as a result of a misinterpretation by the union officials or members on the job when they find the legislation does not mean what the Minister says it means. The Government will then be guilty of a travesty of justice.

If the legislation means what I think it means, the Minister should say so and then we can go to the courts and at least find out where we stand. However, as I said earlier, I have been confused by experts; but I am more confused now than when I first read the Bill.

The Government is casting a very wide net. It will be a costly exercise and the final winner, regardless of the side he is on, will find the victory will turn to ashes in his mouth.

The Hon. G. E. MASTERS: Firstly, let me place on record that this is not a deliberate attempt to cause industrial trouble; that is the last thing in the world that I or the Government want to do. We mean what we say in this legislation. I have endeavoured to give some examples to the honourable member and let me say that the complaints and problems that have come to my office and to Ministers prior to my appointment to this job, would have led any Government to try to take some action.

The Hon. D. K. Dans: I do not deny that you have had complaints.

The Hon. G. E. MASTERS: Let me give the background, because the Leader of the Opposition is suggesting we are not really genuine in what we are trying to do. Examples come into my office—admittedly, in many cases, they relate to Federal unions—of what is happening day by day in our community and they could not be tolerated by any Government in Western Australia. Therefore, the Government had to take some action.

The Leader of the Opposition has said the Government has used a broad brush in this legislation which could include anything, but in fact will gain very little because of its limitations. However, the complaints received in my office have been related to the legislation before the Chamber and, in most cases, it has been asscertained that the legislation will be effective.

When the honourable member says we are trying to create turmoil on the industrial scene, he is incorrect, because that is not the case. We are able to deal very sincerely with the matters that come to my office. The complaints coming forward and the things which are happening can be dealt with to great effect by this legislation. By adopting a broad brush and having a broad interpretation written into the Bill, we believe we will be able to take effective action against most people.

I accept the Leader of the Opposition's comment that there will be limitations. I accept the provisions of section 22A of the Interpretation Act which will limit what we are trying to do; but nevertheless the legislation is a genuine and sincere effort to try to combat some of the problems faced by this Government which are worrying and affecting the community in general.

The Hon. D. K. DANS: I do not challenge what the Minister said in relation to complaints coming to his office. The Victorian Government is about to launch a series of prosecutions against the BLF in Victoria. The Government may not consciously be endeavouring to set in motion a wide-ranging disputation situation. I hope that position does not occur either consciously or unconsciously.

The Minister still has not explained why he has introduced such draconian legislation with such a wide net—I did not say a "broad brush"; I said that previously. People reading the amendment will come to only one conclusion. Undoubtedly this will find its way to the High Court. I do not argue about preference, because, as I reminded the Minister previously, the Federal arena has in excess of 800 awards and just slightly more than 300 of them have preference clauses.

Because of that broad brush we face the possibility of drawing into conflict situations unions which normally would not be interested in the legislation, unions which will feel threatened because of this tampering with the Federal apparatus, whether it be the builders' labourers or the transport workers.

The Minister has genuinely tried to answer our queries, but he has been extremely hazy. If I may refer to other sections of the Bill, are the fears of the employers real or imagined? I do not know; only the Minister knows that. Are the fears of the unions real or imagined?

Where will the Government stand with the Federal Constitution? The High Court takes into account what will happen as a result of its decisions. What would happen if section 109 of the Constitution were under challenge? The Constitution cannot be altered overnight. I think it all stands and falls on what the High Court will do. If the High Court determines in a certain manner, the Government will have to come back with something different, with something it should have done in the first place to achieve what it has set out to achieve. Section 22A of the Interpretation Act places a limitation on the Government. The Minister has a tiger by the tail. I will not wax eloquent about Asian proverbs, but he who rides a tiger can never dismount. However, the last thing we want is industrial disputation. It would have been better had the Minister joined with the Commonwealth and gone along with Mr Macphee in the way he is looking at this very thorny area.

I will not rise again, because the Minister has explained to the best of his ability just what he thinks the legislation will do. He has answered quite honestly; but on the basis of his answers I see a great deal of litigation and disputation arising from this legislation because of problems which will extend beyond the bounds of the State.

The second problem relates to the resolution of a dispute involving a deputy president or even the Full Bench of the Industrial Commission repudiating this legislation and then matters or even referring them higher as a means of settling a dispute. That is no good. The whole matter will end up in a quagmire.

For most of my life I have been interested in this fascinating area of industrial relations and having disputes settled without too much blood being shed. That is the way the Government should proceed, because this is a very fragile area. We are dealing with people, warts and all; different people act in different ways. I indicate before I sit down that while I was unsure of myself previously, now everything is as clear as mud.

The Hon. ROBERT HETHERINGTON: Although the Minister did not answer me directly, he answered the crux of my questions indirectly when answering the Leader of the Opposition. It appears the Minister does realise that section 109 of the Constitution does place limitations on this legislation. However, not all the confusions have been dispensed with. I am glad he will not do all these things; I do not want to think of him as a little Prince Leonard of Hutt River Province tilting at the Commonwealth dragons.

This legislation writes in a definition of the Commonwealth legislation like a blanket of fog which will filter through the Federal awards, picking up what it can find. It will be even more confusing than ever. We will never be sure if the State law will find a niche; it will be probing the weaknesses of Federal awards.

The amendment has two drawbacks. The first is that it will be confusing; no-one will know where they stand; no-one will know whether State or Federal law applies, and this will increase disputation and litigation. It will have the effect that law-abiding unions which have to go to litigation will spend a lot of money litigating, which will not make unions any happier with the system.

The other thing is—and some people will accuse me of drawing a long bow—that the State law will be so uncertain its effect will be arbitrary; people will never be sure whether it will hit them.

The Hon. G. E. Masters: They will be certain in some areas.

The Hon. ROBERT HETHERINGTON: Two things will happen. It will hit through in some areas—and I have no doubt the Minister has some specific area in mind, particularly the builders' labourers. This will cause disputation and litigation; it will cause the unions to go back for different awards to cover the spaces left in their awards to keep out the State legislation. This may make the Minister happy for the time being because it might catch some of the unions he is concerned about which are busy trying to get back to the Federal arbitration system.

The Hon. G. E. Masters: I want to keep the men at work who want to be at work.

The Hon. ROBERT HETHERINGTON: It might make the situation worse in the long run.

The Hon. G. E. Masters: I don't think it will.

The Hon. P. H. Lockyer: Does it ever occur to you you could be wrong?

The Hon. ROBERT HETHERINGTON: That occurs to me all the time. I am the last person who would ever say I was—

The Hon. H. W. Gayfer: Egotistical.

The Hon. ROBERT HETHERINGTON: My ego is fairly well developed, but I am not infallible. I am highly fallible, which is one of the reasons I am a liberal democrat. At least I try to reason an explanation for my conclusions. I do not say that this is something that has come from on high; that it is a belief I have.

I hope this legislation does not make disputation any worse. Some people would use this legislation to try to damage other people in

unions. Therefore we might find whole areas where this legislation can strike through a Federal award. Then this application in one sense will be arbitrary because people will never know where it will hit. The arbitrary nature of the application of laws is one of the techniques of a totalitarian society—and I am not accusing the Minister of doing this deliberately—and this can have a very ill effect. This perturbs me because I am one of the people who believe in the rule of law. I believe laws should be clear, defined, and knowable. To have this sort of confusion does the law no good at all. In the long run we might do more damage than good to the fabric of our legal system through such confusions and the arbitrary nature of some of the results of this legislation. If the Minister is sincere about this legislation he will watch it to see that any confusion which follows the arbitrary nature of the application of the legislation is cleared up. The legislation will be applied not just by law officers, and this legislation may make the situation worse than it is now.

Like my leader I find I am more confused; what seemed clear no longer is clear. The Minister, in trying to clarify the situation by indicating his understanding of the operation of section 109 of the Constitution, and by introducing this amendment, which on the surface makes things clearer and wider, in fact has caused the clarity to be gone, because the Government is trying to slip the legislation through the loopholes and interstices of the Federal arbitration system. This may produce very cloudy and foggy results, and in a confusing and foggy system the Minister might find that the very people he thought were deplorable are the very people who can use the confusions for their own purposes.

The Minister should accept that, like me, he is not infallible and he could be making a mistake. I hope the Minister takes seriously what has been said and watches the progress of the legislation after the Bill has been proclaimed. If, in five years' time, he can tell me that the legislation has worked well, I will rejoice with him. I doubt that this will be the case.

I cannot vote for the amendment. It is my opinion for the reasons I have given, that the Minister is making a mistake. I therefore oppose the amendment.

Question put and a division taken with the following result—

Ayes 17

Hon. N. E. Baxter	Hon. N. F. Moore
Hon. V. J. Ferry	Hon. P. G. Pendal
Hon. H. W. Gayfer	Hon. W. M. Piesse
Hon. Tom Knight	Hon. R. G. Pike
Hon. A. A. Lewis	Hon. I. G. Pratt
Hon. P. H. Lockyer	Hon. P. H. Wells
Hon. G. E. Masters	Hon. D. J. Wordsworth
Hon. Neil. McNeill	Hon. Margaret McAleer,
Hon. I. G. Medcalf	*(Teller)*

Noes 8

Hon. J. M. Berinson	Hon. Garry Kelly
Hon. D. K. Dans	Hon. R. T. Leeson
Hon. Peter Dowding	Hon. Tom Stephens
Hon. Lyla Elliott	Hon. Fred McKenzie
	(Teller)

Pairs

Ayes	Noes
Hon. Neil Oliver	Hon. Robert Hetherington
Hon. G. C. MacKinnon	Hon. J. M. Brown

Question thus passed; the Assembly's amendment agreed to.

Report

Resolution reported, the report adopted, and a message accordingly returned to the Assembly.

APPROPRIATION (GENERAL LOAN FUND) BILL

Receipt and First Reading

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

Second Reading

THE HON. I. G. MEDCALF (Metropolitan—Leader of the House) [12.48 a.m.]: I move—

That the Bill be now read a second time.

In accordance with the established practice adopted in this House, a copy of the General Loan Fund Estimates of Expenditure for the year ending 30 June 1983, the Treasurer's Loan Estimates speech and the supplement to the Loan Estimates speech were tabled on 12 October last. The purpose of the exercise is to obviate the necessity to detail the measures as outlined in those papers and enable this speech to be confined to the particular provisions contained in the Bill.

The main purpose of this Bill is to appropriate from the General Loan Fund the sums required to carry out works and services detailed in the General Loan Fund Estimates. An amount of $161.116 million is sought from the General Loan Fund as part of the total finance required for the planned works programme. The Estimates of Expenditure from the General Loan Fund contain

the details of the full programme and show the source of funds employed.

The amount to be provided from the General Loan Fund, which is subject to appropriation in this Bill, is clearly identified in bold type.

Supply of $75 million has been granted already in the Supply Act 1982, and the Bill now under consideration seeks further supply of $86.116 million. The total of these two sums, namely, $161.116 million is to be appropriated for the purpose and services expressed in schedule 1 of the Bill

As well as authorising the provision of funds for the present financial year, the measure seeks ratification of amounts spent during 1981-82 in excess of the estimates for that year. Details of these excesses are given in schedule 2 of the 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. I. G. Medcalf (Leader of the House), and passed.

KALGOORLIE COUNTRY CLUB (INC.) BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by the Hon. R. T. Leeson, read a first time.

Second Reading

THE HON. R. T. LEESON (South-East) [12.58 a.m.]: I move—

That the Bill be now read a second time.

The purpose of this Bill is to allow the Kalgoorlie Country Club to apply for incorporation under the Associations Incorporation Act 1895-1962 while at the same time retaining its name.

In May, 1979 the club decided to establish a new constitution and become incorporated. Application was made to the Under Secretary for Law for incorporation pursuant to the Associations Incorporation Act and requesting that the Attorney General exercise his discretionary powers to allow this event to occur.

The Under Secretary replied that the Commissioner of Corporate Affairs had advised that the name under which the club proposed to become incorporated was undesirable because of the prior registration of that name under the Companies Act. It was suggested that the club choose a new name that would clearly distinguish it from that already registered. Naturally the members of the club were reluctant to change its name—a name that had been in existence for many years.

Advice was sought from the Crown Law Department as to what steps should be taken to allow the club to proceed with incorporation under the existing title. In December 1979, the Deputy Commissioner of Corporate Affairs, in confirming that section 4A(e) of the Associations Incorporation Act prohibited him from accepting the proposed association for incorporation in the name chosen, went on to suggest that a special Act of Parliament could achieve the desired end.

Last year the matter was drawn to my attention and a draft of the proposed legislation was forwarded to the Attorney General. He informed me in May 1982, that the Government had given consideration to this matter and would be prepared to support the introduction of the legislation. Since that time the Bill has been examined and tightened up by the Crown Law Department to the form in which it is currently before the House.

Having dealt with the technical background to this Bill I consider members might be interested in the history of the club itself.

The Kalgoorlie Club was established in 1899 under the chairmanship of Mr R. McKenzie and a committee of six. The club was in fact a "gentleman's club" and membership was fairly restrictive inasmuch as the majority of members were either doctors, lawyers, businessmen or mine managers. This type of membership remained right through until the early 1950s before undergoing any change at all.

In 1901 the club was partially destroyed by fire; however, supported by a very financial membership, the club was quickly re-established and continued on its way.

With the nickel boom in the 1960s the club once again enjoyed a buoyant period after suffering falling membership in the latter part of the 1940s and early1950s. However, the nickel boom, great though it was, was still not enough to support the club for more than a few years, when once again it started to slide.

The club came to the crossroads in the late 1970s when it was down to about one keg per week turnover, which was not even paying the manager's wages. Serious consideration was given

to closing down. However, help came from the most totally unexpected source—fire.

In 1979 the entire front section of the club was destroyed and smoke and water damage was rife throughout the entire building, so much so that the bar was completely unusable. This, members thought, would be the end, but not so. Members rallied and on that very night, with the aid of candles, they set up a keg on a temprite and continued to operate.

During the rebuilding the club was even more fortunate, as most of the tradesmen and their workers joined the club and gave it a strong base on which to change the direction in which it was going. It looked for the younger men in town, rather than the business people and quickly a good drinking membership to boost turnover and, of course, profits was established.

It currently has a membership of approximately 280 and hopes to increase this in the near future. Its most important aim at this time, however, is the incorporation of the club, so that a committee of a president, secretary, and six members will be able to raise finance through the banks for the further upgrading of the building and surrounds.

I commend the Bill to the House.

THE HON. MARGARET McALEER (Upper West) [1.04 a.m.]: Before introducing this Bill in another place, the member for Kalgoorlie drew the Government's attention to the possible introduction of legislation to permit the Kalgoorlie Country Club to change its registration from the Companies Act to the Associations Incorporation Act. The Government has considered the matter and is prepared to support the legislation through its passage in both Houses.

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. R. T. Leeson, and passed.

CRIMINAL INJURIES COMPENSATION BILL

Second Reading

Debate resumed from 9 November.

THE HON. J. M. BERINSON (North-East Metropolitan) [1.06 a.m.]: This Bill is to repeal and replace the present Criminal Injuries (Compensation) Act. It involves some basic and welcome innovations, the most important of which is the introduction of a relatively informal assessor system in lieu of the present need for court proceedings.

The Bill also doubles from $7 500 to $15 000 the existing maximum compensation payable, and given that there has been a gap of about six years since this maximum was last reviewed, the increase, even though at first sight of a rather dramatic order, should be accepted as roughly right. It is obviously desirable, especially in these inflationary times, that such lengthy delays between reviews should be avoided and the provision in the Bill which allows future reviews to be made by way of regulation should go a long way towards overcoming that problem.

That having been said in support of the legislation, I am bound to add some reservations about the form of the Bill and, in particular, about one of its aims. I refer in the latter respect to its rather excessive efforts to recoup compensation payments from people who may have caused the injury complained of. Before coming to that, I note that for practical purposes we should now bear in mind not only the Bill as originally presented but also the list of about 15 amendments of which the Attorney General has already given notice.

These amendments reflect the Attorney's acceptance of some of the criticisms of the Bill by Labor spokesmen in the Legislative Assembly. They reflect also an interest in meeting some of the views of the Police Union of Workers in a constructive submission to him.

I welcome especially the amendment to clause 39 of the Bill which, in its original form, could have required a person to incriminate himself. Other amendments which accommodate the Police Union's needs in respect of section 669 of the Criminal Code are also desirable and certainly will have the Opposition's support.

On the other hand, I do not see that the amendments adequately deal with that part of the Bill which I have described as involving an excessive interest in recouping payments of compensation. That question is perhaps best considered by a comparison of the present Act with the Bill which is now proposed to replace it.

Under the present Act where a person is convicted of causing criminal injury to another person the victim is entitled to compensation out of the Consolidated Revenue Fund and the Crown is entitled to recoup that payment from the convicted person.

In some circumstances an injured person may receive compensation from the State even where no-one has been convicted of causing the injury, but in only the single case to which I have referred can another individual be made to pay.

Now, under the new Bill, without the proposed amendments, the primary obligation for payment again falls on the State, but recoups can be required in not one, but three situations—two of those arising as a result of rulings by the assessor.

In the first place, payment can be required from a person convicted of the offence. That is in line with existing procedure, and it is unexceptionable. Secondly, pursuant to clause 22 (2) of the Bill, an order for payment can be made against a person who has been charged and acquitted. Thirdly, pursuant to clause 22 (3), an order for payment can be made against a person who has not been charged at all.

The last two cases seem to be highly objectionable, absolutely wrong, and even dangerous in principle. I really do not understand why the Government ever came around to proposing those provisions. Where a person is charged and acquitted but is ordered to pay compensation, the assessor effectively would be double guessing the court. Where a person is not charged at all but is still ordered to pay compensation, the assessor is made both judge and jury—and an informal judge and jury at that. Under the provisions of clause 11 the assessor will act without regard to legal rules relating to evidence and procedure.

I am well aware that in the two cases to which I have referred, the assessor finds the liability on a civil and not a criminal standard of proof. The effect is that the assessor is not declaring the acquitted or uncharged person a criminal but simply—and the word "simply" ought to be underlined in red and italicised—declaring the person guilty of a tort or civil wrong.

Since when have we gone into the business of establishing liability for civil wrongs on the basis of informal assessments free of legal safeguards? In any event, and most fundamentally, how and why do we take the leap from a Bill to compensate the victims of crime to an order to compensate the victims of a civil wrong? That is the job of the civil courts, and that is where it ought to stay.

The confusion of principle which this seems to me to involve is grossly unfair to the individuals against whom orders might be made, and this is not remedied by the proposed amendments on the notice paper. To anticipate the Committee stage, I draw attention to the listed proposed amendment to clause 32 of the Bill. In the two cases to which I object, this amendment would have the effect that liability to pay by the person identified by the assessor will be no longer automatic but will require civil proceedings by the Crown. The important thing, however, is that the person on whom liability is fixed by the Bill—that is by the Bill as printed—remains under the amendment as the person found and identified by the assessor to be responsible.

This provides something in the nature of the presumption of guilt, and while it is true that the amended clause 32 would provide an ability to displace the presumption, the situation, as I understand it is that the onus of displacing the presumption will be on the defendant. The end of that process, therefore, is that, unlike the normal situation where the plaintiff carries the onus of proof, in these circumstances it will be left to the defendant or the person against whom the order has been made, to displace the presumption arising out of the assessor's informal finding of responsibility.

I said a moment ago that this situation appears to be grossly unfair to the individuals against whom an order for payment in the last resort might be made. As well as that, it threatens to extend the effect of the Act far beyond its present and intended limits and into uncharted areas of civil liability.

An understanding of that potential requires a reminder that the new Bill introduces the notion of an alleged offence, and as far as I can see, that notion does not appear in the present Act. Clause 3, the interpretation clause of the Act, provides—

> "alleged offence" means an act, omission or event alleged to constitute an offence but for which no person has been convicted;

I ask members to note from that definition that it is the fact of the allegation and not its reasonableness to which the definition looks. By way of example of the sort of potential problem which this may create, I invite members to consider, as a hypothetical case, what would happen if an impecunious visitor to Parliament House were to leave a banana skin at the top of the stairs outside the library. Such an action could be done without any malice and with no intention to harm me, but the act is clearly a negligent one. Let us suppose that I slipped on the skin, fell down the stairs, and broke my leg. It seems to me that all I would need do then is to allege that the banana skin was left there deliberately to cause me or some other person injury, and I would be on my way to a payment out of Consolidated Revenue.

I would have suffered an injury; that satisfies the requirements of clause 20(1) (a). The injury

would have been occasioned as a result of an alleged offence, and that satisfies the requirements of clause 20 (1) (b). The assessor would have no trouble identifying the person who has not been put on trial, and that meets the requirements of 20 (1) (d). It would also follow that that person has no sufficient defence as defined in clause 20 (2) (a). So, bingo, I would get paid; and the Treasurer would receive no assistance from clause 24 as the assessor would surely not exercise his discretion to force me to take an impecunious defendant to court.

Examples of this kind could be multiplied to demonstrate the serious potential threat to the criminal injuries compensation structure. I will not take that line further, because the worst aspect of these provisions is their potential for unfair detriment to persons who have been charged and acquitted, or not even charged with any criminal offence. In my opinion, those two categories for recoupment should be deleted. I say that, notwithstanding the change of procedure for securing those recoupments which the amendment provides.

As the Attorney General has gone as far as he has with 15 amendments, I urge on him the possibility of going these two small steps further.

I note in this respect that, on the available evidence, the cost to revenue of deleting these worrying provisions would be very small indeed. From the answer to a question without notice on 26 October, it emerges that the demands on the Consolidated Revenue Fund for criminal injuries compensation in the last five years totalled $678 796. The amount recouped in the same period, as advised on 3 November, was only $65 563, or something less than 10 per cent of the total. In other words, we are in an area in which the amount likely to be recouped from the people who have committed criminal offences is very small in relation to the compensation likely to be awarded. In any event, the cost of deleting the extended recoupment provisions probably would be of no financial consequence.

I turn now to a different matter which I raise with the Attorney by way of a question. Under the Act, as I understand it, compensation is payable to the victim of a criminal injury, even if a person charged with causing injury is acquitted. Compensation is payable in such a case if the court is satisfied that criminal injury was suffered, and that some person other than the accused person caused it. It is important that a provision to this effect should be retained, and I ask the Attorney General whether he is satisfied that it has been.

A doubt on that score seems to emerge from the combined effect of clauses 20(1)(a), 20(1)(b), and 20(1)(c) of the Bill. Taking clause 20(1)(c) with the preamble we find—

> 20. (1) Before he makes an award of compensation, the assessor shall satisfy himself on the balance of probabilities, and shall not make an award unless he is so satisfied—
>
> (c) where the person . . . put on trial for the alleged offence has . . . been acquitted of that offence, that that person . . . has no sufficient defence against liability in respect of that alleged offence.

That would seem to have the effect that where a charged person is acquitted, and the assessor cannot find him responsible on the civil standard because the alternative is an unidentified guilty party, the claimant cannot succeed at all. I do not imagine that is intended, and I invite the Attorney's comment to clarify this matter.

I turn now to an objection raised by the Police Union against the effect of clause 37, which is to prevent an award of costs in a proceeding under this Bill before the assessor or before a judge acting under the exceptional situations referred to in clause 35. The Attorney General will be aware of the submission by the Police Union, particularly as it was addressed to him in the first place.

I will take this question no further at this stage other than to invite the comment of the Attorney General. I will leave my comments to the Committee stage.

The Hon. I. G. Medcalf: Which particular part are you inviting me to comment on?

The Hon. J. M. BERINSON: The Police Union submission on the undesirability of precluding awards of costs—clause 37.

In respect of that clause, I suggest to the Attorney General that even if, as I tend to think, that it is reasonable for costs to be excluded from an assessor's proceeding, there appears to be a different consideration when a judge acts pursuant to clause 35. Because such hearings before a judge are limited to "difficult and complex issues", the need for counsel and the relatively substantial costs flowing from that need would be almost inevitable. This raises a set of considerations different from those applicable to hearings by an assessor. I suggest to the Attorney in a preliminary way that it may be appropriate to permit awards of costs where the hearing is before a judge without necessarily moving from the other provision of the Bill, which is to preclude awards

of costs where the determination is by the assessor.

The problems I have raised on this Bill are serious ones; and I am conscious of the fact that, with the best will in the world, to give them proper consideration the Attorney could find himself in difficulties, with the session being as close to an end as it is. Nevertheless, the issues are important enough to justify proper consideration, even if that involves the Bill's being held over and an interim amendment to the Act being introduced simply to double the maximum compensation available.

I do not understand, and cannot support, the heavy emphasis on recouping payments from people who have been acquitted or not charged. The financial benefits of that are likely to be very small. The procedures involved, and the way in which the decisions will be taken, seem to be inconsistent with the ordinary standards of presuming innocence and appropriate legal safeguards. I believe that aspect of the Bill is quite unsatisfactory and requires a more thorough review than the time available to us permits.

With those reservations, I conclude by repeating the general endorsement of the Bill which I have expressed already. It is desirable that we move to a less formal procedure, especially as it allows for such matters as private hearings, to which I referred previously.

The general approach of the Bill is clearly desirable, but, in those two respects which I regard as very important and not adequately met by the amendments, I have to part company from the provisions of the Bill.

THE HON. ROBERT HETHERINGTON (East Metropolitan) [1.31 a.m.]: While I share the reservations of the Hon. Joe Berinson, I shall refer briefly to the principle of the Bill which I welcome, and that is the notion that criminal injuries be decided by an assessor who shall, in the words of the Bill—

> . . . expeditiously and informally determine applications under this Act having regard to the requirements of justice and without regard to legal forms and solemnities; and, subject to this Act, shall be free to act without regard to, or to observe, legal rules relating to evidence or procedure.

The Bill obviously sets up the assessor as a sort of informal, inquisitorial court which is highly desirable. It is particularly applicable in the area which is causing concern to many people, particularly people in the women's movement and others worried about the crime of rape.

One of the problems that is referred to time and time again in discussions on the present rape legislation is that a woman who has been raped finds it traumatic to, yet again—and sometimes two or three times—go through the story in order for the assessment of criminal injuries to be made. Sometimes for this very reason, the woman does not apply.

This Bill will go down in the history of the women's movement of Western Australia as one of the great landmarks in legal reform in this State, as far as women are concerned. It does not refer specifically to women, nor does it refer specifically to rape; but it deals with a number of the most important worries and reservations put forward by critics of our legal system as it applies to women.

For this reason, I, and I am quite sure most of the people in the women's movement, welcome the principle of this Bill. Of course, I realise that it is striking new ground and a whole range of problems arise. I do not intend, as I may do at some later time, to make some cutting remarks about the Attorney having brought in a number of amendments. With a Bill of this kind, it is very proper that he does so. I wish it had been introduced earlier so that we would have had a longer period during which to consider it, but I believe it is difficult legislation.

There is still room for improvement, as my colleague has just pointed out, but I congratulate the Attorney on the principle of this legislation and I hope that, in due course, it will become a very valued Act in the Western Australian Statutes.

THE HON. I. G. MEDCALF (Metropolitan—Attorney General) [1.35 a.m.]: I thank members for their support of the legislation. It has been a very difficult exercise. It would be a simple matter just to double the compensation in the existing legislation, but the outcome would be most unsatisfactory and I could not commend that to anybody, even as a temporary expedient.

At one stage when we began this exercise that was the way we proposed to tackle it and at the same time we attempted to cure some of the many defects in the existing legislation. However, so many defects existed that it became apparent we must have a new Act. So we decided to be rather radical in our approach and try to take this matter out of the hands of lawyers and the courts. That was the first object of the exercise. I do not reflect upon the legal profession in that regard, because they have a job to do and, in most cases, they do it quite properly and efficiently; nor do I reflect on the courts.

However, in many cases compensation was awarded after what was sometimes a harrowing second trial for the victim and the compensation was largely swallowed up in legal costs. The average award of compensation is indicated in the second reading speech as being only approximately $2 500. In other words, many of the injuries are not major ones, although I frankly admit, of course, some of the injuries merit much more than the maximum. However, many awards have been in the vicinity of $2 500 and it has been quite extraordinary how the legal costs in those cases have amounted to the greater part of the award. We tried to get away from that.

The Hon. J. M. Berinson: Does the existing Act allow for the award of costs?

The Hon. I. G. MEDCALF: Yes; costs may be awarded by the court. Costs may be claimed on a solicitor/client basis, because a person virtually has to engage a solicitor. The solicitor is sometimes the one engaged at the trial, but, more often than not, these awards are made after the trial, not at the trial itself. That might have been the original intention, but it did not work out that way; so, in most cases a second trial is required with its attendant costs.

The Hon. Mr Berinson is not right when he suggests, in the first place, money is paid out of Consolidated Revenue under the existing Act; it is not. In the first place, the victim has to endeavour to obtain compensation from the offender. We are seeking to change that and provide that the money will be paid out of Consolidated Revenue in the first place. Of course, that should happen rather quickly, so there will be a speedy award of compensation out of Government funds. Following that, it will not be the victim's duty to endeavour to obtain recompense. It will be the job of the Under Secretary for Law to recoup the money if he can. So there is a significant difference in that regard.

Before leaving the matter, I mention that the major motivating reasons for changing the balance of the Act were that this modest award of compensation should not be swallowed up in costs and the costs should not make great inroads to the extent that little would be left for the victim; that the victim should not have to face a second trial or another set of proceedings; and that in the first resort, it was decided compensation would be payable out of public funds and, in the last resort, the Government would seek compensation from the offender.

I come now to the question of the philosophy of pay-back, because I can see that the Hon. J. M. Berinson's philosophy on this subject differs from mine. The honourable member cannot understand why we are trying to get this money back. He cannot understand why we should bother because we do not get much, anyway, which is true enough.

The Hon. J. M. Berinson: It is not only on the ground of convenience that I am putting the argument; I am sure you appreciate that.

The Hon. I. G. MEDCALF: I thought the honourable member was saying he did not think we should try to get the money back. I think we should try to get money back from those people who can afford to pay it. If the offender is impecunious, what is the point of initiating proceedings against him? We have to write off 90 per cent of the amounts which we pay out; however, certain people can afford to pay, and why should they not pay something for the injuries they have inflicted? Why should that be a charge against public funds, a charge against the taxpayers, without getting that money back from the person who caused the trouble in the first place? That is the philosophy of pay-back. I would have thought the honourable member would believe implicitly in that.

The Hon. J. M. Berinson: In the case of people who have been convicted of an offence, I would agree 100 per cent.

The Hon. I. G. MEDCALF: Let us consider the case of people who have not been convicted of an offence. We do not attempt to get money back from them unless they have been found liable in a court of competent jurisdiction. We do not rely upon the award or the finding of the assessor in that case; all we rely upon is that the assessor has examined the facts and reached a conclusion that a particular person did commit an offence; that person committed the act which constituted the alleged offence. If he makes that finding, we believe there should be a presumption which can be rebutted by that person; we think that is a sensible way of going about this. After all, the assessor did the work in order to make an award of compensation to the victim. Having found out that a particular person committed the offence, what is wrong with that being *prima facie* evidence? But it is capable of being rebutted; the presumption can be rebutted if the offender is able to rebut it by saying he had an alibi.

The Hon. J. M. Berinson: Not by saying, but by proving, which is a reversal of the onus.

The Hon. I. G. MEDCALF: Everything before a court must be proved.

The Hon. J. M. Berinson: But not by the defendant.

The Hon. I. G. MEDCALF: We are now in front of a court of competent jurisdiction, not the assessor. Someone cannot come in and say he was not there; he has to prove he was not there.

The Hon. J. M. Berinson: Which he would not have to do in a civil claim.

The Hon. I. G. MEDCALF: We have held an inquiry and I see no reason that we should not make use of the information provided. We do not want to create an extra burden with other inquiries and costs. In most cases we are dealing with fairly minor claims; one of the major objects of this exercise is to reduce the number of court claims. We have included this provision to accommodate objections made in another place that these claims should be brought in a court; that is, where the person has been acquitted or there has not been a trial. We believe that should be sufficient. A court would want to be satisfied, and if the person has evidence to show he was not the offender, why should he not tender that evidence? If he is not the offender, he must know more about it than anyone else.

The Hon. J. M. Berinson: Why should he not remain silent, as he may have done at trial, and succeeded?

The Hon. I. G. MEDCALF: I do not believe he has the right to remain silent. When the member says the person has had a trial and has succeeded, in fact he was acquitted on a test which is "beyond reasonable doubt", which is very different, as the honourable member has said, to the civil test on the balance of probabilities. The person has been acquitted on the basis that the allegation could not be proved beyond reasonable doubt. It does not necessarily mean he is innocent.

We have authorities on this subject, and I will quote an extract from a judgment of the observations of Lord Salmon in Shannon 1975, appeal case, page 772—

> "An accused is entitled to be acquitted unless the evidence satisfies the jury beyond reasonable doubt that he is guilty. A verdict of not guilty may mean that the jury is certain that the accused is innocent, or it may mean that, although the evidence arouses considerable suspicion, it is insufficient to convince the jury of the accused's guilt beyond reasonable doubt. The verdict of not guilty is consistent with the jury having taken either view.
>
> "The only effect of an acquittal, in law, is that the accused can never again be brought before a criminal court and tried for the same offence. So far as the Crown is concerned, the accused is deemed, in law, to be innocent. His acquittal cannot, however, affect anyone but himself and indeed would not be admissible in evidence on behalf of or against anyone else. Anyone acquitted of a criminal conspiracy may still be sued in damages for the conspiracy of which he has been acquitted at his trial."

Of course, no-one would seriously dispute that there is a different standard. We are giving the offender the benefit of a trial before an ordinary court. In the case of an impecunious offender, it is very unlikely that any further proceedings will be taken, because there is no point in wasting court fees, let alone the time of the staff and the legal practitioners, in pursuing a man of straw. We do not believe the under secretary would take any further proceedings unless he was satisfied the person had some means.

The point raised by the Hon. Joe Berinson about slipping on a banana skin was very intriguing, and it may be that he might be tempted to allege, if he slips on a banana skin in Parliament House, that someone has committed an offence, but he does not know who he is, and so claim under the Act. I cannot believe he would receive any award of compensation, never mind what the Statute says. If, as the honourable member suggests, there is a possibility that that might occur or that it does occur, that is something that would be very quickly taken care of. It is quite easy for anyone to find these loopholes and to say, "What about this?" If I were to look at this more carefully I could probably find a loophole in the member's argument, but I do not have the time to do that. At this stage I am quite prepared to proceed on the basis that the fellow who slipped on a banana skin in Parliament House will not get any award.

If he alleged that an offence was committed, and was able to invent some fanciful tale, I venture to suggest he might be charged with perjury. That practice would be a dangerous one to advise in regard to seeking compensation. This provision is designed for genuine victims of crime. The honourable member drew a long bow. Someone might slip on a banana skin and allege an offence, but I doubt he would get away with that, or that the Act would permit him to do so. At this stage I am not prepared to go further into that matter because many provisions outweigh completely that banana skin argument.

The Hon. J. M. Berinson: Both of us agree that it was an example.

The Hon. I. G. MEDCALF: I am glad the member has said it was merely an example.

The Hon. J. M. Berinson: There are many more realistic ones that could be brought to bear if you wanted me to.

The Hon. I. G. MEDCALF: I agree that a number of unfortunate occurrences occur in life. One can slip on many objects, not necessarily objects in Parliament House, and many examples could be given. However, if a person falsified a claim under the proposed Criminal Injuries Compensation Act he would know very well that no offence occurred. In my view such a person would be quite closely cross-examined by the assessor. The assessor can call for any information for which he wishes to call, and he can ask for any person to attend—admittedly such persons do not have to give evidence—and he can call also for an inquiry to be conducted as he sees fit, and he can even ask for the police to conduct an inquiry. I do not think the fellow given as an example by the member would get very far. However, I suggest that the member try it sometime.

It may be that a few little problems exist. Quite frankly, I admit I do not like bringing forward legislation to amend legislation which has just previously been brought before the Parliament, but this legislation represents a new departure. Admittedly one or two precedents for these kinds of provisions can be found in other places. I think the only other place in Australia where somewhat similar legislation can be found is Victoria, although we did not copy the Victorian legislation. This legislation represents new draftsmanship, and much credit must go the the officers of the Crown Law Department responsible for it.

The reason for the proposed amendment is quite simply that we are in a new area of consideration, and we must make amendments if necessary. Are we to be criticised for taking some note of what was said in the Legislative Assembly, or by the Police Union?

The Hon. J. M. Berinson: Why do you ask that question? We have not been critical of the legislation.

The Hon. Robert Hetherington: We are quite happy about it.

The Hon. I. G. MEDCALF: The member referred to some 15 proposed amendments, but criticism could be made of the number of amendments only if they were unnecessary. Many of them are indeed valuable. For example, it is provided that a person qualified to be a judge be appointed as an assessor. Such a provision is important. I admit that if tomorrow we were to consider amendments to the proposed Act we might have a few other minor changes to make.

A Government member: You might give a few of those legal blokes a job.

The Hon. I. G. MEDCALF: We have changed a few jobs in the legal profession. By way of this Bill we have cut out the necessity for some "legal blokes". I suppose we could be criticised for that.

The member wanted to know why we did not adopt the Police Union's suggestion that legal costs could be claimed. One of the reasons was that we jolly well did not want people to claim costs. We believe that in most cases it would not be necessary for claimants to be represented by a lawyer. Most cases could be brought by the claimant in person because, after all, most claims involve merely the assessment of damages at a fairly moderate level. I have never thought that is necessarily a job for a lawyer.

The Hon. J. M. Berinson: Again we agree, but you use a judge under clause 37 where the situation would be difficult and complex. That is a situation where you would need a lawyer.

The Hon. I. G. MEDCALF: It may be necessary in some cases that a lawyer be used. I am sure the Police Union will use a lawyer for most cases in which it is involved because it engages a lawyer for almost anything which affects that union. I do not blame the union for that; it pays the costs of its lawyers. However, in this case the union wants to recoup its lawyers' costs from the fund. I do not blame the union for wanting to do that, but we want to keep in the fund the money that would be spent unnecessarily. We should not be blamed for that. Legal costs can be claimed in appeal proceedings, but the scale is modest. We have not been given credit for our allowing legal costs to be claimed on a basis similar to that which is provided in the Official Prosecutions (Defendants' Costs) Act. The scale in that Act is fairly modest.

The Law Society agrees with the general intent of these provisions. We had discussions with the society even as late as a fortnight ago, and certain amendments were proposed as a result of those discussions. That does not mean we brought in lawyers, but the Law Society did make suggestions, and one in particular relating to the legal qualifications of the assessor because he would adjudicate on issues. This suggestion was put also by the Police Union, a suggestion which we had anticipated and provided for.

We do not believe it will be necessary in most cases for legal costs to be incurred, and certainly before the assessor. If the Police Union claimed costs from the other side it must be remembered that the other side would not as a result of the legislation normally pay the compensation; the Under Secretary would end up paying it. One

cannot get blood out of a stone. The Police Union will not be able to recover costs from the other side, and therefore it must pay for its counsel.

We think that will assist people; claimants will receive the greatest amount they can without, in most cases, any deductions at all. They will receive the gross amount, a situation which does not presently exist. One claimant paid $2 000 for the costs associated with an assessment of damages before a Court of Petty Sessions, and the award was $3 000. That is a quite miserable situation, so we decided it should not be repeated; and the reputable members of the Law Society have agreed with us.

I thank honourable members for their support of the Bill, and commend its second reading.

Question put and passed.

Bill read a second time.

In Committee

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

Clauses 1 and 2 put and passed.

Clause 3: Interpretation—

The Hon. I. G. MEDCALF: I move the following amendments—

Page 2, line 7—Insert after the word "dismissal" the passage "(but not including a dismissal under section 669(1)(a) of The Criminal Code)".

Page 2, lines 31 to 34—Delete the following passage—

Welfare Act 1947; and

(b) a finding of guilt referred to in section 34 or 34B of the Child Welfare Act 1947;

and substitute the following passage—

Welfare Act 1947;

(b) a finding of guilt referred to in section 34 or 34B of the Child Welfare Act 1947; and

(c) a dismissal under section 669(1)(a) of The Criminal Code;

Amendments put and passed.

Clause, as amended, put and passed.

Clause 4 put and passed.

Clause 5: Assessor—

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

Page 4, line 25—Insert after the word "person" the following passage—

who is a practitioner (as defined by the Legal Practitioners Act 1893), of not less than 8 years' standing and practice,

I will not explain my amendment further because it has been sufficiently discussed at the second reading stage. If any member requires an explanation I will be happy to supply it.

The Hon. J. M. BERINSON: I have no objection to the clause or the amendment, but I take this opportunity to inquire of the Attorney General about the proposed method of operation of the assessor. In particular, is it anticipated that the assessor will visit country centres?

The Hon. I. G. MEDCALF: Yes.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 6 to 20 put and passed.

Clause 21: Prescribed maximum amount; and apportionment where more than one person liable—

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

Page 11, line 31—Delete the words "alleged offence" and substitute the words "committed the act or made the omission alleged to constitute the offence".

Amendment put and passed.

Clause, as amended, put and passed.

Clause 22: Statement or finding as to person who committed offence—

The Hon. I. G. MEDCALF: I move the following amendments—

Page 12, line 29—Delete the word "alleged" and substitute the words "act or made the omission alleged to constitute the".

Page 12, line 34—Delete the words "alleged offence" and substitute the words "act or made that omission".

Page 13, line 4—Delete the word "alleged" and substitute the words "act or made an omission alleged to constitute an".

Page 13, line 13—Delete the words "alleged offence" and substitute the words "act or made that omission".

Amendments put and passed.

Clause, as amended, put and passed.

Clauses 23 to 31 put and passed.

Clause 32: Offender to reimburse Crown for compensation paid—

The Hon. I. G. MEDCALF: I ask members to vote against this clause.

Clause put and negatived.

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

Substitute for the clause deleted the following clause—

Liability of offender or alleged offender to the Crown.

32. (1) Where a payment of compensation is ordered, the amount of the payment may be recovered by the Crown, in a court of competent jurisdiction in the following manner—

(a) in the case of a person stated by the Assessor pursuant to section 22(1) to have committed the offence to which the payment relates, the amount, or a proportion thereof as fixed under section 21(3), shall constitute a debt due to the Crown by that person;

(b) in the case of a person found by the Assessor pursuant to section 22(2) or (3) to have committed the act or made the omission alleged to constitute the offence to which the payment relates, such amount may be recovered by the Crown from that person by way of proceedings brought in accordance with subsection (2).

(2) For the purposes of paragraph (b) of subsection (1), the Crown has, and may exercise, to the extent of the compensation paid, any right of action in relation to the act or omission in question which the person for whose benefit the payment was made has against the person referred to in that paragraph; and the rights of the first mentioned person shall be to that extent divested from that person and vested in the Crown.

(3) In any proceedings referred to in subsection (1)(b) the court shall be bound by—

(a) the finding of the Assessor made under section 22(2) or (3), as the case may be; or

(b) when more than one person is found to be liable, the amount or proportion fixed by the Assessor under section 21(3),

unless it is satisfied that the finding was made or the amount or proportion was fixed in error.

(4) All money recovered by the Crown under this section shall be paid into the Consolidated Revenue Fund.

The Hon. J. M. BERINSON: The Attorney General is so obviously attached to the Bill as now amended that there is not much point in further lengthy discussion. However, I repeat my reservations, which remain appropriate to this clause, despite the fact that, firstly, the clause as now amended is certainly better than the provisions of the Bill as originally drafted. This is the clause which raises the question of reimbursement of payment by people in the two categories which I discussed earlier at some length.

I simply repeat my reservations in those respects, without going into details. In practical terms the fact is that the vast majority of recoupments or of attempted recoupments will take place in respect of people who have been convicted of an offence. The other cases I would suggest would be very few in number. That adds to the unimportance of the potential financial benefits of trying to get repayments from those people.

The Attorney General referred earlier to some of the disadvantages of the existing system and one—a most important disadvantage—was that it could lead to what would amount to a harrowing second trial. He gave that as an example of what is wrong with the present Act. The fact is that clause 32 as it applies to claims against people who have been acquitted or not charged raises that very possibility, because a person wishing to contest the claim will be required to initiate a full scale trial, so the detriment of this harrowing second trial will recur. If that were not enough, it will have the added disadvantage of putting the person against whom the claim is lodged at a disadvantage which he would not suffer in any other civil proceedings.

In any other proceedings, whether taken by the victim directly or by the Crown, the defendant would not be required to effectively prove his innocence. Under the provisions of this amended clause 32 he will be required to show proof, and because of the presumption to which I have referred—there seems to be an endless combination of circumstances which add to the proposition—it is just not worth it.

By way of interjection I agreed with the Attorney General that we should be attempting to recoup these payments from the people who caused the problem. But we must consider the fact that we are dealing with the Criminal Injuries Compensation Bill and that means we should be seeking to exact recoupments from people who have committed the crime.

That is covered adequately by the first part of this clause 32 and I can only repeat that the

further clauses are objectionable in principle. In practice they will attract to the Crown quite negligible amounts of payment.

The Hon. I. G. MEDCALF: What the member has said is very much a matter of opinion. We do believe that there should be this pay back principle. If someone has committed an act or omission it constitutes an alleged offence and we believe that person should, if able to pay, recoup those funds to the Crown.

In many cases it may not be necessary for proceedings to be actually taken because this provision will make it possible, in the majority of cases, for the under secretary to write a letter to the person in the light of the facts, as already known, and the finding of the assessor, to ask him whether he is prepared to recoup those funds to the Crown.

I would not be over sanguine about his being paid in more than 10 per cent of the cases, because that is the usual percentage. The principle is there that if 10 per cent of people can pay they should pay and in some cases it may simply mean a letter or two.

A legal sanction is contained in this clause and if we do not have that sanction we will not be able to get anything back. Therefore, it is necessary to have it if we are to believe in that principle of recouping public funds wherever possible. Those funds, when recouped, will be used for some other public purpose. If we can recoup them at comparatively small expense, that is a good thing.

I do not believe the under secretary will be considering litigation in impecunious cases.

The Hon. J. M. Berinson: Or even in pecunious cases—it would not be worth the risk and cost.

The Hon. I. G. MEDCALF: I am certain he would exercise his judgment in that regard. I would hope he would not embark on any litigation which incurs costs for an inadequate return. I think we should leave the matter there because we have discussed it sufficiently.

Clause put and passed.

Clause 33 put and passed.

Clause 34: Appeals to District Court—

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

Page 16, lines 25 to 29—Delete subclause (1) and substitute the following—

(1) Where a person interested in an application, or the Under Secretary for Law, is dissatisfied with an order of the Assessor under section 19, he may, in accordance with this section, appeal to a Judge of the District Court against that order.

Amendment put and passed.

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

Page 17, line 1—Delete the words "The Judge" and substitute the following—

On an appeal under this section, the Judge shall determine the application afresh without being fettered by the determination of the Assessor, and

Amendment put and passed.

Clause, as amended, put and passed.

Clause 35: Reference to District Court by Assessor—

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

Page 17, lines 21 to 23—Delete subclause (2).

Amendment put and passed.

Clause, as amended, put and passed.

Clause 36: How Judge to proceed—

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

Page 17, lines 32 and 33—Delete the passage "Part IV (other than section 12(1)) of this Act and of" and substitute the passage "section 10, Parts IV (other than section 12(1)) and V of this Act, and ".

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 37 and 38 put and passed.

Clause 39: Liability and protection of witnesses, and of persons representing parties—

The Hon. I. G. MEDCALF: I move the following amendments—

Page 18, lines 19 to 31—Delete subclauses (1) and (2).

Page 18, line 32—Delete the passage "Subject to this section, a" and substitute " A ".

Amendments put and passed.

Clause, as amended, put and passed.

Clauses 40 and 41 put and passed.

Clause 42: Regulations—

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

Page 20, after line 10—Insert the following new paragraph to stand as paragraph (a)—

(a) make provision for the substituted service of notices required to be given by section 12 or 16 or on an appeal, in cases where it is impossible or impracticable to effect service by other means;

Amendment put and passed.

Clause, as amended, put and passed.

Clause 43 put and passed.

Schedule—

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

Clause 3(1), page 21—Insert after the words "appoint a person" the passage "who would be eligible for appointment as Assessor under section 5(1)".

Amendment put and passed.

Schedule, as amended, put and passed.

Title put and passed.

Report

Bill reported, with amendments, and the report adopted.

Third Reading

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

ADJOURNMENT OF THE HOUSE: SPECIAL

THE HON. I. G. MEDCALF (Metropolitan —Leader of the House) [2.23 a.m.]: I move—

That the House at its rising adjourn until 2.30 p.m. today (Wednesday).

ADJOURNMENT OF THE HOUSE: ORDINARY

THE HON. I. G. MEDCALF (Metropolitan —Leader of the House) [2.24 a.m.]: I move—

That the House do now adjourn.

Child Welfare Amendment Bill (No. 2): Debate

THE HON. LYLA ELLIOTT (North-East Metropolitan) [2.25 a.m.]: I am sorry to delay the House at this late hour and will do so for only a few minutes, but the matter I wish to raise is important.

Earlier today I endeavoured to ask a question of the Attorney General and you, Mr President, ruled it out of order. I raised the question as a result of reading comments in *The West Australian* by the Minister for Community Welfare concerning the Child Welfare Amendment Bill (No. 2) that I introduced. I am very concerned at the answer I received to an earlier question I asked of the Attorney General as to whether he could give me an undertaking that the Bill would be debated before Parliament rose. He said he could not give that undertaking.

I submit that if this Bill is not debated it is an outrageous step on the part of the Government to ignore it. Since 2 November the Government itself has introduced eight new Bills and two of those Bills were introduced on the same day as mine. Those two Bills came before this House today and both concerned wheat marketing. I hope the Government will not tell me that it is more interested in wheat marketing than it is in what I regard as an important issue—the protection of children.

It is no good the Government asking me why I did not introduce the Bill earlier. I raised the subject matter of the Bill a long time ago. Over a year ago I not only raised it by way of a speech in this Parliament, but also by letter to the then Minister for Community Welfare. The Minister advised that he would get the officers of his department to look at the question I had raised. A number of amendments have been made to the Child Welfare Act since I raised the matter with the Government and as some of them were fairly large Bills I assumed the Government would include reference to the matters I raised in them.

However, this was not the case and I was forced to do something about it by introducing a private member's Bill; that is why it was not introduced until now. I was waiting for the Government to do something about it because I had raised the matter with it.

The Government has an army of departmental officers and research assistants who give them all the assistance in the world in respect of Bills introduced by the Opposition. Therefore, there is no excuse for the Government not being able to deal with this Bill because it cannot say it does not have the information and does not have the time to deal with it.

The Opposition is expected to debate Government Bills without any assistance whatsoever to research the Bills presented by the Government—the Leaders of the Opposition in both Houses do receive some assistance. The Government has already suspended Standing Orders so that legislation can go through both Houses in the one day if it so desires. That is the point; where there is a will there is a way. I suggest that if the Government will not allow the Bill to be debated in this House, it is not interested in the contents of it. I fear from the Attorney General's reply

that the Bill may not be debated and I appeal to him to ensure that it will be.

Question put and passed.

House adjourned at 2.30 a.m. (Wednesday)

QUESTIONS ON NOTICE

GOVERNMENT GUARANTEE

Wundowie Charcoal, Iron and Steel Industry

713. The Hon. D. K. DANS, to the Leader of the House representing the Treasurer:

I refer the Treasurer to his reply to my question 549 of 12 October 1982 relating to a liability due to the State Energy Commission and not included on a balance sheet signed by the then Auditor-General, and ask—

(1) What steps did the Government take to ascertain precisely how a liability of some $38 500 out of a total board liability of $2.2 million could have been omitted from a balance sheet of accounts for a six months, July to December, period?

(2) What was the outcome of such steps, if taken?

(3) Was any action taken by the Government against any departmental officer in relation to the omission from the balance sheet?

(4) If not, why not?

(5) When was the (then) Auditor General informed that the statement drawn up "to present a true and correct view of the transactions . . ." and signed by him, was in fact, not a comprehensive one?

(6) Was any action taken by the Auditor General to locate the precise cause of the omission of the liability from the balance sheet?

(7) If "Yes" to (6), what action was taken?

(8) If "Yes" to (6), what was the result of such action?

(9) To whom was the State Energy Commission account rendered in February 1978?

(10) Who authorised payment of the $38 496 to the State Energy Commission under the provisions of the Industry (Advances) Act?

(11) By virtue of which provision of the Industry (Advances) Act was authority given to make retrospective payment?

(12) In the context of the financial assistance rendered under the Act in (11) who constituted the "approved applicant".

(13) When was the legal opinion referred to in the Treasurer's reply to question 549 which confirmed the State's liability for the debt supplied?

(14) Who sought the legal opinion?

(15) Who supplied the legal opinion?

(16) At what cost was the legal opinion supplied?

The Hon. I. G. MEDCALF replied:

(1) Inquiries were made of the State Energy Commission and all departmental files examined.

(2) Answered by question 549.

(3) No.

(4) No departmental officer was responsible for the omission if indeed it could be claimed that the amount should have been included in the balance sheet of 31 December 1974.

(5) The Auditor General was not informed.

(6) to (8) Not applicable.

(9) Agnew Clough Ltd.

(10) Payment was authorised by the Treasurer under the terms of the Wundowie charcoal iron industry sale agreement.

(11) and (12) Not applicable.

(13) 17 September 1979.

(14) The Treasury.

(15) Crown Solicitor.

(16) Not applicable.

ROAD

Great Northern Highway

729. The Hon. PETER DOWDING, to the Minister for Labour and Industry representing the Minister for Transport:

(1) What are the terms of local employment of labour (if any) in the contract with Zaganite Industries of Victoria for the Great Northern Highway from Goldsworthy to Nita Downs?

(2) How many people will be involved in the laying or painting of the road markings?

The Hon. G. E. MASTERS replied:

(1) Public tenders for this work closed on 20 April 1982 and the contract was awarded to the lowest tenderer Zaganite Industries Pty. Ltd.

There is no requirement in the contract document for the contractor in regard to the engagement of labour.

It is understood the major cost item of the contract would be the provision of thermo-plastic materials and the labour needs for the project are relatively small.

(2) My advice is that four people are currently on site, one of whom was recruited at Port Hedland and the other three are from the Eastern States.

CONSERVATION AND THE ENVIRONMENT: SYSTEM 11

Biological Survey

735. The Hon. GARRY KELLY, to the Minister for Labour and Industry representing the Minister for Lands:

(1) Has the biological survey of System 11 been completed?

(2) If "Yes" to (1), when will it be released for public discussion?

(3) In any event, should not the report be carefully considered before any land is released for agriculture?

The Hon. G. E. MASTERS replied:

(1) The field work has been completed and the compilation of data and preparation of reports are currently being undertaken.

(2) The report will be produced as 10 separate reports each dealing with one of the 10 sections into which the study area was divided. It is anticipated that the first two of these reports will be ready for public release by October 1983. It is likely that the remainder will be completed by July 1984.

(3) One of the officers on the working group on land releases is a member of the committee supervising the system 11 study and advises the working group accordingly.

RAILWAYS: WESTRAIL

Capital Works

736. The Hon. D. J. WORDSWORTH, to the Minister for Labour and Industry representing the Minister for Transport:

What have been the major projects or capital works programmes undertaken by Westrail in each of the last 12 years in each of the shires within the electorate of South Province, and Katanning and Broomehill?

The Hon. G. E. MASTERS replied:

1973-74 provision of grain sidings at Broomehill and Badgebup—$17 500.

1980-81 Provision of grain siding at Katanning—$28 300.

TRANSPORT: AIR

Airports: South-west Shires

737. The Hon. D. J. WORDSWORTH, to the Minister for Labour and Industry representing the Minister for Transport:

What action has taken place in airport developments in each shire within the South Province, and Katanning and Broomehill Shires, in each of the last 12 years either directly or by local government with financial support from the Commonwealth Department of Transport?

The Hon. G. E. MASTERS replied:

The information requested should be available from the respective annual reports of the Commissioner of Transport and other public documents. However, if there are any other matters upon which information is required, the Minister will be pleased to assist.

LAND: AGRICULTURAL

Release: Irwin, Morawa, and Northampton Shires

738. The Hon. GARRY KELLY, to the Minister for Labour and Industry representing the Minister for Lands:

According to *The West Australian* of 7 October 1982 the Minister had consultations with the Morawa-Irwin and Northampton shires regarding land release for farming; what has transpired as a result of those discussions?

The Hon. G. E. MASTERS replied:

The objective of the reported visit was to discuss with shires and farmers the Government's land release policy and progress of releases proposed in those areas.

The meetings achieved a good level of understanding and helped to identify

areas of Crown land thought worthy of investigation for agricultural use. These areas currently are being studied by the working group on new land release, the chairman of which took part in the discussions.

COURTHOUSES, FIRE STATIONS, AND POLICE STATIONS

South-west Shires

739. The Hon. D. J. WORDSWORTH, to the Minister for Labour and Industry representing the Minister for Police and Prisons:

(1) What major capital expenditure has gone into—

(a) police stations;
(b) court houses;
(c) staff housing; and
(d) fire stations;

in each of the shires within the electorate of South Province, and Katanning and Broomehill, in each of the last 12 years?

(2) What was the value of each of these projects?

The Hon. G. E. MASTERS replied:

(1) and (2) The information requested is available in documents tabled in this Parliament.

However if the member has a specific request the Minister for Police and Prisons is willing to assist.

EDUCATION: HIGH SCHOOL

Belmont

740. The Hon. ROBERT HETHERINGTON, to the Chief Secretary representing the Minister for Education:

(1) Will the Minister inform me when work on the second stage of the rebuilding of Belmont Senior High School will begin?

(2) When is it expected that stage two will be completed?

The Hon. R. G. PIKE replied:

I am advised as follows—

(1) and (2) The rebuilding programme at Belmont will be subject to further assessment when enrolments are known early in 1983. Preliminary work has been undertaken in the preparation of documents but firm dates for construction cannot be given at present.

RECREATION

South-west Shires

741. The Hon. D. J. WORDSWORTH, to the Chief Secretary:

(1) What was the aid given under the Department for Youth, Sport and Recreation, to projects undertaken within each of the shires within the electorate of South Province, and Katanning and Broomehill, in each of the last 12 years?

(2) What aid is contemplated in this year's Budget?

(3) What aid to these shires has been granted to construct cultural centres?

The Hon. R. G. PIKE replied:

(1) Financial aid from the Department for Youth, Sport and Recreation has been given since the 1976-77 financial year with the introduction of the community sporting and recreation facilities fund. Full details of grants given to all shires can be found in the department's annual reports or those of its predecessor, the Community Recreation Council.

(2) The Government has provided $1.753 million for the community sporting and recreation facilities fund from the 1982-83 Budget. Applications for grants were called on 15 July and closed on 30 September. Advice of grants approved is expected shortly.

(3) (a) Esperance Shire Council—grant of $375 000 for cultural and leisure centre which was completed in May 1981.

(b) Town of Albany—stage I—$250 000 currently being disbursed towards refurbishment of the old town hall;

stage II—a commitment of not more than $500 000 for the building of a new performing arts venue.

FIRES: BRIGADES

Board: Funding

742. The Hon. ROBERT HETHERINGTON, to the Minister for Labour and Industry representing the Minister for Police and Prisons:

(1) Is it the Minister's intention to honour the promise made by Sir Charles Court in 1977 to revise completely the method of funding the Fire Brigades Board?

(2) If "Yes", when can an announcement of proposals be expected?

(3) Have 13 local authorities asked for a Royal Commission into the operations and funding of the board?

(4) Does the Minister intend to institute a Royal Commission to inquire into the operations and funding of the board, or to institute any other kind of inquiry?

The Hon. G. E. MASTERS replied:

(1) and (2) In 1979, following the then Premier's commitment, the Government moved to provide funds from Consolidated Revenue to meet the total cost of fire protection in all towns protected solely by a volunteer brigade. This was a significant variation of the existing system of funding.

The Government has continued to examine fire brigade funding and has instituted a number of inquiries, including a Cabinet subcommittee and interdepartmental committees at senior officer level. To date no alternative system has been devised which would satisfactorily replace the present system without creating more anomalies or requiring substantial increases in taxation.

(3) I am advised that some years ago two local authorities approached the Government suggesting a Royal Commission. More recently an approach was made to the Minister by the Local Government Association with proposals for an inquiry by a committee representing interested parties. That proposal is at present being examined.

Some firemen who are members of local authorities have promoted or supported public criticisms of fire brigade funding without acknowledging that the single largest cost of fire brigades operations is firemen's wages. These same firemen have, one assumes, supported union claims for significant wage increases.

(4) See answer to (3) above.

INDUSTRIAL DEVELOPMENT

South-west Shires

743. The Hon. D. J. WORDSWORTH, to the Leader of the House representing the Minister for Industrial, Commercial and Regional Development:

(1) What were the major projects aided by the Government in each of the shires within the electorate of South Province, and Katanning and Broomehill, in each of the last 12 years?

(2) What was the value of aid to each of these projects in each of these years?

The Hon. I. G. MEDCALF replied:

(1) and (2) The information sought would be available from reports tabled in the House over the last 12 years.

If the member has any specific item of concern I will be happy to have it investigated.

FIRES

Sprinkler Systems

744. The Hon. ROBERT HETHERINGTON, to the Minister for Labour and Industry representing the Minister for Police and Prisons:

Can the Minister inform me how many buildings over 21 metres tall there are at present in the central business district of Perth which do not have sprinkler systems?

The Hon. G. E. MASTERS replied:

I am informed a survey undertaken in February 1982 showed 50 buildings over 21 metres in height were not sprinklered.

ROADS

South-west Shires

745. The Hon. D. J. WORDSWORTH, to the Minister for Labour and Industry representing the Minister for Transport:

(1) What was the value of—

(a) roadworks constructed by the Main Roads Department; and

(b) contribution by the Government to roadworks constructed by local authorities;

in each of the shires in the electorate of South Province, and Katanning and Broomehill, during each of the last 12 years?

(2) What amount was provided for in this year's Budget?

(3) On what major projects were such expenditures made?

The Hon. G. E. MASTERS replied:

(1) (a) and (b) Details of Main Roads Department expenditure and payments to local authorities over the last 12 years are contained in the respective annual reports of the Commissioner of Main Roads, copies of which are in the Parliamentary Library or can be accessed. If there are any other matters upon which information is required the Minister for Transport will endeavour to supply an answer.

(2) Allocations shire by shire for highways and main roads are not readily available in the accounting records, because funds are allocated for highways and main roads on a project basis and projects often extend across shire boundaries.
Funds allocated in the 1982-83 programme for council roads (secondary and unclassified) are—

Council	Amount
	$
Albany Town	409 790
Albany Shire	344 890
Cranbrook Shire	270 100
Denmark Shire	202 350
Esperance Shire	753 400
Gnowangerup Shire	327 600
Jerramungup Shire	174 380
Kent Shire	303 980
Lake Grace	398 460
Plantagenet Shire	333 320
Ravensthorpe Shire	408 310
Tambellup Shire	123 910
Broomehill Shire	119 040
Katanning Shire	244 380

(3) Major projects on highways and main roads—estimated to cost more than $100 000—in the 1982-83 programme are—

Local Authority	Road	Description	Amount
			$
Albany Town	South Coast Highway	Reconstruction and priming of 1 km	330 000
Albany Shire	South Coast Highway	Reconstruction and priming of 0.6 km starting at the boundary with the Albany Town Council	170 000
Albany Shire Plantagenet Shire Gnowangerup Shire Kent Shire	Albany Lake-Grace	Pavement repairs	110 000
Cranbrook Shire	Albany Highway	Reconstruction and priming of 4.9 km	630 000
Cranbrook Shire	Northam-Cranbrook	Widening and priming of 3.6 km north of Cranbrook	340 000
Esperance Shire	South Coast Highway	Resealing of 27.5 km	276 000
Esperance Shire	South Coast Highway	Reconstruction and priming of 6.9 km in various sections	782 000
Esperance Shire	Coolgardie-Esperance	Resealing of 15.5 km	170 000
Gnowangerup Shire Plantagenet Shire	Albany-Lake Grace	Resealing of 29.3 km	290 000
Gnowangerup Shire	Broomehill-Jerramungup	Reconstruction and priming of dual carriageways through the townsite of Gnowangerup	238 000
Jerramungup Shire	South Coast Highway	Pavement repairs	100 000
Jerramungup Shire	South Coast Highway	Resealing of 28.7 km	285 000
Lake Grace Shire	Armadale-Ravensthorpe	Shoulder reconditioning of 34.4 km	160 000
Lake Grace Shire	Gorge Rock-Lake Grace	Resealing of 15.6 km	105 000
Lake Grace Shire	Rocklands-Lake King	Widening and priming of 4.7 km	150 000
Plantagenet Shire	Albany Highway	Reconstruction and priming of 2 km	264 000
Ravensthorpe Shire	Armadale-Ravensthorpe	Resealing of 12.6 km	140 000
Katanning Shire Kojonup Shire	Kojonup-Pingrup	Resealing of 18.6 km	185 000

Major projects on secondary and unclassified roads—estimated to cost more than $100 000—in the 1982-83 programme are—

Local Authority	Road	Description	Amount
			$
Albany Shire	Frenchmans Bay	Construction and priming of 4.5 km	228 000
Gnowangerup Shire	Gnowangerup-Stirling Range	Construction	116 500

SEWERAGE

South-west Shires

746. The Hon. D. J. WORDSWORTH, to the Minister for Labour and Industry representing the Minister for Works:

(1) What sewerage schemes or other capital works were undertaken in each of the shires within the electorate of South Province, and Katanning and Broomehill, during each of the last 12 years?

(2) What works are—

(a) included in this year's Budget;
(b) within current planning?

(3) What was the value of each of these projects?

(4) How many households were included in each of these projects?

The Hon. G. E. MASTERS replied:

(1) to (4) The information required on the above projects is available to the member from annual reports and other public documents which have been tabled in Parliament House.

FUEL AND ENERGY

South-west Shires

747. The Hon. D. J. WORDSWORTH, to the Leader of the House representing the Minister for Fuel and Energy:

(1) What—

(a) new power plants; and
(b) major contributory extension schemes;

have been built in each of the shires of South Province, and Katanning and Broomehill shires, during each of the last 12 years?

(2) What extensions are contemplated—

(a) this current financial year; or
(b) under current planning;

either under the contributory extension schemes or other proposals?

(3) (a) What was the value of each of these projects; and
(b) how many subscribers were or will be served?

The Hon. I. G. MEDCALF replied:

(1) to (3) The information sought would be available from reports, etc., tabled in the House. However, if there is any specific issue on which the member wishes further information, the Minister for Fuel and Energy would be happy to provide such information.

QUESTIONS WITHOUT NOTICE

FUEL AND ENERGY

Wundowie Charcoal, Iron and Steel Industry: Board

193. The Hon. D. K. DANS, to the Leader of the House representing the Minister for Fuel and Energy:

With reference to my questions 544 of 30 September, and 624 of 27 October, will he seek leave of the House to have incorporated into *Hansard* the Minister's reply as outlined in correspondence to me dated 5 November 1982?

The Hon. I. G. MEDCALF replied:

Yes. Mr President, I seek leave of the House for the correspondence mentioned by the member to be incorporated in *Hansard*.

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

Dear Mr Dans,

Further to question 624, asked in the Legislative Council on the 30th September, the information requested has now been obtained, and I advise as follows:—

(1) On what date or dates during the calendar years 1973 and 1974 did the State Energy Commission enter into commitments with the (then) Wundowie Charcoal, Iron and Steel Industry Board to provide services to the Wundowie Plant?

(a) 2nd August, 1974
(b) 15th November, 1974.

(2) What was the precise nature of each service provided?

(a) Supply and construct 2 x 1 000 kVa transformer sub-stations for new foundry. Supply and construct new main switch and metering sub-station.
(b) Supply and erect overhead HV line and 300 kVa transformer for compactor.

(3) In respect of each service provided—

(a) what was the exact nature of the contract entered into;
(b) when was a contract price finalised; and
(c) when was an account rendered?

In respect of (2)(a):—

(a) There was no firm contract entered into. Work was carried out on an actual cost basis on Order No. 1503 and 7544.
(b) 2/9/1977
(c) 28/2/1978

In respect of (2)(b):—

This was a minor job, and above records are unavailable.

Yours sincerely,
Peter Jones,
MINISTER FOR FUEL AND ENERGY

CHILD WELFARE AMENDMENT BILL (No. 2)

Debate

194. The Hon. LYLA ELLIOTT, to the Leader of the House:

(1) Will he give me an undertaking my Bill to amend the Child Welfare Act will be debated by the Parliament before the end of this session?
(2) If "Yes" approximately when?

The Hon. I. G. MEDCALF replied:

(1) and (2) No, I am not in a position to give any such undertaking.

The Hon. Lyla Elliott: That sounds ominous.

GOVERNMENT REGULATIONS REVIEW COMMITTEE

Interim Report

195. The Hon. PETER DOWDING, to the Leader of the House representing the Minister for Industrial, Commercial and Regional Development:

(1) Has an interim report been submitted by the Government regulations review committee?
(2) Will the Minister table or make available copies of this interim report and if so, when?
(3) If not, why not?

The Hon. I. G. MEDCALF replied:

I am indebted to the Hon. Peter Dowding for notice of the question, the answer to which is as follows—

(1) Yes.
(2) No.
(3) This is purely an interim report and when the final report is received consideration will be given to having it tabled.

WITTENOOM

Asbestos Tailings: Stockpiles

196. The Hon. PETER DOWDING, to the Minister representing the Minister for Health:

I refer to the Minister's answer to question on notice 727, and ask—

(1) Is he not aware that the stockpiles of asbestos tailings are located along the Wittenoom Gorge and each rain storm washes portions of the stockpiles into Joffre Creek which in turn washes past the township of Wittenoom and into the Fortescue River?
(2) Is it not a fact that asbestos fibres have been located along the Fortescue River as far as Millstream?
(3) Is Millstream the source of the Pilbara water supply?
(4) In these circumstances what action, if any, does the Government propose to require the owner of the stockpiles to take to prevent the movement of this material?

The Hon. R. G. PIKE replied:

(1) Yes.

(2) No, but it is certainly possible.
(3) It is one of the sources of the Pilbara supply.
(4) The Minister will have the matter examined but expert world opinion, in general, insists that ingested asbestos is not harmful to health and does not cause cancer.

STATE FINANCE: STAMP DUTY

Avoidance: Bunbury Foods Pty. Ltd.

197. The Hon. PETER DOWDING, to the Attorney General:

(1) Is he in a position to make a statement about the matters raised in connection with the Bunbury Foods Pty. Ltd. removal of share register to Darwin?
(2) If not, when will he be in a position to make a statement?

The Hon. I. G. MEDCALF replied:

(1) and (2) No, I am not yet in a position to answer the member's inquiry. As I indicated to him the other day, the information will be furnished to him as soon as it is available.

CHILD WELFARE AMENDMENT BILL (No. 2)

Debate

198. The Hon. LYLA ELLIOTT, to the Leader of the House:

Further to my previous question and his answer, I ask—

(1) Is he aware of the fact that the Government itself has introduced eight new Bills into the Parliament since 2 November and in fact introduced two Bills on the same day as I introduced my Bill?

(2) In view of this, can the Leader of the House indicate to me whether the Government's own legislation will be dealt with by the Parliament, particularly the two Bills introduced on the same day as my Bill?

President's Ruling

The PRESIDENT: Order! I draw to the honourable member's attention the fact that my attention was diverted when she asked her previous question without notice. I advise her that her previous question without notice was out of order, and because that previous question was out of order, I suggest this question also is out of order, because it contravenes the Standing Order relating to the asking of questions and, in particular, that part of the Standing Order which says that questions shall not anticipate discussion upon an order of the day or any other matter which appears on the notice paper. For that reason, the question is out of order.