# Legislative Council

Tuesday, 29 October 1985

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

## CRIMINAL CODE

*Review: Ministerial Statement*

HON. J. M. BERINSON (North Central Metropolitan—Attorney General) [4.32 p.m.]—by leave: In September 1983 I released a comprehensive report which recommended major changes to the Criminal Code.

The report was prepared by the Crown Counsel, Mr Michael Murray, QC, and was entitled "The Criminal Code—A General Review". It was released as a discussion or working paper for public comment and submission.

At the time I specified the following subjects as priority areas for discussion and reform—

penalties;

enforcement of fines;

restitution orders and their enforcement;

insanity and intoxication;

sexual assault;

juvenile offenders;

fraud; and

trial of corporations.

In May 1984, after receiving public submissions, I invited Mr Murray to chair a working party on the review and to formulate firm proposals for Government consideration. In addition to Mr Murray, the working party consisted of Mr R. French and Mr P. Blaxell of the WA Bar Association, and, on the nomination of the Law Society, Mr W. J. Millar, Deputy Director of the Legal Aid Commission.

The working party was asked to report on penalties, fraud, intoxication, juvenile offenders, and the trial of corporations.

As anticipated, the process of reviewing the code has been lengthy and time consuming, and the contribution of the members of the working party has been of great assistance.

The working party has presented an interim report which makes a number of recommendations in respect of penalties and other areas of the code. The interim report is currently under consideration and the working party will continue its work in the areas allotted to it.

Of other matters listed for priority consideration, sexual assault has been considered separately, and legislation has recently passed through this House.

The difficult question of insanity—criminal proceedings and mental disorder—has been referred for report to the Law Reform Commission.

The enforcement of fines is subject to separate attention as part of the Government's general consideration of the rate of imprisonment.

Restitution will be the subject of legislation this session and is referred to later.

In addition to the deliberations of the working party, a number of areas of the code have been referred to members of the judiciary and the legal profession for consideration and comment.

These involve questions of sentencing for multiple offences, the division of offences, powers of arrest, parties to offences, preparation to commit offences, infanticide, assault, and offences against liberty.

The Government has approved the drafting of legislation in those areas and legislation in respect of restitution and compensation, assaults and powers of arrest, will be introduced shortly.

I will give brief details of measures approved by the Government.

Restitution and compensation: The code's restitution powers are limited and the Government proposes to amend the code so that these powers operate more effectively. Both summary and superior courts will be given power to make restitution orders upon conviction.

A convenient means of enforcement against property of a restitution order will be provided.

Wider compensation powers will be provided to sentencing courts. Provision will also be made for the enforcement of compensation orders.

Assaults punishable on summary conviction: The Government has announced previously its intention to increase substantially penalties for assault offences.

The present summary penalty for common assault is a fine of $100, or imprisonment for six months. The Government proposes that it

be increased to $3 000, with a maximum term of imprisonment of 18 months. Common assaults will be triable summarily only.

Assault occasioning bodily harm is punishable upon indictment by three years' imprisonment. At present the offence may be dealt with summarily, subject to imprisonment for six months, and a fine of $500. The Government proposes that the summary penalty be two years' imprisonment or $4 000.

Infanticide: The Government proposes to introduce an offence of infanticide.

Infanticide occurs when a woman kills her baby child under the influence of emotional disturbance attributable to the process of giving birth. At present, such an offence is treated either as wilful murder or murder.

Preparation to commit offences—incitement, attempts, conspiracy: The Government will introduce the general offence of incitement to commit crimes into the code. To incite is to urge or encourage or endeavour to persuade another person to commit an offence.

The Government proposes that penalties for attempts be modified. Where the head offence is punishable by life imprisonment, attempts will be punishable by a maximum of 14 years' imprisonment. Otherwise the maximum penalty for attempts will be one-half that prescribed for the actual commission of the offence.

The offence of conspiracy has been subject to increasing criticism over a number of years. The judiciary, up to the High Court, has clearly decided against any extension of the offence. The view has been expressed that, wherever possible, the prosecution should not indict for conspiracy, but for substantive offences.

The Government proposes that the offence be restricted to cases where the thing or things agreed upon to be done, if actually done, would themselves be criminal. The offence will require an agreement which would necessarily amount to or involve the commission of an offence.

A similar statutory approach has been taken in the United Kingdom—the Criminal Law Act 1977—and more recently was adopted in Victoria—the Crimes (Conspiracy and Incitement) Act 1984.

Parties to offences: It is proposed to introduce the concept of dissociation into the code.

In general the common law provides that where two people undertake a joint purpose, then each of those is guilty of the consequences of that purpose. Dissociation may avoid that result where there is evidence which shows that one accused withdrew from the prosecution of the common purpose, and made a timely communication of dissociation to the other accused.

Sentencing for multiple offences—taking offences into consideration: Often offenders are charged with the commission of a number of offences, some of which are triable summarily in a Court of Petty Sessions and some of which are triable on indictment, either in the District Court or the Supreme Court. The offences often arise out of the same circumstances, or are offences committed in the course of one spree of criminal behaviour.

Difficulties are created when such a series of offences is dealt with in a fragmented fashion by different courts. This causes delay in the ultimate disposal of the matter, and makes the sentencing task of the various courts more difficult.

This problem has been met in the United Kingdom by the system of taking offences into consideration. This enables a court to consider other offences committed by the offender without the need for a multiplicity of charges.

In Australia, a majority of States have already introduced statutory systems for taking offences into consideration based on the UK model. It is proposed to adopt a similar system.

Division of offences: The code divides offences into crimes, misdemeanours and simple offences. Crimes and misdemeanours are indictable offences, while simple offences are summary offences.

It is proposed to delete the category of misdemeanour. The proposal will have the effect that indictable offences will be called crimes. The same course was adopted in the United Kingdom in 1967 and applies under the Commonwealth Crimes Act.

Powers of arrest: Misdemeanours have significance only with respect to powers of arrest.

The code provides that crimes have the effect that offenders may be arrested without warrant. Misdemeanours have the effect that, unless the code provides to the contrary, offenders cannot be arrested without warrant. The circumstances as to when arrest without warrant may occur are to be clarified.

It is proposed that a police officer who has reasonable grounds to suspect that an offence has been or is being committed, have power to arrest without warrant any person reasonably suspected of being the offender.

It is also proposed that there be a power in any person to arrest without warrant any person who is suspected of being in the course of the commission of an offence, and a power in any person to arrest without warrant where an offence has been committed, and the person proposing to arrest has reasonable grounds to suspect that the person arrested has committed the offence.

The proposals are generally in line with section 2 of the Criminal Law Act 1967 of the UK.

Offences against liberty: It is proposed that the code offences dealing with deprivation of liberty, kidnapping and abduction be strengthened and updated generally along the lines recommended by Mr Murray.

The above outlines the Government's action to review and update the Criminal Code. Substantial progress has already been made and, consistent with its general efforts to update the law, the Government will actively pursue its reform programme.

## MEDICAL AMENDMENT BILL

*Receipt and First Reading*

Bill received from the Assembly; and, on motion by Hon. J. M. Berinson (Attorney General), read a first time.

*Second Reading*

**HON. J. M. BERINSON** (North Central Metropolitan—Attorney General) [4.44 p.m.]: I move—

That the Bill be now read a second time.

In accordance with the Burke Government's election promise, it is proposed to amend the Medical Act to upgrade it and to bring it into line with present practices and values, and to ensure that it is more responsive to consumer needs.

As well as introducing into the Act more flexible arrangements for the delivery of medical services, emphasis has been placed on ensuring greater consumer protection, and providing consumer representation on the Medical Board of Western Australia.

Emphasis has also been placed on ensuring wider community access to appropriate services by allowing more flexible advertising by medical practitioners.

Two other major additions to ensure consumer protection are proposed in the Bill.

The first amendment is to provide for the approval and control of organisations providing an after-hours medical emergency call service. Many medical practices do not now provide after-hours service although there is an obvious need for this. In the two organisations which now provide such a service, the medical practitioners are subject to the controls and restrictions of the Medical Act, but there is no similar control of efficiency and service in the organisations themselves.

The Bill proposes an approval system to ensure that such organisations are properly managed and it also includes a precautionary measure to ensure that unregistered medical practitioners are not employed in after-hours services.

Queensland has enacted legislation and made by-laws under its Medical Act to control after-hours medical services, and in Victoria and New South Wales planning for similar legislation is well advanced.

This Bill provides regulations to control the day-to-day operations of such organisations and will empower the Medical Board to issue certificates of approval to those who satisfy the criteria for the good conduct of such services.

Provision is made in this Bill for any person, who is refused approval to conduct such a service, to appeal to a District Court within 30 days of that decision being made by the board. This power to appeal is also available to the holder of a certificate of approval where the board has imposed on the approval a condition, restriction or prohibition relating to the operation of that service.

In certain serious circumstances, the approval could be cancelled or suspended, but this Bill will allow appeal to the District Court within 30 days. Another major addition will allow for the registration of incorporated bodies providing medical services in this State. This is in line with present practices in other States and simply requires all such registered bodies to comply with the provisions of the Medical Act as though each were a medical practitioner.

Provisions are included in the Bill to ensure that control of the body providing the service is under—and will always remain under—the personal supervision and management of a registered medical practitioner.

Queensland, Tasmania, South Australia and the Northern Territory have already introduced appropriate legislation and the Medical Boards of Victoria and New South Wales have submitted recommendations for similar legislation.

The Bill increases membership of the Medical Board by two so that it can have two consumer representatives. One will be the permanent head of the Department of Consumer Affairs or one of his or her officers. The other will be a member of the public appointed by the Minister.

Under the present Act, one position on the board is not held by a medical practitioner. In the past few years, that position has, by chance, been filled by a legal practitioner. Because the involvement of such a person has been of considerable benefit, this Bill proposes to redesignate the position so that it must be filled by a legal practitioner.

It is also proposed to make specific provision for the appointment of a medical officer of the Health Department. For many years a medical officer of the department has been nominated as one of the six medical practitioners on the board. This Bill proposes to recognise that practice by providing that the permanent head, if he is a medical practitioner, shall be a member of the board, or he may nominate a medical officer of the Health Department to be this member of the board.

The person appointed has always been the Commissioner of Public Health. With the formation of the Health Department of Western Australia, a new title for the permanent head has emerged but drafting procedure now requires that the title "permanent head" be used. This is defined in the Interpretation Act of 1984 to mean the permanent head of the Health Department.

Five medical practitioners will have a place on the board.

Other provisions in this part of the Act have been rewritten to modernise the wording. One of these provisions is amended to increase the quorum to four members to compensate for the increase in the membership of the board proposed in this Bill. To ensure that the composition of the quorum always contains medical practitioners, the Bill provides that, of the minimum of four members, not less than two of those members must be medical practitioners. The board will continue to elect its own chairman.

The Bill also allows measures to be taken to overcome a lack of medical specialists in a particular area of the State. In this case, a person with non-registrable specialist qualifications may be registered to practise in that region. This provision already exists for medical and surgical requirements.

The Bill also sets out to clarify the powers of the board in inquiries into misconduct by a medical practitioner. It allows for the practitioner to be examined if it is suspected that his physical health may be affecting his ability to practise. At present, the Act provides this power only in relation to the practitioner's mental health.

The Bill will also allow the board to take disciplinary action against a practitioner, without conducting an inquiry, where an inquiry conducted by a similar registration board in another State has resulted in disciplinary action being taken against that practitioner.

In addition, some sections of the Act have been reworded to restate its intention more clearly and to delete obsolete provisions and references. For instance, the reference to the Medical Board constituted under the Medical Ordinance 1869 has been replaced by a reworded definition of board.

Some of the penalties in the Act have not been altered since the Act came into operation on 1 January 1895. The penalties therefore have all been revised and will now provide a reasonable deterrent.

Present restrictions on the board's fees prevent charges being levied at a rate which covers the administrative cost of providing the service. The Bill proposes to remove these restrictions.

It is not considered appropriate to impose limits on fee levels because they are already subject to adequate control through the Minister and his recommendations to the Governor-in-Executive-Council. They are also subject to a review by the Legislative Review Advisory Committee.

This Bill will upgrade the Medical Act and bring it into line with present practices and values.

Equally importantly, it will make the Act more responsive to consumer needs, provide greater protection for the public and honour promises made in the 1983 policy speech.

I commend the Bill to the House.

Debate adjourned, on motion by Hon. Margaret McAleer.

## BILLS (2): THIRD READING

1. Criminal Injuries Compensation Bill.
2. Electoral Amendment Bill.

Bills read a third time, on motions by Hon. J. M. Berinson (Attorney General), and returned to the Assembly with amendments.

## CONSTRUCTION INDUSTRY PORTABLE PAID LONG SERVICE LEAVE BILL

*Second Reading*

Debate resumed from 24 October.

**HON. V. J. FERRY** (South-West) [4.53 p.m.]: One could describe this Bill as a welfare Bill. It really is another instance of the population being burdened with further welfare payments. I join with those speakers who contend that long service leave entitlements should apply for an employee who has been in the employ of a single employer for a certain number of years. These days the trend is for long service leave to be granted to employees industry by industry and not necessarily is it granted to employees who have been with one employer. Carrying this to its ultimate conclusion, one could expect, way down the track, that this would turn the full circle and one could see everyone being given long service leave after a number of years, no matter what work everyone was doing. We will see another effort in some other guise to bolster workers' earnings and entitlements under another label. It seems we are going around in circles. No longer is long service leave really a reward, as originally intended, to give a benefit to those loyal and diligent employees who serve their employers for a certain number of years. We are becoming a ridiculous welfare State.

I note that in Sweden a distinct trend can be seen away from handouts to people. The people want to spend their own money in their own way. When I visited the Scandinavian countries a few years ago I spoke with many people there about this matter. Fortunately I was able to converse with them in English because they could speak English whereas I could not speak their own language. I ascertained their feelings towards welfare payments, taxation and the remuneration they received for the jobs they did. It came through loud and clear that, having experimented with the welfare State, with the State providing so many things for their daily needs, in many cases luxury items the people did not really need, the consensus was that they preferred to have their own money in their own pockets and to pay less taxes so that they could pay for their needs out of their own money.

This trend I am sure will overtake Australia in the long term, but in the meantime we are caught up in this merry-go-round of giving all these benefits to people in a way that will not do the country any good. We are burdening our people by making them provide more funds to run the country. We are mortgaging the future for our young people. They will have to pick up the tab and pay the price for what is now going to workers in industry.

I would not deny anyone who works hard a reasonable reward. That goes without saying; there is no argument on that count. However, we are getting to the ridiculous stage where we are paying people not only their salary or their wage, but also annual leave entitlements which, in the main, are greater than those provided in nearly every other country in the world. We provide generous sick leave payments. That is fine by me because if people are genuinely injured or sick they should be compensated accordingly. But we see the spectacle of industry being burdened with so many taxes—payroll tax, FID and so on. These are becoming a real burden and we are mortgaging the future of our young people.

This Bill provides for the establishment of a board to administer the Act, and the board is to comprise seven people. This will create another bureaucracy. Without doubt the board, to survive, will have to grow; there is no other way for it, because this is the modern trend. Despite all the technological advances we have made, with telephones, computers, word processors and the like, we still need people to work in an administrative capacity. So we are sure to end up with a far larger bureaucracy and this will be a further burden on the community.

The PRESIDENT: Order! There is far too much audible conversation in the Chamber. Members should please refrain.

Hon. V. J. FERRY: Not only will the board face the cost of employing people in its office, but it will also need people to travel the length and breadth of the State and this will involve travel expenses, accommodation expenses and various allowances. These will be further costs on productivity, I guess. Its work will be nonproductive because it will not produce anything; it will just look after welfare matters. This is another impost on the community. It is a further case of this socialistic sickness which seems to be creeping across Australia. As I have

said, Sweden is seeing a swing back to conservatism and more reliance on the individual to look after himself.

I notice a number of amendments on the Notice Paper, and we will have ample opportunity during the Committee stage to comment on the various clauses of the Bill. I will conclude my comments for now but I indicate that I will have a lot of interest in the debate during the Committee stage.

**HON. PETER DOWDING** (North—Minister for Industrial Relations [5.00 p.m.]: I must say that Mr Masters' disappointment in the second reading speech is exceeded only by my disappointment in the matters raised by the Opposition.

It appears that many of those spokespeople who have voiced comments have simply not read or understood the Bill. In addition to their not having read and understood the second reading speech, I think the first point that needs to be again made is that honourable members should recall that, in fact, Western Australian workers were given long service leave as an entitlement a long time ago. However, as a result of the changes in industry practice, that long service leave is no longer available to many of those workers.

**[Questions taken.]**

Hon. PETER DOWDING: I regret that the Opposition apparently does not understand that this concept of giving workers long service leave has been addressed over many years and that the workers in the construction industry are entitled to long service leave.

The point at issue is that it is due to the structural changes in the construction industry—that is, the tendency not to have a long-term, permanent work force, but to hire people for short-term employment, project by project—it is fair and equitable for workers in that industry to effectively lose long service leave to which they are entitled under the existing legislation.

The second comment I make—I am sorry Hon. Graham MacKinnon is not in the House because the issue he raised regarding this legislation was more correct than the issue raised by Hon. David Wordsworth—is that this Bill does not give anything new in that sense. Mr Gayfer and Mr MacKinnon hold the view that the people who are entitled to long service leave and cannot get it because of the restructuring of the industry, should not get it at all. In other words, they suggested that in the case of the restructuring of the industry the workers who were entitled to long service leave should not receive it. That is only a point of view. It is not the point of view of the Government and I am sure that it is not the point of view of the Opposition.

We did not hear these arguments when the Local Government Amendment Bill (No. 2) was introduced into this House in November 1977.

Hon. D. J. Wordsworth: There was a lot of disagreement.

Hon. PETER DOWDING: Hon. David Wordsworth did not disagree with it, he voted for it.

Hon. D. J. Wordsworth: There was a lot of disagreement at that time.

Hon. PETER DOWDING: Hon. David Wordsworth voted for it, and that is the fact of the matter.

This is not a debate about the principle that has been longstanding in the minds of honourable members, but a debate about a Bill in which honourable members now wish to re-examine the principle.

I understand that, but let us be frank about the basis of the debate. The basis of the debate is a longstanding principle about workers who are entitled to long service leave, but because of the rearrangement of the industry cannot get it. They should have their entitlement facilitated.

It is important not to read this Bill in the context of other debates about whether the performance of particular unions in the building industry should receive commendation or no commendation. The fact is that it does not matter which unions have coverage of the men doing this work because it will be the men who will suffer if this legislation is not passed. The unions will not suffer. In fact, it might be said that there is no benefit to the unions.

Hon. G. E. Masters: You mean union leadership.

Hon. PETER DOWDING: There will be no benefit to the union leadership.

The point I am making is that the benefit will go to the union membership—the workers who belong to whatever union covers the sort of work they are doing. The approbation, or the lack of it, in respect of any union is irrelevant in this matter. Even if we deregulated every building union people would still have to be covered by this Bill. That is the point I would like to emphasise. We are talking about people who toil in the building industry and many of

them work extremely hard. The Government believes they should not be deprived of the right to long service leave.

The other point I make is that the right of those workers to long service leave still has to pass some very stringent criteria. As Hon. Gordon Masters highlighted in a question he asked, there are workers who will not be keen about working a great number of days in one year and then taking the following year off because they will not be eligible for the entitlement.

The Bill is structured on the basis that a certain minimum number of days must be worked during the year and workers are unable to build up a credit to flow over into the following year. What we are looking at is a stable work force within the building industry which will work in that industry for an extended period of time. If we were to remove the hyperbole of the Leader of the Opposition from this debate—

Hon. G. E. Masters: I am glad you said that with a smile on your face.

Hon. PETER DOWDING: The Leader of the Opposition has introduced a fair measure of hyperbole. This Bill has not been introduced under pressure on the Government because of threats of industrial trouble as has been suggested.

Hon. G. E. Masters: It is true. You know it and I know it.

Hon. PETER DOWDING: When Hon. Gordon Masters was a Minister and I was in Opposition I used to draw his attention to the fact that he got a pimple on his tongue from this sort of debate.

I assure him in this case my tongue will remain untarnished, because the truth is that the Labor Government has expressed concern about the basic rights of workers in an industry. It is not our concern to produce a benefit for a union leader; the benefit is for the workers.

Let me say that this was put into motion in February 1984, nearly two years ago. There has been lengthy consultation. Our commitment today is clear. It is regrettable that the consultation and the drafting of this Bill, with all its complexities, has taken so long. We would have preferred to see it introduced before. It is our belief it represents justice for those people working in that industry.

The honourable member cast some criticism at the second reading speech and suggested that it had not been clear which were words of disagreement and which words were subject to governmental decision. An examination of the second reading speech makes that perfectly clear.

The first thing is that not all employers or their organisations were able to signify agreement to the introduction of this scheme. They participated in the production of the Bill knowing that the Government had made a policy decision. That is the Government's role. We make policy decisions, but nevertheless seek consensus in terms of implementing them. This Bill has provided many areas of consensus.

Let me also make it clear that the unions have sought a wider coverage in this Bill than the Government has been prepared to give. The unions requested that the Bill extend to cover contractors as employees, and secondly, a much higher level of penalties. These are two areas where the Government has rejected the unions' submissions and made it clear we have a policy decision at this stage.

The other point I should make is this: The criticism of the effect of this Bill is, in my view, misguided when one considers that this policy decision was taken some time ago. The workers have had an expectation that long service leave arrangements would commence—and we are dealing with an industry which has worked very hard over the last 18 months.

Hon. G. E. Masters: It is fair to say there has been more turmoil in that industry than in any other industry in Australia.

Hon. PETER DOWDING: I think that is incorrect, particularly in view of the Government's intervention four months ago. Since then there has been a remarkable downturn.

Hon. G. E. Masters: Don't you get any complaints?

Hon. PETER DOWDING: I want to make it quite clear that the Government is committed to its belief that this will benefit the industry. It is my personal view, as well as a view shared by the Government, that if we provide for greater security and greater stability in this industry, we reduce the problems which arise.

It is a tough industry. Mr Masters, when he was in Government, would have known what a tough industry it was. I receive complaints of breaches of their obligations by both employers and employees. A man was killed on a building site recently. We have seen a range of practices in places which are quite untenable. Men are being worked without workers' compensation coverage. Employers who know full well that they are not covered by workers' compensation

take the risk that they will be able to carry on in those circumstances, but there is a very real risk that at the end, if there is a serious accident, the employer would simply go bankrupt and there would be nothing left for the parties concerned.

Hon. H. W. Gayfer: If you believe this, why reduce the level of penalties? You did not say why you did, you said you had.

Hon. PETER DOWDING: I said the Government had made a policy decision; it had achieved a proper level of penalties. We do not regard it as proper to increase them.

What I am saying to members opposite is that this is a tough industry. It is an industry where there are wrongs on all sides. It is the very firm belief, supported by many operators in the industry, that if we give greater security we will improve the morale and the performance in that industry. My belief is that that is a very important issue.

Many issues have been raised which I would prefer to deal with in Committee, but let me canvass a couple of them. In relation to the criticism of the proposed board, it is not being set up to serve the Government; the board is being set up to serve the industry. The industry will have a long service leave entitlement. It will be receiving funds. It will want to invest those funds, and it will have the job of ensuring that the proper paperwork is done in relation to the registration and administration of those funds. That is not a huge bureaucracy.

Hon. G. E. Masters: It is still a bureaucracy.

Hon. PETER DOWDING: To give an indication of the numbers involved, it is not a bureaucracy, it is simply necessary.

Hon. G. E. Masters: Have you worked out how much it will cost?

Hon. PETER DOWDING: Even the Liberal Party has a couple of people working for it.

Hon. G. E. Masters: You are going to tell us how many are involved?

Hon. PETER DOWDING: I know that the member's party has a cash flow problem, but one must have people to manage that sort of problem. We expect something under 9 000 workers to participate in this scheme. The equivalent numbers in the ACT is 8 500, the ACT has five full-time and three part-time staff. The administrative costs are about $300 000.

It may be that our scheme will not need that many, but it is a scheme which will be serviced by its own officers. It is not a cost to Consolidated Revenue. It is not a bureaucratic structure.

Several members interjected.

Hon. PETER DOWDING: The member is arguing against having a long service leave scheme. If he accepts the principle that these workers are entitled to it, but are unable to get it, then one must have somebody to organise the scheme itself.

The point I make is this: If one does not give the workers the opportunity to have the long service leave to which they are entitled, it may well be argued that they would be very resistant to the structure which has grown up in the building industry. If significant economies are achieved by that structure—and I believe they are—then it ought not to be at the expense of the workers' legislative entitlement. This was a principle established many years ago. Honourable members did not object to it at that time.

Dealing with a couple of other points raised by members, the most significant is that raised by one member after another concerning the effect of this Bill. I sought to tell Hon. David Wordsworth and other speakers that they were wrong in believing that the Bill extended into other areas of construction work. It relates only to construction work being carried out under construction awards.

A member: It does not exactly say that.

Hon. PETER DOWDING: Well, the member can see precisely what it says. However, we will come to that.

Let me assure honourable members that the Bill does not apply to a farmer—that seems to be the biggest point of contention raised—who employs labour to build something for him. It applies where workers are working under the construction award and engaged in the construction industry, and it applies to those employers who have an obligation which arises under clause 35. We will deal with that clause in more detail in the Committee stage. There is no sustainable objection to it.

Hon. H. W. Gayfer raised the suggestion that casual workers in the construction industry and other casual workers in fact received some bolstering of their salary which should be removed. I have had an officer of the Office of Industrial Relations carefully examine that, and we do not find anything to support the proposition. I will also deal with that aspect in Committee.

Hon. H. W. Gayfer also raised the fear that this Bill would apply to people involved in the fumigation of grain and the sealing of silos. The fact is that work is neither construction work nor covered under construction industry awards. Therefore, like so many other concerns, that will not apply. That work is not done under a construction industry award.

Hon. H. W. Gayfer: It is done by construction engineers.

Hon. Tom Knight: Look at the maritime workers dispute.

Hon. PETER DOWDING: That dispute was a jurisdictional issue, not a demarcation issue. The substantial objection to this Bill can only be that raised by Hon. G. C. MacKinnon, and it is this: Many workers have been given long service leave; a blanket entitlement has been given to construction industry workers. Because of the restructuring of the industry they have lost the ability to receive long service leave, and it ought to be given to them. That is the basis on which members opposite would oppose this Bill. That would be a major departure from the established procedures in this House and elsewhere.

A member interjected.

Hon. PETER DOWDING: Very few of the employers in the building industry employ a permanent day labour force. They have almost all resorted to the contracting and subcontracting system and project based employment. It is something which has been going on in the cottage industry for a long time, but even in that field we have seen changes which have been considerable. That has been the case for a considerable period; but that is the nature of the beast and the Government is of the view that that ought not to disentitle workers from access to long service leave.

I make the final point that long service leave in these circumstances is not available to the casual worker.

Hon. G. E. Masters: You had better explain where that is in the Bill.

Hon. PETER DOWDING: I have made it clear that one cannot accumulate work over a period of time. There must be an accumulation which can be no more than 220 days in any 12-month period.

Hon. G. E. Masters: You are saying that one cannot be casual to the industry but he can be casual to the employer?

Hon. PETER DOWDING: One cannot be casual to the industry. The only reason one could be casual to the employer is because that suits the employer. That is the way in which the employers have been able to make substantial efficiencies in their operations. If one wants to disadvantage the workers by those efficiencies, in other words by removing the workers' entitlement to long service leave which already exists, then worker resistance is built up towards those structural changes; and it is my belief and the belief of the Government that we ought to encourage structural changes that lead to efficiencies without disadvantaging the relevant workers.

Hon. G. E. Masters: Construction awards include an element that takes that into account.

Hon. PETER DOWDING: They do not. I have examined that point very carefully and I simply say that casual wages do not cover this industry. Casual rates apply to an employee who is under the national award. A casual hand means an employee who is employed for a period of less than five days. That is not the sort of worker whom we are speaking about in this industry. The casual worker gets the benefits of being a casual worker. Those benefits do not apply to the people who work one, two, three, or four months on a project and who then have a period of unemployment between the end of that project and the start of another project, or who move to another employer. They do not get the benefit of casual rates because under the awards casual rates are restricted to the people who work on much shorter terms. That is the effect of the national award and other awards, so it is not correct to say that casual rates apply to the workers in this industry.

Hon. G. E. Masters: I was saying that construction awards are fairly high compared to some other awards.

Hon. PETER DOWDING: I do not know how the member would value the labour.

Hon. G. E. Masters: I am saying that was intended to take into account that they do not have such things as long service leave.

Hon. PETER DOWDING: I do not believe one could find support for that proposition in any of those determinations, and that is the advice of my officers. I make it perfectly clear again, so honourable members will not be under any misapprehension, that this Bill is not intended to provide the right to long service leave to these workers. That right does exist. The structural changes in the industry preclude

them from taking advantage of that right. This Bill simply puts in place a scheme whereby they can take advantage of the right that was created originally in the various awards and in the Long Service Leave Act.

I commend the Bill to the House.

Question put and passed.

Bill read a second time.

*In Committee*

The Deputy Chairman of Committees (Hon. P. H. Lockyer) in the Chair; Hon. Peter Dowding (Minister for Industrial Relations) in charge of the Bill.

**Clause 1: Short title—**

Hon. TOM KNIGHT: I want to offer a word of caution with this clause. People are not aware of what it will do to the economy, to the future work force, and to job opportunities in Australia.

It is great to have all these benefits and extra facilities available as long as it does not cost jobs. This legislation will cost jobs. In fact, I did some calculations, which will be of great interest to the Chamber, on the basis of the portability of long service leave as applying to a total Australian work force of 4 million people—it is rapidly approaching this figure. I found, 13 weeks' long service leave entitlement multiplied by 4 million people at $400 per week amounts to a total cost over 15 years of $20 800 million. This is a cost to industry per annum over 15 years of $1 386 666 666. At $400 per week it costs Australian industry 266 666 lost jobs per annum due to the introduction of portability of long service leave over the total Australian work force.

Members may remember that when we were talking about the employment freedom Bill I put forward some other figures in regard to the 17½ per cent loading for holiday pay. In *Hansard* of 25 September 1984 I said—

> . . . using the figure of $300 per week with a work force of 5 million; and using the same criteria which gives an annual income of $15 000, or a loss of jobs for 70 000 people.

When we compare 70 000 to 266 000 we realise we do not really have an unemployment problem in Australia if that money is going back into the system, but somewhere along the line someone has to pay for this portability of long service leave. In the long term it will be the consumer because the employer will pass the cost off onto the consumer. We are not competitive on the overseas market now. We do not have an export surplus. We have an import surplus and an export deficit, which means that this country is running at a loss.

A recent article by John Laird in *The Australian Economy* says that Australia is going broke. I do not intend going through that point now, but what we are doing in relation to long service leave, superannuation, holiday loadings, and all the employment benefits that have become peculiar to Australia—they do not exist in any other country in the world—is putting this country out of the market. We are going broke. At the turn of the century we had the highest living standard in the world. Recently we were down to twenty-first, and I believe that on the latest figures we are twenty-seventh on the list. These are the sorts of things that are creating this situation. We must look at what we are doing. We cannot keep flowing-on the costs to the poor consumer. Someone has to pay and in the end it is the little bloke, the consumer. The boss has to unload these costs, and every time he has to compete internationally or on the world market he has not got a snowball's hope in hell. Every time we do something like this the other unions will want a flow-on. It will not stop here. It will not apply only to the building industry or the housing industry. It will go right across the board.

I will have something to say later with regard to what this will cost the average home owner in Western Australia. It is no use going around saying this legislation will not cost Australia anything. It will put Australia further down the chute than it has ever been. Higher and bigger demands will be made from trade unions. It is great to give the people everything they want—as long as it does not cost jobs or the security of this country or make us the poor neighbour of all the other nations in the world.

Hon. PETER DOWDING: I must say that sometimes I do become very depressed in this place because rational argument goes out of the window. I hope Hon. Tom Knight will listen to me on this occasion.

Portability of long service leave applies in every other State of Australia at the present time, except in Queensland. It will not be some novelty that has not existed elsewhere. Secondly, the rights of these people to long service leave already exist. If Hon. Tom Knight wants to turn back the clock and stop long service leave, his own party room would be the place in which to put forward that proposition. We will see how the people support the Liberal Party, if that is what the member's idea or plan is. If he

wants to disadvantage workers who are being disadvantaged already, because they are agreeing to changes in order to achieve greater efficiencies and thereby losing their long service leave, and if that is what he thinks is fair, I point out that that view is not shared by the Government. I make the point that these employees are covered in all other States of Australia except Queensland, and there are not many cranes operating in Queensland!

The truth is that those figures are not an accurate representation of the results of this Bill. The right to long service leave already exists and we are simply making it applicable to people in an industry which is changing rapidly, and which has resulted in workers losing their ability to receive long service leave entitlements.

Hon. NEIL OLIVER: I support the legislation. I followed this debate with great interest but, frankly, what has disappointed me is that the Minister is talking about rational argument and his criticism is due to his irrational action in his capacity as Minister. Really he is getting right away from the point.

Long service leave has been a longstanding tradition in the Public Service. It flowed from the Public Service where it first began many years ago. Basically, most of the residents of this country still regarded home—that is the United Kingdom—as being in another world; therefore the concept of long service leave, which the Minister supports on the basis of irrational argument, was introduced to enable relatives still in the United Kingdom to be visited by those in Australia. The Minister has therefore gone away from the point. Those people were required to travel by ship for a minimum of four weeks and leave of less than three months would have made it impossible for them to visit their homeland.

What has happened is that expectations have risen, so we have the Minister making statements which are totally irrational. They bear no logic or any relationship to the argument he has put forward.

I understand the construction industry. I realise that industry does not have the stability of other industries. It is reasonable to want employees in that industry to enjoy the same circumstances and conditions of service that other employees have.

There is nothing new about this matter; in fact, it was introduced elsewhere in the early 1970s. The first Bill in regard to portability of long service leave was introduced in Victoria in1975 by a Liberal Government. It was called the Building Industry Long Service Leave Act.

I am disappointed that the Minister does not seem to come to grips with or even to understand the legislation. He seems to regard other people as personal opponents. I am very disturbed at his remarks and misunderstanding of the manner in which the subcontracting industry operates.

The Minister referred specifically to the cottage industry. I will therefore follow with great interest the Committee stage of the Bill, because I now doubt very much the Minister's credibility and his approach to the legislation.

Hon. TOM KNIGHT: All I did was issue a word of warning. When the Minister does not understand what someone is talking about he resorts to insults and innuendo in order to get away from it. I was pointing out—he pointed it out himself—that we did not always have long service leave. Long service leave was introduced in recent decades.

*Sitting suspended from 6.00 to 7.30 p.m.*

Hon. TOM KNIGHT: The Minister has misconstrued what I was saying in respect of the damage this legislation will do to future generations of Australians. If we keep giving everyone everything, we will have flow-on situations that we cannot support.

Portability of long service leave began in the Public Service and then went to local government. The Minister said that this legislation applies only to the building industry. I say that if we accept that, its provisions will keep flowing on. Before long, the work force of 4 million people in Australia will be affected. Assuming that the wage level is $400 a week, the cost over 15 years will be $20 800 million. That estimate assumes that, despite the claims being made by unions, wages will stay around that figure. The loss will actually be greater, as wages will increase.

Hon. Mick Gayfer has already indicated his concern that portable paid long service leave may be asked for by workers in the industry he is concerned about. This legislation is sure to have a flow-on effect. Once it applies to members of one union, every union will demand the same rights. It is not uncommon that people do not wish to be left behind by others. Whenever one union wins a point, the next day other unions put in a log of claims for the same thing. I stand by what I have said and will be proved right.

I mentioned earlier an article I read today, entitled "Australia is going broke". It points out that we are paying out money wantonly and needlessly, money that the country cannot afford. It mentions the billions of dollars that we will be in debt. We know and the Minister knows that we cannot compete on the overseas market. Imports are not being balanced by our exports. When a country gets to that stage, it is going backwards.

At the turn of the century we had the highest living standard in the world. We were No. 1 on the list; we have now dropped down to almost thirtieth on the list. There must be a lesson in that. I offer to the Minister a word of caution. If we keep handing out money and propping up the welfare society, the taxpayer to a degree will be eliminated and the number of people in the work force will be decreased. That will put a greater burden on the remaining taxpayers. Somewhere along the line those people will say, "To hell with the whole system. Let's give up work and live off welfare." This sort of legislation will bring about that sort of situation and bring an abrupt end to all the goodies.

Hon. G. E. MASTERS: First, I make reference to the comment made by Hon. Tom Knight about our living standards dropping from first to twenty-seventh amongst other countries. That is partly, if not largely, due to our industrial arbitration system. There is plenty of room for improvement in that area and eventually the penny will drop for this Minister and the Government. Our living standards will continue to deteriorate until that message gets through.

The title of this Bill is misleading to a great number of people. It was certainly misleading to me and to my colleagues and, indeed, to Government members in another place. The words, "Construction Industry" in the title conjure up the idea of the construction industry as we know it and talk about it; that is, the big construction projects down in St George's Terrace. The Minister will say that that is not his interpretation, but I suggest that it was the interpretation of one of his colleagues. He made the sort of statement in another place which completely misled not only members of Parliament on my side of politics, but also his own members.

Long service leave has always been, and was always intended to be, paid to people who gave long service to a particular employer—one employer or one company. The Minister was correct when he said that in my time in Government we agreed to portable long service leave being arranged for local government employees. Nevertheless, we see another step down the road towards what I think will eventually be the Government's ultimate aim, if it is not already; that is, it will be looking not for the payment of long service leave and the credit of long service leave to people who work for one company or one employer for a period of, for example, 15 years, but for long service leave to be paid to people who serve an industry for 10 or 15 years. This legislation is moving towards that situation.

Hon. Peter Dowding: That is already true in a number of areas.

Hon. G. E. MASTERS: All I am asking the Minister is whether that is his Government's objective.

Hon. Peter Dowding: No more than it was your objective when you did it.

Hon. G. E. MASTERS: I am asking the Minister whether he is going down that path. It seems, from his interjections, that he thinks it is a perfectly reasonable proposition.

Hon. Peter Dowding: I said that it was no more our objective than it was yours when you introduced some aspects.

Hon. G. E. MASTERS: As long as the Minister can give me that assurance, I am very pleased. There is no need for him to get agitated as there is a long way to go. I am pleased that that is not the Minister's objective.

My understanding of the construction industry is that pay and salary arrangements take account of the fact that employees do not get long service leave payments. I understand that they receive extra pay. Certainly the BLF and the BWIU operating in the construction industry in Western Australia gain considerable benefits for one reason or another. I have always assumed that because of the nature of the construction industry and the fact that workers in it are sometimes put out of work and have no long-term employer, necessarily, although it is not the fact in every case, they have greater benefits and bigger payments. I point out to the Minister that if he thinks that some of the more militant union leaders such as Reynolds and Ethell will regard this with any sort of gratitude or act in a way that would suggest they are very grateful for this extra consideration, he will have another think coming. It is just one of those things that they take in their stride.

I am a little disappointed about the Minister's reply to the second reading debate. We will pursue some of our inquiries with a great deal of vigour during the Committee stage.

Hon. D. J. WORDSWORTH: The difference between this Bill and other long service leave legislation is obvious. Whereas long service leave normally is gained after serving one employer over a long period, this Bill allows an employee to work in an industry and earn long service leave. That is completely different from other long service leave legislation. The Minister challenged me because I voted in favour of the local government employees' long service leave legislation. If I recall correctly, that Bill applied in the main to management staff, to shire clerks and the like.

I believe there is a vast difference between this industry and the local government industry. The local government field is a portion of the entire administrative area and employees are working for one employer—local government. In this case the people must work only in this particular industry in order to qualify. If the Minister can stretch the comparison of the local government industry to this industry, he and the Government will be able to stretch the comparison so that this leave is given to shearers and other industries.

Hon. Peter Dowding: Your recollection is incorrect; the long service leave provisions of local government extended to all workers.

Hon. D. J. WORDSWORTH: I thank the Minister. I do not think it was intended to do so in the first place. The argument was presented from the point of view of those wishing to become shire clerks and those serving in that area. In order to gain promotion those people had to leave one local authority to work in another because they had no opportunity for promotion if they stayed with one local authority.

Hon. TOM KNIGHT: In connection with this clause, I wish to quote from an article I have been studying over the last week or so which has much to do with the subject under discussion; that is, the disastrous economic situation Australia is facing. The article states—

> (B) We are neglecting our tremendous human and physical resources.
>
> The greatest difficulty we face today is that the leaders of our country don't appear to understand what our real problems are or, if they do understand, they are afraid to tell the people the truth.
>
> Australia's foreign debt has now reached approximately $70 billion compared with only $3.5 billion fifteen years ago. The interest charges alone on this foreign debt are now approaching $10 billion per annum.
>
> This debt represents nearly $15 000 for every Australian family. It is a debt which Governments have run up on our behalf and which we and our children will have to re-pay. It is in addition to our own family debts and mortgages.

It continues—

> Put simply, the governments of Australia (at Federal, State and local levels) are spending 15% more than they are receiving.

We cannot continue adding costs to production, wages and other aspects which are putting us out of the world market. This Bill represents an added cost which the Minister fails to understand. We cannot adopt and expect to maintain a high standard of living while wages and costs are skyrocketing to the extent that we cannot export produce that will compete on the world market.

Hon. H. W. GAYFER: My objection to this clause, which has been supported by other speakers, is that it is a format for the future. I cannot get it out of my mind that what we do here will be a format for the future of other industries and casual workers in those industries. I said before that the Bill appears to be too loose.

I do not want to say any more and the Minister's reply in response to our second reading speeches has covered the points raised. I disagree with him. In time we shall look at this Bill and consider that it was indeed the format for the future.

**Clause put and passed.**

**Clause 2 put and passed.**

**Clause 3: Interpretation—**

Hon. G. E. MASTERS: Reference is made in this clause to the appointed day. Bearing in mind that in whatever form this Bill goes through Parliament, it will have a great effect on employers and employees, will the Minister give us some idea of how soon after the proclamation the Government will consider announcing a date to be known as the appointed day?

Hon. PETER DOWDING: The intention is to allow sufficient time for the mechanisms required to be set up. It will require the appointment of a board, the allocation of duties of staff, and physically setting up the register. Quite frankly that will be for the

people on the board to decide. I hope it will be a matter of weeks rather than longer. We would also want to ensure that an adequate period is allowed for publicity.

I cannot be more specific except to say that the board will guide me as to the appointed day and we shall be beholden for its advice.

Hon. NEIL OLIVER: I refer to page 5 of the Bill and the classes of employees excluded under paragraphs (d), (e) and (f). Why are these groups excluded? Do they already enjoy long service leave provisions under some other arrangement?

Also on that page I refer to the definition of employer. I cannot find in the Bill any requirement for an employer to register. A person may not be an employer at a certain time but he may intend to employ people or to set up a business employing people in the future. If such a person wishes to do so is he required to register before he actually employs people, such as applies under the corporate affairs arrangement? Is there a requirement to register as an employer prior to entering into the engagement of staff or, alternatively, is a certain period set during which he must register once he has engaged an employee?

Hon. PETER DOWDING: An employer is not required to register under clause 3(1) until he becomes an employer and he does not become an employer until he is a person who engages persons as employees in the construction industry.

It is not a prospective requirement. It is a requirement once a person is involved in the industry and once he engages employees.

The exemption for classes of persons referred to in subclause (3), is intended to exclude people who are permanent work force employees; that is, workers who are involved in work on lifts and escalators and the like, or people who are not really involved in the construction industry but who are simply involved in some maintenance unrelated to the construction industry as such. They are not covered.

Hon. G. E. MASTERS: On page 2 "construction industry" is said to be the industry of carrying out on a site the construction, erection, installation, reconstruction, re-erection, renovation, alteration, demolition or maintenance of or repairs to any of the following—and then a list is given. I refer specifically to the words "on a site". Does that mean on a construction site? Later in the Bill there is an indication that it might include a factory floor; in other words, it could include prefabrication work for a construction site but carried out other than on a construction site itself.

Hon. PETER DOWDING: I am sure I cannot shorten the debate, because any amount of information is not going to do that. I shall try to give a guide to honourable members in understanding the definitions.

The definition of construction industry picks up a number of matters such as the references that are picked up in awards. That is a reference to the site. There is a requirement that this work be carried out on a construction site rather than a factory or somewhere else.

Hon. G. E. Masters: But on page 4 paragraph (c) it refers to work not necessarily carried out on-site.

Hon. PETER DOWDING: It refers to work that is normally carried out on-site. These are terms that pick up what is understood in the award and what is understood in the industrial arena about the operation of this industry, because that is what this Act is required to pick up; that is, those workers who are operating under those awards. These terms pick up operations carried out on a site or operations normally carried out on a site but which, for some reason, are not being carried out on a site. That is consistent with the awards under which these people operate.

The reason for this is that this Act does not apply to the construction industry but to the employers in the construction industry who are employing employees within the meaning of this Bill. It limits the field. The Bill does not apply to any work being carried out in that list under the definition of construction industry. It applies only to employers engaged in the construction industry, which means that we must then look at the definition of employer, which reads as follows—

> "employer" means a natural person or firm or body corporate, as the case may be, who or which engages persons as employees in the construction industry;

So we have a requirement of engaging a certain class of employees; that is, employees in the construction industry.

Hon. G. E. Masters: By an employer in the industry.

Hon. PETER DOWDING: Yes. Then we must look at the definition of employee. An employee is a person who is employed in a classification of work referred to in a prescribed award relating to the construction

industry that is a prescribed classification. It limits it right back to those awards that cover people operating within the construction industry.

What the Parliamentary Draftsman has done, rather than simply to say that this applies to all people who do these things on a site, has been to link the definition to the industrial awards which are at the root of the entitlements. It is the industrial awards that create the right to the long service leave which, by and large, this picks up. It is the fence around the limitations of the portability of the long service leave entitlements. They are on-site construction awards. They are not awards that relate to factory hands or the like.

Hon. H. W. GAYFER: We are now at the point that really concerns me. Remembering the definition of employer and then looking, if we may, to part IV and the registration of an employer, we find that every natural person, firm, or body corporate that is an employer in the construction industry, whether or not he or it carries on any other business, shall register as an employer under this Bill. If we then come back to the definition of construction industry we find that an employer in that industry is a person who constructs a road, an airfield, a dam or a number of other things. The definition of registration is not definitive.

Hon. Peter Dowding: No, you are mistaken, because it does not mean employer, but employer for the purposes of this Bill, which defines an employer as someone who employs certain classes of employees, and they are people who operate only under those construction site awards.

Hon. H. W. GAYFER: I am prepared to accept the intent of what the Minister says. In part IV, clause 31(1) provides the registration requirement. While I am perhaps not supposed to refer to that, I must because that is the definition under which employers must be registered to carry on work in the construction industry.

Hon. PETER DOWDING: No, that is not so. The definition of an employer is in clause 3. Only the employers defined here are caught by the registration requirement. The Bill does not talk about all employers. Mr Gayfer and I might be naive enough to think that when people say "employer" they mean "employer", but that is not the case in the Statute. The Statute means an employer defined by the Act. The employer taken in by the Bill is a person who engages in a particular industry and employs employees within the meaning of the Bill, with some special qualifications, and they are those employees operating under the classification of work referred to in specific awards, hence it limits that field.

One starts off with a broad definition of construction industry which might be interpreted to mean something else. One then has to look to see who the employers in that industry are. They are only employers if they also employ employees within the definition of this proposed Act. It greatly narrows the field and one ends up with a requirement that only those people who are operating in this industry, in this area, in this way, and with these employees, end up being caught by it. That is essential for those in the construction industry on sites where their employees are operating under these particular awards.

Hon. H. W. GAYFER: From what the Minister just said it would appear, if he is correct that with respect to all the works mentioned on page 3 of the Bill, it would cover a multitude of unions and not particularly the specified union within the construction business.

Hon. PETER DOWDING: Hon. H. W. Gayfer is proceeding in the wrong direction down the channel. For example, if one has a piece of pipe that is narrow, as one moves through the definitions it gets narrower. The honourable member has started off at the narrow end and is looking up to the opening. I am asking him to go to the start and look back. One has to look down the Bill and face the Act gradually and, by definition, more precisely to the people to whom it refers. The answer is that it starts off catching everything that could be described as construction industry.

Hon. H. W. Gayfer: You could have fooled me.

Hon. PETER DOWDING: I am not seeking to fool the honourable member. I am seeking to enlighten him. Having got to that stage, we then look to see where employers fit into that industry. We find we are only talking about employers who engage employees in this industry, and then we step down and talk about those who are employees within the meaning of this Bill. It says that they are people who are employed in a classification of work referred to in a prescribed award relating to the construction industry. That is the prescribed classification. One might well be engaged in this work but one is not an employer because one is not employing people who are covered by this specific construction site award. If one does not

employ those people, one does not get a guernsey. None of the requirements of this Bill applies to the member.

I can only repeat that it is wrong to look at subsequent provisions and pick up the words without remembering that they have been very narrowly defined in the definitions clause.

Hon. D. J. WORDSWORTH: I am glad the Minister used the comparison of the pipe. It strikes me that as the pipe is wide at the entrance most will be drawn in and once the definition is complied with one is on the way down the pipe and there is no escaping the pipe half way along it. It could have been some other comparison where there was some ability for people to escape, but the Minister said it is like a pipeline and like all sewers the other end becomes the dirty end.

Hon. G. E. MASTERS: I accept what the Minister says in relation to the Bill but I refer him to subclause (4)(b). The Minister is saying that it means any construction award, but the Bill does not say that. The words are "any award made with respect to employment in the construction industry". In his own words, the construction industry is defined in this Bill as "for the purposes of this Act". Construction includes all of those things listed in the definition; that is, buildings, works for the storage or supply of water or for the irrigation of land, works for the drainage of land, and so it goes on.

This subclause says, "any award at all"—not any construction award, but any award made with respect to the employment of people in the construction industry as defined in this Bill. That leaves the gate wide open. It does not say "any construction award". If the Minister were to put in the words "construction award", then there would be an understood construction award which goes through the industrial courts; but it does not say that. I make reference to the definition "construction industry" where it relates to any award with respect to people working on buildings, on works for the storage or supply of water or for irrigation of land, and works for the drainage of land. It means any people working under any awards that cover those types of work. The Minister's intention is probably quite honourable, but what I am saying is that the provision does leave the gate wide open; and anyone under any award working under any of those definitions of construction industry as prescribed in this Bill, is gobbled up. I suggest to the Minister that no matter what is intended it does leave the gate wide open. It means that there are people other than those under the general construction awards who will be included, like farming contractors who build dams on Mr Wordsworth's farm. They would be classified as employers in the construction industry as defined in this Bill.

Hon. H. W. GAYFER: Would the Minister be aware in any way of how many unions this Bill could be expected to cover? It has been looked at by a tripartite committee, and they must have an idea of what the umbrella may cover. The Minister may be able to inform us in the Committee stage of the number of unions that may be covered by this Act and whether it will cover, for instance, the BLF or the metal workers. How far does it go?

Hon. PETER DOWDING: I cannot be precise as to which unions are covered by those awards; but fundamentally we are looking at the unions involved with the building industry and associated unions.

I now refer to Mr Masters' point and advise that it is not correct.

The power of regulation is circumscribed by the definition, firstly; and, secondly, by the requirement that it must be an award made with respect to employment in the construction industry.

Hon. G. E. Masters: It "may be" an award.

Hon. PETER DOWDING: No, "must be" an award in the construction industry, because that is its only power. The regulations may prescribe, but they cannot prescribe other than awards in the construction industry. It means that they may prescribe those and nothing else. The Minister may prescribe or refrain from prescribing, but if one is to exercise this power then the power is limited by clause 3(4)(b).

Hon. G. E. Masters: I do not read that into clause 3(4)(b).

Hon. PETER DOWDING: It is not open to prescribe outside the ambit of that clause.

Hon. G. E. Masters: I am saying that the clause appears to me to be worded wrongly. If you are saying "construction industry" and building this tightly into the construction industry, I understand what you are saying, but this clause does not say that.

Hon. PETER DOWDING: The clause says that the Minister has the power by regulation to prescribe certain awards as applying.

Hon. G. E. Masters: It says "any award".

Hon. PETER DOWDING: No, it says "any award in the construction industry".

Hon. G. E. Masters: As defined in this Bill.

Hon. PETER DOWDING: Yes, but it is a prescribed award in respect of the construction industry. If the Minister exercised that power unwisely, or extended it beyond what was thought appropriate, there is a remedy—we disallow the regulation.

Hon. G. E. Masters: That is very difficult to do and these things sometimes slip through.

Hon. PETER DOWDING: If Hon. Gordon Masters is correct and this is the case, the view that has been taken by the Parliamentary Draftsman is that it is limited to the ambit of those awards which we are talking about, which are, in the industrial arena, identified as construction awards. I would make the point also that this means on-site construction.

Hon. G. E. MASTERS: I know exactly what the Minister is trying to say and I know that, as far as he is concerned, this Bill when talking about awards means construction awards—the construction awards, as set out and laid down by the Industrial Relations Commission. However, clause 3(4)(b) does not say that at all. I know, and the Minister knows, that when the regulations come forward this Chamber and the other Chamber can look at those regulations and say, "That is not what we intended; that is not what we meant; we disallow the regulations."

I make the point that the Minister is wrong, and if he reads this correctly he will find it will allow the Minister and the Government of the day to include in the regulations any awards that apply to people who are carrying out work under this legislation—on buildings, breakwaters, jetties, works for storage or supply of water, farm drainage, and the like. One cannot read it any other way, and I repeat that it refers to any award at all, whether it is for a farm worker, a construction worker, a metal worker—any award made with respect to employment in the construction industry as defined in this Bill.

Hon. Peter Dowding: No, as defined by construction industry awards set down by the Industrial Relations Commission.

Hon. G. E. MASTERS: I know what the Minister is saying and what obviously is his intention, but I am saying that the regulations can say otherwise and it would be up to this Chamber to clearly and carefully look at the awards, because our great fear is that some of the people who push the Minister will have the expertise to look at this regulation, to find the loopholes and say, "We will carry it beyond the areas that were intended or were spoken to in this Parliament." This Bill on its own leaves the door wide open to all of those things that Mr Wordsworth and Mr Gayfer fear.

If one is having work done on one's farm by a person who comes under the definition of construction industry worker, under any award at all on site—which can mean something else—regardless of what the Minister says, there could be no doubt about it at all. The regulations could cover a much wider area than the Minister is suggesting.

Hon. PETER DOWDING: I do not want to put this in any way unequivocally, but I want to say to the Chamber that we are following the legislation that exists in Victoria, New South Wales and the Northern Territory. I have just received a copy of the ACT legislation which has the same wording. The point that needs to be raised is that this will not lift the shutters and allow a great flood of applications. That has not happened elsewhere and it will not be the case here. Awards that will be prescribed are awards relating to the construction industry, and they are awards that are understood in the industrial sense as construction awards and no others. The important point is that, where we have seen people making all sorts of allegations of extension of the legislation, it has not happened. In the end, if there were to be an extension beyond that which everyone agrees is representative of this industry, the ultimate response is to disallow the regulations. It will not slip through unnoticed because one will soon hear about it, and employers who were not a party to the construction industry and the type of industry that is being caught here, would of course object to it.

I can only put on the record in this Chamber that the Government is talking about the construction industry; we are not talking about the fears that have been raised by Mr Gayfer and Mr Wordsworth.

Hon. G. E. Masters: With justification.

Hon. PETER DOWDING: No. I argue very strongly using the precedent, of the operation of these Acts in other States, using what I have said in this Chamber—which has interpretative value—and the assurances have been given in relation to that. Finally, the ultimate power is simply to disallow the legislation if it goes too far. It is my submission that the Parliamentary Draftsman has done the right thing and has given the Bill the ability to work and, at the same time, to prescribe the limits of areas within which it can operate.

I do not think that one can get a greater clarity than that and, quite frankly, I repeat for the benefit of members who are concerned that I am quite convinced that the limitations are adequately addressed, with the events in the other States being followed, and in the interpretations that I have given in the Chamber. If I am proved wrong or some concern still exists, then the regulations will still have to be prescribed. The legislation will have to come here and the employers who are caught will have every opportunity of objecting to it. I think it is worth saying that that is not the same thing as an award covering all those types of operations. It concerns only the construction industry and we are talking about construction industry awards. The definition of employee refers to a prescribed award; so it requires ministerial prescription and it must be an award relating to the construction industry that is a prescribed classification.

The Opposition has some issues to argue about and has given notice that it will move amendments on the issue of principle. I understand that, but frankly, members' concerns are met by the detailed wording of the definition.

Hon. G. E. MASTERS: I know exactly what the Minister is saying; that is—the Minister may correct me if I am wrong, but I am sure I am right—that the regulations may prescribe any construction award as laid down by the Industrial Relations Commission.

I advise the Chamber that even though this clause is in force in every other State of Australia, the wording of it is faulty and, without any shadow of doubt, if the Minister or the Government requires it will allow them to produce regulations which will cover all those areas about which we are fearful.

Hon. Peter Dowding: Prescribed awards.

Hon. G. E. MASTERS: The regulations may prescribe any award. I know what the Minister means and it has been recorded in *Hansard*. All I am saying is that the wording is loose and will certainly allow scope for the Government of the day to cover areas about which we have been talking, including the farming industry and the like.

When the Minister was on this side of the Chamber and when I was Minister he put me on the rack regarding matters of this nature and he would not let me get away with anything. However, I am being charitable: I understand what he is saying. As long as what he has said is well and truly recorded in *Hansard*, I will accept it.

The Opposition gives the Government a warning that when the regulations come forward it will look closely to see there is nothing untoward in them.

Hon. Peter Dowding: I will be happy to consult with you and with Mr Gayfer.

Hon. G. E. MASTERS: Members will recall that when the Minister was on this side of the Chamber he was a bit unreasonable and there will come a day next year when he will again be on this side of the Chamber and I hope he will not get up to his old tricks.

Let me refer again to the definition of construction industry. The definition includes buildings. In another place an assurance was given in response to questions, that the housing industry would not be included in this legislation. However, during the second reading debate the Minister, by way of interjection, said, "You know that is not the case and that the housing industry is to be included." I did not know that and neither did the housing industry because I spoke to it about this matter.

The Minister did have discussions with the Housing Industry Association and said that the housing industry would not be included in this legislation. That is the reason I put an amendment on the Notice Paper to exclude the housing industry. It is misleading when a responsible member handles a Bill and is not properly briefed. It is also upsetting to the Opposition when it prepares its amendments accordingly and finds out that the member in another place was not presented with the facts.

I understand from the Minister that, without any shadow of doubt, those persons working under construction awards in the housing industry are to be included in this legislation for the portability of long service leave.

Hon. Peter Dowding: That is right.

Hon. G. E. MASTERS: It does not include awards as defined in construction industry under this Bill, but under construction awards set down by the Federal and State Governments.

Hon. Peter Dowding: That is the case.

Hon. G. E. MASTERS: If that is the case, why has the Government included the housing industry in this legislation when it appeared that it and I were of the belief that it was to be excluded?

Hon. PETER DOWDING: My understanding is that it will not be likely that large numbers of people will be caught in that industry. First, we are dealing with subcontractors, who

are self-employed, and they will not be caught by this Bill. Secondly, a lot of builders do not employ people, but subcontract out the work. Subcontractors who do the small jobs are often men on the job themselves. However, there are people who work across the building industry from small to medium to large construction sites. In order to give them continuity one has to look at the industry in which they are operating.

I do not expect large numbers of people to be caught by this legislation, but there will certainly be some people who will qualify and there will be a cost involved.

I make it clear that the limitations in this Bill are actually tighter than those limitations which apply in other States. The definitions in this Bill are narrower. Nevertheless a builder may employ a labourer on a cottage site; his next job may be on a block of flats, followed by work on a shopping centre, followed by work on a project like Tranby-on-Swan, followed by work on a major site in the city. Many workers move around in this way and the continuity of service needs to be covered because they are working in the same industry. Without that, we will have discontinuity. For instance, a worker may work in the central city and leave that job to work on a block of flats. After that, he may work for a period of time with a major project, for example, building 10 houses for Homeswest. He may work at all these jobs in one year.

It is not enough to draw a ring around one section of the industry, particularly those employers who build a large number of houses. We might have an employer who is building an entire residential subdivision which is a major job for which he has to employ large numbers of people. If they are employed in accordance with this legislation they should be entitled to long service leave entitlements.

It is my strong belief that to exclude one section of the industry would really defeat the opportunity for continuity of service and create anomalies which would work against employees.

If we are talking about times of labour shortages, and we certainly are in the construction industry, it may work against employers as well because they would not have the opportunity to ensure they were able to offer jobs which would count towards eligibility for long service leave entitlement. I caution members against that decision. I repeat again that there is no way one can put a ring around one section of the industry and exclude it for the purpose of this legislation. The spectre of some small builder getting caught on the wrong foot is put to rest. In fact, there is a lead time into this and the people in the industry will have time to adapt to the legislation.

My view is that there may well be a negative effect to the industry if there is discrimination between one sort of job and another in the general construction area.

Hon. NEIL OLIVER: I am indebted to the Minister. He has now clarified the situation by referring to other legislation and he has excluded the so-called working subcontractor referred to in the Victorian legislation. From his remarks I draw the conclusion that the working subcontractor is excluded.

I refer now to the casual employee. The Minister referred to a housing subdivision, where up to 50 houses may be at various stages of construction. On such a site the situation might arise in which a plumber—who is an employer under the Bill—employs a drainer for perhaps three days a week. The drainer normally works six or seven days a week, but if he works for the plumber for 2½ or three days, I presume he will be classed as a casual worker and will be excluded under the provisions of the Bill. It could be that he will never work for that plumber again, although he may possibly do so after a month or so.

Hon. PETER DOWDING: If he is a contractor, he is not covered. That has been excluded and it was a policy decision to do so. If he is not covered by an award he is not classed as an employee and is not covered by the provisions of this Bill. However, if the employee is covered by an award and he works for three days, when the return goes in every two or three months, a sum of perhaps $6 or $7 would be part of the contribution to be made by the employer. If the employer is employing a person who is covered by and employed under a construction industry award, and if the employee works for a week, an amount which might be $8 or $9 is paid into the fund when the return is submitted.

Hon. D. J. WORDSWORTH: No reference is made in the clause to contractors. It is a Clayton's situation. The Minister's second reading speech referred to clause 3(5). When one looks at the Bill it can be seen that there is no clause 3(5). The Minister said that as a matter of policy it had been decided to withdraw reference to contractors. The Bill was originally written to include contractors and it is hard to

believe that by removing one subclause the Bill can stand on its own and in no way drags these people back into the legislation.

Hon. Peter Dowding: That reference is to the Bill that went to the tripartite council; it was a policy decision to drop that reference.

Hon. D. J. WORDSWORTH: The Minister's second reading speech is confusing because it refers to clauses with which the tripartite council has not been in accord, yet we have no copy of those clauses; they could be anything. The speech is not worth the paper it is written on.

Hon. PETER DOWDING: In order that members should be fully informed about the tripartite process I incorporated into the second reading speech extracts from draft Bill No. 3. The resolution of that body was incorporated holus-bolus. The resolution was not altered by me, it was incorporated in quotation marks and referred to a draft document dated 28 June 1983.

Hon. G. E. Masters: We do not have a copy of it as it was then.

Hon. PETER DOWDING: It is the same as the Bill before members except to the extent that policy decisions were made to remove matters which are referred to. I could not have been more open than that. I have fully disclosed the nature of the tripartite council's report which referred to a document it had received.

Hon. G. E. Masters: You referred to something we had never received a copy of. You did not take much trouble over this second reading speech; it was quite terrible.

Hon. PETER DOWDING: Mr Masters' humour gets better as the evening wears on. I confess that I do not recall any occasion on which a second reading speech has been so frank in identifying the process by which this Bill was drawn up. In the process of the second reading speech reference was made to a document which went to the tripartite council and its resolution was recorded in full. It would have been wrong to suggest that the resolution should be doctored.

Hon. D. J. WORDSWORTH: The Minister has been very honest and I congratulate him. I accept the Minister's comments and thank him. The Minister is saying that when reference was made to opposed sections it was a lot of gobbledygook. I looked for those provisions and could not find them. The interpretation of contractor has been removed and we are not sure what clause 3(5) originally included. I believe the correct thing would have been to add the word "contractor" to the list of excluded categories.

Hon. PETER DOWDING: I will explain what was in and what has been taken out; that is, the deeming clause which deemed contractors to be employees. That had the effect of leaving the Bill as it was but when the deeming clause was removed, contractors were no longer covered by it. That is the change that has the mechanism of achieving the point about which the member is so concerned.

Hon. D. J. WORDSWORTH: I cite a plasterer who is normally self-employed in the housing industry as a contractor. Work gets a little short and he sees an opportunity to be a worker in the industry—it may be a big building in the city. He is employed by the day. It would appear that he is then registered.

Hon. Peter Dowding: Is he employed or doing it on contract?

Hon. D. J. WORDSWORTH: He is not on contract, he is there working as day labour.

Hon. Peter Dowding: He is doing a plasterer's job?

Hon. D. J. WORDSWORTH: Yes, and it would seem he would then have to be registered.

Hon. Peter Dowding: Yes.

Hon. D. J. WORDSWORTH: How does he become unregistered for the rest of his time when he goes back to contracting?

Hon. Peter Dowding: He does not have to because he does not accumulate the days.

Hon. Neil Oliver: That is 220 days.

Hon. D. J. WORDSWORTH: While I can see that he does not accumulate the days as an eligible employee, I am concerned about the fact that it appears he has to pay into the fund.

Hon. Peter Dowding: His employer does.

Hon. D. J. WORDSWORTH: He later becomes an employer. In other words, when later he does a job for the building industry as a contractor they look at his books and say, "Wait a minute, that house was actually plastered by George Smith, an employee." He says, "George Smith was a contractor at that stage, he was not a worker."

Hon. Peter Dowding: Surely on the one hand his employer has to pay into the fund at some stage.

Hon. D. J. WORDSWORTH: For himself?

Hon. Peter Dowding: No, because he will not be an employer then. He has to work as an employee for that period of time.

Hon. A. A. Lewis: What happens to the money?

Hon. Peter Dowding: It remains in the fund.

The DEPUTY CHAIRMAN (Hon. P. H. Lockyer): Order, please! Members are making it terribly difficult for *Hansard* to record all these interjections. If we take them one by one, as a Committee should, it would make it much easier.

Hon. D. J. WORDSWORTH: I hope that I have at least pointed out to this Committee not an irregularity but the difficulty which will be caused by this sort of provision. This business of contractors does not come into the interpretations.

It appears to me that somewhere in this clause or elsewhere there is a need to clean up this matter of a contractor. The whole Bill was written to include him, yet he has been taken out. No definition has been placed in there to ensure that he does not get caught.

Hon. PETER DOWDING: The honourable member is right in a sense. When I say contractors were included in the Bill, they were included for drafting purposes in such a way that they could easily be removed. It is not because I wanted to remove them, but that is the way the draftsman put the Bill together. They are not employees but for the Bill one deems them to be. We exclude contractors for the operation of the Act by removing the deeming clause and they stand on their own as employees.

The policy decision not to include contractors has been made. It is only when people are employees that a payment will be made into this industry fund. Then the industry fund will build up. There will be calls on the fund and the industry itself will gradually be paying a lower amount, probably taking into account the sort of situations the member has prescribed.

I have made the policy decision to exclude contractors. I am sure Mr Masters would be on his feet immediately with amendments if we were to include contractors.

Hon. G. E. Masters: Like a shot.

Hon. PETER DOWDING: We are talking about wages employees, and they are what the Bill is now defined to cover, and them only.

Hon. D. J. WORDSWORTH: What concerns me is, when this contractor decides to do a plastering job on wages, he cannot do it without joining the union. That is understandable. They are not going to have him on the site unless he is a union member.

This would force this plasterer some way down the Minister's figurative pipeline. It would appear in this Bill we have first of all described the overall construction industry. Then we have decided who are employers in the industry. Then the Bill goes back to defining the employee. The employee is registered, not the union.

Hon. Peter Dowding: It has nothing to do with the union.

Hon. D. J. WORDSWORTH: This man must be registered as a person employed by an industry.

Hon. PETER DOWDING: It has nothing to do with the union. It is only when a person is employed that these payments become payable by the employer. To the extent that he is employed for six weeks and then goes off to university or to higher activities he does not become eligible because he is not working in the industry for the 220 days. He can do anything else. He might become an employer. So his entitlement no longer exists unless he can get up to 220 days a year for the prescribed period.

Those payments are made by an employer who, if he did not employ that person, would be employing another person and making the payments. So it is an industry fund. It is not the fund of the employees, it is an industry fund. As the fund builds up and as payments are perceived by the board to be at the appropriate level, then the level of contributions will drop.

Hon. H. W. Gayfer: Are you sure of that? Are you sure the demands will not consume the lot?

Hon. PETER DOWDING: Under the Bill there cannot be demands.

Hon. H. W. Gayfer: It does not say that.

Hon. PETER DOWDING: There cannot be demands which consume the lot because the entitlements are set by the Bill. If there is a high drop-out rate in the industry—

Hon. H. W. Gayfer: The entitlements are set by the board.

Hon. PETER DOWDING: What I am saying is that if one has an industry with a higher number of people meeting the eligibility criteria, then the contribution level will drop. The board does not set the entitlements, they are provided in the Bill. Part III provides for the

entitlements of workers who achieve those periods of long service. They are not set by the board, they are quite clearly set by the Bill.

Hon. A. A. LEWIS: The Minister is getting more and more confused with his explanations. As I understand it he is saying that the worker Mr Wordsworth was talking about works for six weeks and thus does not become entitled under the Bill, but the employer still kicks into this long service leave fund. I do not know that it has changed since I used to be a builder's labourer. I am one of the few members who has been a builder's labourer. I never worked 220 days a year. Is the Minister saying that the employer will have to kick into this fund for short-term people all the time? It is very immoral and counterproductive. It will increase the costs of every building job in Australia.

Hon. PETER DOWDING: I remind the honourable member that the scheme is already operational in all States and territories of Australia excepting Queensland and this State. This Bill and its passage will not alter the cost of building elsewhere.

The contribution made by the employer is not the contribution made for the particular employee. It is an amount of money per employee—not for the employee—to provide the industry with a long service leave package for those workers in the industry who meet the criteria; that is, who over a period of 10 years work for a certain number of days in each year; and during the period that is building up, the amount of contribution per employee is likely to significantly reduce if large numbers of employees do not work in the industry for that period of time. So one has to separate in one's mind the contribution as being a contribution for the employee from the industry's contribution to the fund. It is an amount for each employee per period of employment, and that amount is set by the industry's board. It is not a payment for the employee or to the employee.

Hon. D. J. WORDSWORTH: Do we gather from this that an employee could work for 30 years at 180 days a year and all that money could be paid in on his behalf and he would see none of it whatsoever?

Hon. PETER DOWDING: This Bill offers long service leave for workers in the building industry. That is part of the tripartite process. The industry and the unions accepted that the criteria for entry into the entitlement ought to be for the level of input into the industry, so that people who are only working part-time are not involved. It covers genuine people who have served the industry for a long period of time. That is the case. We could not predict how each employee's work future will look so we said, "We will fix a figure for each employee", but as the fund builds up and if the number of employees who qualify decreases, the board will have that information available to it and it will make a judgment about the level of contribution, which would obviously be related to the draw-down level of the fund. One might say, yes, an employee has worked 100 days each year for 30 years and has got nothing. That is right. That is not long service. That is only part-time.

Hon. G. E. Masters: Hang on, I do not think that is right. The entitlement is once he has chalked up 3 300 days; so if he worked 180 days per year for 19 years he would almost be entitled to long service leave, so he does not lose all that time. If he works 100 days per year then he works for 33 years, doesn't he?

Hon. PETER DOWDING: For the sake of this explanation I take members to clause 21 where they will see that 220 days of service is regarded as one year. No more than 220 days of service shall be accorded to an employee in a period of 12 months. Service is not required to be continuous, and service with the same employer need not be continuous. Hon. Gordon Masters is quite right. My example was wrong. The legislation contains a requirement to build up no more than 220 days in any one year.

Hon. G. E. Masters: That is right.

Hon. PETER DOWDING: That is the amount an employee can accumulate in 12 months.

Hon. G. E. Masters: So if an employee works 180 days for 19 years or thereabouts he is entitled to long service leave? It works out to 3 300 days.

Hon. PETER DOWDING: That is right, so the point is that it is not a contribution for the employee; it is a contribution for the fund and the employee's entitlement to draw on that industry fund only arises down the track when he has completed that period of service.

Hon. A. A. LEWIS: Surely the Minister is playing word games. It is an industry contribution per employee to the fund. To me that means that if the employee does not work the industry does not have a fund. Surely because the building game has a certain person working in it there is a contribution to the fund.

The Minister used as his example the fact that Queensland and Western Australia do not have portability of long service leave in the

building industry. For the moment, listening to the Minister—and I do not know whether I should refer my questions to the Minister or to the Leader of the Opposition because it seems the Leader of the Opposition knows more about the contents of the Bill than does the Minister—

Hon. G. E. Masters: You are right.

Hon. A. A. LEWIS: I am not so sure that we want to go along with what every State except Queensland and WA are doing. We are doing fairly well. It is immoral for short-term workers to be listed in the per employee contribution to the fund because it would give the building industry that extra impost. It seems crazy.

The other answer the Minister gave Hon. David Wordsworth interested me. He started talking about the judgment on the level of the fund. This immoral collection of funds for short-term workers in three years' time who may only work 120 or 130 days a year—

Hon. Peter Dowding: It is set out in the Bill. It is not the board's decision.

Hon. A. A. LEWIS: I realise that, but the way the Minister was going on and the way he answered that last question was that it was a judgment for the board to make, depending on how much money it had in hand, as to whether the number of days could be reduced and the people who had missed out on their first three years of service because they did not work for 220 or 200 days—

Hon. G. E. Masters: It is 220; you were right the first time.

Hon. A. A. LEWIS: They will be disadvantaged by two or three years because of the board's judgment of their years of service down the track. The Minister might tell me that the board would never do this and I would say to him that pigs might fly.

Because of the way these things escalate—I think Mr Gayfer has had a few words to say on this matter—it is worrying the living daylights out of me. However, for the Minister to say that it is per employee's contribution to the fund, and not for the actual person, is splitting hairs to a high degree. I think that the Minister is trying to pull the wool over the eyes of members in this Chamber, and I do not believe he has an answer to this question.

Hon. PETER DOWDING: We are really running ahead of ourselves. The obligation of the board is not to set eligibility criteria, because these are set by the Act. The obligation of the board is to set the level of the contributions; it cannot alter the eligibility criteria. That is for the Parliament. The board is required to use actuarial advice and it must have the involvement of the Auditor General. There are constraints on the level of contributions, and there are controls over those being appropriate. The board may not alter the eligibility criteria, but these are matters that will appear in later clauses and I think that we are probably straying into the rest of the Bill.

Hon. G. E. MASTERS: I do not propose to go ahead with the amendments dealing with the housing industry. I take the Minister's point that there are workers in both the construction industry and the housing industry and, indeed, there are some companies which are quite possibly working in both areas and transferring workers from one site to another. However, it is important to note that one of my colleagues—Hon. Tom Knight, who is a builder—carried out an exercise. He took the example of a company working in a country town. The company used its own workers, and he found that to build an average-sized house in a country town, using permanent employees rather than subcontractors, would cost between $450 and $500 more per house. That is a significant increase when we take a percentage on the gross wages. We will talk about percentage and the like at a later stage, but it is an important point and it should be well and truly noted.

I now draw the Minister's attention to page 4 of the definition and ask him about subclause (3)(c) under the definition of construction industry which refers to the carrying out of work performed by employees under the previous paragraphs (a) and (b) which is normally carried out on-site, but which is not necessarily carried out on-site. That may seem double-dutch but it refers to the situation in which workers who normally carry out work on the construction site are suddenly ordered by their company to work from workshops. They may be sent to a factory in Swan Valley or Midland to fabricate the work and those men in the factory may not necessarily be working under the construction industry award.

Hon. Peter Dowding: They would be covered because the award's element is at the end of the pipeline.

Hon. G. E. MASTERS: The Minister is saying to me that there is no possibility of this scheme going into a workshop situation unless those people are working under a construction award. If they are not working under a construction award, that is the end of it. However, if these workers who have been recalled to the

workshop situation by their employers—bearing in mind that they must go to Midland or elsewhere—are under a construction award, there might be other members of the work force who are not under a construction award. Does that mean that half the work force is entitled to long service leave and the other half is not?

Hon. Peter Dowding: If they did that for 10 years, perhaps. The point is that there is no double-dipping for long service leave, to which they are entitled anyway.

Hon. G. E. MASTERS: I would hate to see construction work that is normally carried out on the construction site for one reason or another done in a workshop situation. It seems to me that this would be moving into the workshop area rather than on-site.

Hon. PETER DOWDING: If I can use the analogy of the pipe again; if one moves down the pipe and all of the criteria are met, it gets narrower and narrower, rather than the employer saying, "We normally do this work on the site and we are going to do it in the workshop." If all of those criteria are met and only the construction award people are eligible, the employer continues to be required to make a contribution and the employee service continues to be treated as eligible for an accumulation. However, there is no question of them double-dipping, and the employee in the workshop is covered for long service leave anyway, so it is not as though an anomaly is created. In fact, if anything, it is probably relieving the anomaly; but Hon. Gordon Masters is quite correct in saying it only applies if they are working under a construction award.

Hon. D. J. WORDSWORTH: There is just one thing that, in my opinion, needs to be straightened out and that is the matter of the appointed day. In clause 3, appointed day means the day fixed by the Minister under subclause (2). That is fairly straightforward until one looks at subclause (2).

Hon. PETER DOWDING: As I explained, clause 3 is a definition clause and not an operational clause. Clause 3 defines what is meant by the appointed day and I explained the purpose of it, which is really to enable the setting up of regulations as required.

We do not want to proclaim the Act and have all sorts of registration requirements without adequate publicity.

Hon. D. J. Wordsworth: Why was it necessary to say it a second time?

Hon. PETER DOWDING: The second one is not redefining it, it is saying that there is a power given to the Minister to fix a day as the appointed day. What is the appointed day? That is a day that the Minister fixes for the coming into operation of certain things, under clause 35. I do not regard that as odd. I think it is a definition clause and an empowering clause.

Hon. A. A. LEWIS: I thank the Minister for using that analogy because I see exactly what the Government is about. It wants a six-inch pipe coming down to a half-inch pipe. It wants the six-inch pipe to be the collector main to collect all the dough so that it can pressurise it into the half-inch pipe. I am sure that is what this Bill is all about—it is using all these part-time employees and pressurising down to a half-inch pipe from a collector main. That is not per employee or anything else—it is collecting dough so that it can, in time, bring it down to a quarter-inch pipe, or 100 or 80 days per year, which the Government is aiming at.

Hon. TOM KNIGHT: Following on from what Hon. Gordon Masters said, and as this Bill involves the housing industry, I have done an exercise and worked it out at three per cent, which has been suggested, or $12 a week over a $400 wage per week. Very few tradesmen in the building industry are earning under $400 a week and, in fact, we have recently read that workers on the casino site are earning between $800 and $900. In the average cottage home there are some six weeks' work for two carpenters; one week's work for two painters; three weeks' work for two brickies; a week's work—by working it out on that same *pro rata* basis—for a brickie's labourer; an additional week's work for an electrician; two weeks' work for two joiners and two cabinetmakers; one week's work for two plasterers; two weeks' work for two plumbers; two weeks' work for a plumber's labourer; one week's work for a roof tiler; and a week's work for a floor and wall tiler. That adds up to a total of $432 on the average cottage home, and I am looking at a 10 or 12-square home. That figure does not include any of the delivery staff, the truck drivers, or the general casual labourers always involved on those sites doing jobs not carried out by tradesmen.

Hon. Peter Dowding: Would not the majority of those tradesmen, or a number of them, be subbies?

Hon. TOM KNIGHT: No. I am trying to make the point that there are employers who employ day labour. It may not be a great percentage of the industry—

Hon. Peter Dowding: But would those blokes not be subbies? What about the plumber?

Hon. TOM KNIGHT: The Minister is missing the point. There will be a subbie doing the work but the men employed by him are directly involved as a part of the building industry. The Minister is taking the wrong slant. The subbies the Minister is talking about are two blokes who work as a team and split the divvy between them. There are also subcontractors who employ staff.

Hon. Peter Dowding: How many of those would normally fall into those various categories?

Hon. TOM KNIGHT: Every one of those I have just mentioned will be workers within those trades. The boss may be considered as a subcontractor. There could be a basis where subcontract carpenters do the carpentry side of it, but there are still a lot of firms that employ day labour. This exercise is to give the Minister a background, and have it on record, of what will happen, and what is happening, where people employ day labour. Each one of these is a subcontract, and it has always been recognised as such.

Hon. Peter Dowding: Some of them will be employers rather than labourers.

Hon. TOM KNIGHT: No, I am working this exercise on the basis that they will not be, because there are cases where they are not.

Hon. Peter Dowding: Are you saying that it is common for every one of those people to be employees?

Hon. TOM KNIGHT: It is quite common.

Hon. Peter Dowding: Every one of them?

Hon. TOM KNIGHT: Yes, depending on where the building takes place. In Perth there seem to be specialised subcontractors who move in the industry. In country towns people still employ people and put them on jobs. They are subcontractors to the contractors employing day labour. Therefore, they will come under the portability of long service leave. The plastering firm in Albany employs day labour plasterers. The painting firms in Albany employ day labour painters. Brickies are the same, and I could go right through—depending on the size of the firm. The Minister is correct. There are also subcontractors where two plumbers get together and work on a job; that is right, but my exercise is to show the Minister what it will cost the building industry and Joe Blow—little John Citizen out there—for a home because of the introduction of this legislation.

There are also people employed in hardware stores, plumbing supply firms, timber yards, and brick yards, who consider that they are part of the building industry. Mr Gayfer brought forward the point that the minute a part of an industry is awarded an additional award, the rest of that industry demands the same right. The Minister cannot deny it. If he looks back over the last 20 years he will see that the minute there has been a claim made in regard to an increase in wages or conditions by any union in this country, every other union whacks in a log of claims within days or weeks. These are usually ludicrous logs of claims for $2 000 a week with portability of leave, maternity leave, and so on. When questioned, they say, "It is only an ambit claim. We do not expect to get it although we are claiming it, but it gives us the basis of going to a court and arguing the claim."

The unions then fool the courts. I have been involved in this as well, and am still receiving logs of claims from building unions as a building contractor, although I have not carried out building for some 12 years. I am supposed to reply to them. I have written to those unions and said that I am no longer building and do not want to receive the information. I have been told that when the union goes to court its representatives stand up and say, "We have lodged this log of claims to all these builders," and they read off the names—and my name is there. The unions say they assume 200 builders support them because they failed to reply to the log of claims. They have been using people who no longer exist, and in some cases I know of builders who are dead but their names are on that file. I believe it is an unjust, improper, and illegal act, but that is the way unions operate.

It will not stop here. At some time in the future every other subcontracting group within the building industry will demand the benefits of this legislation. If we give it to the people involved in the building industry—and we are talking about the building and construction industry—everyone who believes they are involved in that industry has an equal claim to get equal pay and equal support. I believe this is the foot in the door; and the Minister should watch the flow-on and watch every trade union in Australia now demand portability of long service leave.

I reiterate that if we look at the total work force, the estimated work force in Australia of some four million—and I believe it is probably closer to five million when the unemployment statistics are worked out—over 15 years it will cost over $20.8 billion, which will have to be paid by the consumers of this country. Someone must pick up the tab. We are so far out of keeping with other countries we are trying to compete with that this will just make us look stupid.

**Clause put and passed.**

**Clauses 4 and 5 put and passed.**

**Clause 6: Membership of the Board—**

Hon. G. E. MASTERS: The clause provides that the Construction Industry Long Service Leave Payments Board shall consist of seven members: One person shall be chairman; three will be nominated by employer groups; and the other three will be nominated by the Trades and Labor Council of Western Australia and the building unions and the like. In view of our previous comments that the setting up of such a board was the setting up of another bureaucracy with a staff and offices and facilities, I ask the Minister first whether there has been any estimate of the cost of the board or whether there has been a total costing. I am jumping the gun a little because we will talk later about staffing. The Minister quoted a figure from one of the Eastern States.

Hon. Peter Dowding: The ACT.

Hon. G. E. MASTERS: In the ACT eight people were employed at a cost of $300 000. I just wonder whether it is anticipated that the same sort of arrangement will be made here. Obviously, no-one in his right mind would set up such a board without working out some of these costs. We will talk about the levy and the percentage of the levy later, but let us just say for now that we are talking about the board and its staffing. The Minister must have carried out a cost analysis; it would have been irresponsible not to do so.

Hon. H. W. Gayfer: Are they part-time or full-time?

Hon. G. E. MASTERS: Yes, we have to ask whether the members will be part-time or full-time and whether a chairman has yet been chosen. The Minister might let us know the answers to those questions. Certainly, we would like to have some idea.

We have been told that in the Australian Capital Territory eight people cost $300 000. If the same figure were to apply in Western Australia—Mr Dowding said that 9 000 construction workers could be involved—the administration cost could be $31 for every man involved in the scheme. Then, of course, there would be the expenditure on long service leave and other payments to be considered. Thus we are talking about a large sum of money. Perhaps the Minister can help me on this matter.

Hon. PETER DOWDING: It is instructive to look at what has happened around the country and the pattern that applies. The number of employees likely to be covered by the scheme would be on a scale similar to that of the ACT. It may be slightly different, but by and large we are looking at a relatively small operation. The cost in the ACT was about $300 000; it may be less than that. It is not possible to say exactly what is required. That will be a matter for the board, and the board will be composed of three industry-nominated members, three union-nominated members and an independent chairperson.

Hon. G. E. Masters: Chairman is the word used.

Hon. PETER DOWDING: We would expect the board members to make the decisions based on their perceived needs.

**Clause put and passed.**

**Clause 7 put and passed.**

**Clause 8: Vacation of office—**

Hon. D. J. WORDSWORTH: Can I assume from clause 8 that if the Minister so desired he could leave Norm Gallagher on the board and not have him resign?

Hon. PETER DOWDING: Norm Gallagher has not yet got on the board, so I have difficulty in replying.

Hon. G. E. Masters: Give him time.

Hon. PETER DOWDING: The requirements for vacating office are set out in paragraphs (a) to (f) of subclause (2) of clause 8.

Hon. D. J. WORDSWORTH: As I have to spell it out, I ask whether a person with the Minister's consent can remain on the board when he is in gaol.

Hon. PETER DOWDING: If the Minister chose not to terminate the office of such a person under clause 8(1), that person would miss board meetings and hence would fall foul of other criteria, but imprisonment is not a criterion for automatically vacating an office. This Bill has been drawn by Parliamentary Draftsmen. Imprisonment is, however, some-

thing for which the Minister clearly would have the power to dismiss a board member, and quite properly so.

Hon. D. J. WORDSWORTH: I refer the Minister to clause 8(2)(c), which would seem to say that if the Minister wishes to leave such a member on the board he has only to grant him leave. As far as I can see from this provision, it is tailor-made for that particular man. Had he stayed in gaol for six years, he could still remain on the board.

Hon. H. W. GAYFER: As I read this clause, the Minister can wipe out the whole board if he so desires. There is nothing to stop him. I refer to subclause (2)(b).

Hon. Peter Dowding: The appointment is terminated only on grounds, Mr Gayfer.

Hon. H. W. GAYFER: It may be terminated on the ground of inefficiency. There is no-one to question the Minister about what might be inefficiency.

Hon. Peter Dowding: Of course there is.

Hon. H. W. GAYFER: I believe that the Minister in one year could terminate the appointment of every member of the board. He could say that the entire board was inefficient and that each member making up that board was inefficient. Just a while ago, the Minister asked me how my particular board was made up. Two members go out each year for five years; that is the 10 members. This board will be handling a lot of money and will carry a lot of responsibility. It must also have much knowledge vested in it. We established the other night that in eight years a fund of $40 million could be built up by this board.

Hon. G. E. Masters: Or more.

Hon. H. W. GAYFER: Or more; yet this clause allows the Minister to dismiss the whole board. I do not think that any business anywhere would have that sort of provision. There needs to be some continuity of membership of a board. In private practice it would never happen that a private board could get wiped out. Any responsible board will not even allow all its members to travel on the one aeroplane in case the plane goes down.

Continuity is very important. This board must realise how great its responsibilities will be. It will be handling large sums of money. In five years, $40 million; in 10 years it will be so much more. The Minister can come along and for some reason or other say it is an inefficient board, therefore every member of the board will be deemed to be equally inefficient and the Minister will dismiss the lot.

Hon. PETER DOWDING: First let me remind members the board is nominated by the industry; it is not nominated by the Minister. Whatever may be said about the Minister's powers, the fact is that there is only one source of nomination for members.

Secondly, it is an industry fund, so the industry will have as its prime interest the efficient operation of this fund. It will nominate people who will operate it efficiently.

Even if the Minister were to exercise his power and dismiss the board, ultimately the industry would have to nominate people who would operate it efficiently.

The Minister cannot exercise his power under this clause in a cavalier way because it is subject to review. If the Minister were simply to say, "I do not like the colour of the board's eyes, I will dismiss it", that would not be ground for dismissing the board.

Hon. H. W. Gayfer: Your decision is subject to review.

Hon. PETER DOWDING: No executive act can be immune from review where the Statute lays down requirements. The Minister would have to demonstrate not that the board was inefficient but that each member was inefficient or had been guilty of misbehaviour. There is no question of that. He cannot exercise this power merely because he happens to feel like it.

**Clause put and passed.**

**Clause 9: Fees and allowances—**

Hon. G. E. MASTERS: I have an amendment on the Notice Paper which no doubt the Minister has seen. When we look at fees and allowances for boards and the like, a quiver of fear goes through the Opposition after the performance of the Government in employing some of its friends and the pay which seems to be doled out to these people.

I know this is a board and the members will not necessarily be friends of the Minister. Nevertheless, the Bill says—

> A member is entitled to such fees and allowances as the Minister determines from time to time after consultation with the Public Service Board.

Surely it would be far better to take that matter out of the hands of the Minister. I suggest that clause 9(1) should be deleted and replaced by the following provision—

(1) A member shall be paid such remuneration as is determined from time to time by the Salaries and Allowances Tribunal under the Salaries and Allowances Act 1975.

Hon. PETER DOWDING: This is not a criteria of mine or of my department but of the Parliamentary Draftsman. It is suggested this should give some flexibility to the Public Service Board. A special scale applies to many boards and for some people it is impossible. If a senior executive from a firm is nominated by industry—perhaps the person's task is a very important one in the operation of the board—there may have to be some flexibility. We should leave it as it stands. As Mr Gayfer has agreed, the board should be composed of people nominated by the industry. The appropriate fee or allowance might vary depending on a whole range of factors. The Government has not included that clause with any policy in view; it has simply received advice from the Parliamentary Draftsman and relied on that advice.

Hon. H. W. GAYFER: With all due respect to the Leader of the Opposition, I would prefer to see the clause left as it is, mainly because I am sure that if we as an Opposition see something wrong with the operation of the board and we believe one of its members is not being paid a remuneration commensurate with his duties, this matter would be brought up in this place and the Minister would be asked to reexamine the position.

The finances may not be invested properly. That is what worries me. Investment of these huge sums would require somebody pretty competent. We need some elasticity to pay a suitable man for that job.

**Clause put and passed.**

**Clause 10: Meetings of the Board and disclosure of interest—**

Hon. G. E. MASTERS: No doubt the Minister has read the debate in another place where reference was made to clause 10(6) and (7). These subclauses concern a person on the board declaring a pecuniary interest, and appear to be in conflict. If the Minister has read the debate in another place perhaps I could ask him to respond in this Chamber.

Hon. PETER DOWDING: Subclause (7) does not derogate from the requirement to declare an interest, except to the extent that one does not have to declare the fact one is a director, a shareholder or registered employee of a body corporate.

Hon. G. E. Masters: That is all?

Hon. PETER DOWDING: Subclause (6) provides for a declaration of interest where a pecuniary interest is involved, either direct or indirect. The point is that these industry people from the unions may well be registered employees, and the employers may well be registered employers. They do not need to declare that fact. As I read subclause (7), that is the only fact they do not need to declare.

**Clause put and passed.**

**Clauses 11 and 12 put and passed.**

**Clause 13: Staff—**

Hon. G. E. MASTERS: The Opposition is concerned about what is going to be another bureaucracy, whether it be of one or two people or one dozen or two dozen people. We are talking here about appointing a chief executive officer and support staff. That support staff will undoubtedly include inspectors and office staff. Offices will have to be set up and cars and office equipment provided. These people will have to handle, supervise, and invest large sums of money. All in all this will be quite a big organisation.

The board and staff will not only administer but also receive returns by the week or the month from every employer in the construction industry, so we are talking about a big operation. Every employee must register within a certain time and state that he was an employee in the construction industry and is therefore entitled to long service leave. Every employer who employs a person under a construction award will be required to fill in returns monthly or whenever, and to submit with the returns a sum of money as well. Again, this will be a big operation.

The Minister expects there to be 9 000 construction workers involved. I do not know how many construction employers will be involved, but it could be as many as 2 000 and certainly 1 000. So we are talking about a bureaucracy to handle a lot of paper work and equipment.

We need to know what costs will be involved. The Minister has suggested $300 000. It could be $500 000. We must remember that all these people in the construction industry will be required to fill in forms for the board, to keep in contact with the board, to be supervised by the board, and to be inspected by the board. This will be a big job.

Hon. H. W. GAYFER: I agree with what the Leader of the Opposition has said. This clause, of just four lines, hides a multitude of sins

because it governs the very size of the bureaucracy, the colossus, to be set up. They are strong words but true.

We have been told that the board will administer funds of $40 million in five years and $80 million in 10 years, so it will need a huge staff. Unless it farms out the investment side of things, which I doubt, it will require a finance department, an investment department, and a registration department. Certainly the registrations will have to be watched and the computers will have to be fed all the information. These four lines boggle the mind when we consider the bureaucracy to be established by this clause.

I think the Minister said that the ACT operation employs eight persons. In this State we will have 9 000 employees covered. If I were running the board I would expect it to be run efficiently, and I could not expect the investment work and the registration work to be done properly with just eight people. The investment department would need a minimum of three people, one to keep abreast of the times and to be in charge and the other two to assist, to attend board meetings, and so on. This thing will get bigger and bigger; there is nothing surer.

What worries me—and I must get back to this—is that if this is going to be the blueprint for similar bodies in the future, we will end up with a set of these boards in the State doing precisely the same thing and all of this size. We will see a totally new work force. This clause implements a new bureaucracy.

Hon. PETER DOWDING: The board, if it is a good board, will be efficient. The board, if it is a good board, will employ only those people it needs to employ. The ACT board is the closest in terms of size to our proposed board and it employs five full-time and three part-time people in administration to deal with 8 000 employees. We should not get carried away with looking into the future. I expect the board to be responsible, and if I am the Minister responsible for it I would expect it to run a sensible and lean operation.

The ACT board has been operating since 1981.

Hon. H. W. GAYFER: I will not argue with the Minister. I make the point that in years to come we will be entitled to refer back to our comments on this clause. I cannot see how the organisation will be able to operate with just eight persons.

Hon. NEIL OLIVER: In the 1984 *Western Australian Year Book*, the section dealing with employee population in categories of industry shows that in the construction industry in WA we had 41 700 employees without including subcontract employers.

Every one of those 41 700 people is required to be recorded. I presume the construction industry has had an upturn since 1984, and frankly, although I can appreciate the intentions regarding portability of long service leave and it is desirable that all other industries now enjoy this provision, I believe that the Minister has a tiger by the tail. If he examines the South Australian construction industry and its form of registration he will see that State has a Contractors' Registration Act. In that State the bureaucracy is totally out of hand. The whole system is affected by demarcation disputes, and there are requirements for registration where a person is a bricklayer or a concreter, and it deals with whether a person is allowed to fill in a waste pipe trench because he is a plumber. Not many States would take this on.

Hon. Peter Dowding: It is a bit different from this Bill.

Hon. NEIL OLIVER: This is a step along the way. I believe the building industry, because of its very nature, should provide its employees with the opportunity for long service leave. I am not denying that. I am saying there needs to be some form of breathing space when people are moving from place to place because the leave will be portable. That is the reason the Bill has been introduced. If the Minister can tell me how it will operate for 41 700 employees—and I am not talking about the cottage industry—

Hon. H. W. Gayfer: Where did you get those figures?

Hon. NEIL OLIVER: From *The Western Australian Year Book*. That is how many people are employed in the construction industry by categories.

There are 36 800 males and 4 900 females. I have seen female bricklayers.

Hon. Peter Dowding: How many females?

Hon. NEIL OLIVER: There are 4 900 females.

Hon. PETER DOWDING: That suggests to me those figures do not cover the sort of positions we are talking about. Mr Oliver has drawn some other figures out of the hat. It is not relevant to clause 13 anyway.

Hon. TOM KNIGHT: I would like to follow up what Mr Gayfer said. Somewhere during the debate, perhaps last week, the figure of 10 000 to 12 000 people employed in the construction industry was used. Over the 15 years each worker involved at the present rate of $400 a week will contribute $5 200 to the fund. That is $52 million at the end of 15 years. If there are 12 000 people in the industry there will be an additional $10.4 million, making a total of $62.4 million at the end of 15 years. There will be no claims except the *pro rata* claims for the period in which they are eligible because of loss of work after 10 years.

There could be $62 million sitting in the portability of long service leave fund at the end of 15 years. When one looks at money like that one is not looking at a small business. I do not see how eight people could handle funds of $62 million with the investment that would have to be done as well. I cannot see how three people could handle the money side. It is not small fry to handle a fund of $62 million and much larger when investment returns are added.

The money must be used; it cannot be frozen. The old saying is that money is made round to go round, and if it is not circulated everything stops. One cannot put it in a fund and freeze it; it must be used to its best extent.

What is to be done with the interest? Will it be put in the fund or used for other industry needs? It would be an impossibility for eight people to look after that sort of money. No-one seems to be looking at the money that is involved. If the work force should in time demand a flow-on to the national work force of 4 million people, the figure of $20.8 billion would be in the fund at the end of 15 years. That would pay most of our national debt, according to the article I read this evening. All those things must be taken into consideration.

Hon. G. E. MASTERS: The points have been well made. It is of concern when we are talking about the cost to an industry and a group of people being set up to administer a large sum of money. We have a right to ask the Minister and to probe and see what will happen. We are worried that a bureaucracy will be set up over which there seems to be little control. That point needs to be raised in relation to the functions of the board in the next clause. There must be some accountability but I cannot see any of any consequence in this Bill. In raising these matters the Opposition registers its deep concern at another bureaucracy and a cost to industry at a time when it can least afford it.

**Clause put and passed.**

**Clause 14: Functions of the Board—**

Hon. G. E. MASTERS: I talked about accountability, and I refer to the wording of this clause. That is a very wide-ranging power. It seems to me the Bill should contain accountability because of the expenditure, the administrative costs and investments, and the level of contributions. We are talking of a board which one way or another will decide on a levy to be paid by every employer in the State.

We do not know what that percentage of gross wages will be; it could be anything. If we are not successful in amending this Bill I suggest the levy will be much higher than it should be.

It does not appear that the board is required under any statutory criteria to be responsible for and to report on its operations. We are talking about millions of dollars. Perhaps the Minister could make some comment on that aspect.

Hon. PETER DOWDING: I think that matter is covered. The board is obliged to do all things necessary for the performance of its functions. That is contained in clause 14(3). Secondly, the board is an industry board so the industry has a vested interest in keeping contribution levels down and the operation efficient. The industry has an interest in seeing that expense levels do not burgeon. The evidence to date of the sort of industry-based operations which are charged with this sort of responsibility—the Workers' Assistance Commission, for instance, which has the responsibility for setting premiums and operating funds—shows that boards where industry has an interest are by and large the best sort of board, possibly because they have a vested interest.

The second matter is that the Minister, under clause 11, has the right to demand information of the board, and properly so. A series of clauses deal with accountability including clauses 20, 19, 18, and 58. I do not accept that there is not that obligation and I do not accept that the structure is not likely to give rise to efficiencies that we would all be looking for.

**Clause put and passed.**

**Clause 15: Funds of the Board—**

Hon. G. E. MASTERS: I move an amendment—

> Page 13, lines 27-29—To delete the words "such investment or category of investment as the Minister may approve" and substitute the following—

any authorised investment within the meaning of the Trustees Act 1962-1978 .

The Opposition has spoken about the sum of money that will be raised by the board. All sorts of figures have been bandied around this Chamber tonight. I mentioned earlier in the proceedings that something like 5 000 construction workers would be involved. The Minister, in his second reading speech or at some other stage, said that 9 000 would be involved. Hon. Neil Oliver has shown me figures which suggest that the numbers could be considerably higher than 9 000. He mentioned that women could be involved. Let us say that 9 000 construction workers are involved and that an amount of $5 million is raised in a year. Within seven years of investment and interest, that sum could total somewhere in the vicinity of $50 million. All of that money will come out of the employers' pockets.

The Minister has said time and time again that the fund is an industry fund. I am not sure that I accept that. That fund is held in trust for the people who are entitled to long service leave at some later stage. Because these workers are entitled to long service leave, an employer will invest the money or put it aside for that time.

Hon. Peter Dowding: The point is that you can't, in that situation, start limiting your contribution.

Hon. G. E. MASTERS: What does the Minister mean by "limit"? The board decides.

Hon. Peter Dowding: Exactly, and the more the board can turn it into profit the better.

Hon. G. E. MASTERS: I guess that is the argument that the Minister will put. The board will be responsible for investing that $50 million over seven years. The board is the trustee of that money which will go to the workers who are entitled to it at some stage. The board is the trustee of the fund. That is an important point. Where has the suggestion been made that, if the funds are badly invested and are lost, the Government of the day will stand behind the fund? The board stands alone in investing that $50 million over a seven-year period. If the investments go wrong, the employer will still have to pay out wages, salaries, and other entitlements.

Through our amendment we suggest that the money should be invested under the Trustees Act. Section 16 of that Act includes a list of suitable investments for these types of funds. It is no good the Minister saying that, unless the board had the freedom to invest in the market in the way it sees fit, it may not get the best interest rates today, and for some time to come. Good interest rates are available in many of the organisations mentioned in the Trustees Act. There ought to be a safe investment for a $50 million fund when one considers that the Government does not guarantee the fund. We suggest, therefore, that the board should invest the funds in accordance with the Trustees Act.

I think it is too risky to allow the funds to be invested in other areas. Clause 15(3) suggests that the funds may be invested with the Minister's approval. We think that the Minister should not be involved and that the funds should be invested according to the Trustees Act.

Hon. PETER DOWDING: This is not a clause that I have a great personal concern about; nor does the Government. However, I feel I should convey to members the feelings of the industry involved. The industry originally wanted 50 per cent of these funds invested in the building industry. The employers, particularly, wanted the flexibility to utilise the fund without the constraints suggested by Hon. Gordon Masters.

Hon. H. W. Gayfer: Would that be permissible to utilise funds in their own industry?

Hon. PETER DOWDING: That is what was originally requested. I am not saying that I agreed with that. The options were that the Minister or somebody else—the Parliamentary Draftsman has also suggested the Treasurer—be the responsible restraint on investment decisions. I will not hold out if this is to be a major problem. I merely make the point that it is not the industry's desire to have the constraints that Hon. Gordon Masters has indicated in his amendment. The Government is willing to give the board some flexibility but we will be guided by the Under Treasurer who will be advising on these matters.

If the member wishes to move the amendment, so be it. I do not believe it is necessarily in the interests of the board or to protect the fund.

Hon. G. E. MASTERS: If the board is very keen to invest the money in its own industry to bolster that industry and help finance work, surely by investing in building societies it will be investing in the building industry. In that way it will make sure that funds are available to the building societies so that they can finance

people to buy houses. The money will go into the construction industry because that is as much the housing industry as anything else.

Hon. H. W. GAYFER: I wish to support the Leader of the Opposition's amendment for a different reason. I do not believe the Minister would want to be tied up with the investment angle or would want to endorse every investment. I have had a fair amount to do with investments and they must be made at the time without waiting for a Minister to approve them one way or the other. Overnight interest is a factor to be taken into account.

Hon. Peter Dowding: There is a capacity for the Minister to approve a category of investment.

Hon. H. W. GAYFER: Even that might be restrictive. It is much better defined under the Trustees Act to allow the board its freedom without the Minister being involved other than receiving annual statements, or monthly statements if he insists. I believe that the board, which would become a board of trustees in this matter, should have complete autonomy to invest where it wants to rather than having to go to the Minister for approval or have the Minister outlining the parameters of the investment. There is no reason for the Minister to be involved in this.

Hon. G. E. MASTERS: I take note of the Minister's comments but I think that in the case of a very large sum of money held in trust, with no Government backup and nothing to stand behind it, it is necessary to invest the money in the areas set out in the Trustees Act.

I thought hard about the Minister's comments because I understand his reasoning but we have a responsibility when dealing with tens of millions of dollars.

Hon. D. J. WORDSWORTH: This is a very good amendment. I was somewhat concerned about the original clause because under its provisions the Government can determine what investments the board shall make. The Minister can do so by removing the ability of the board to invest in certain categories of investment and demand that it gets ministerial approval for each investment. In this way the Government of the day could use the money for political purposes. I do not mean by spending it on party advertising and the like but by making the board spend the money in a way which the Government feels would be of benefit to the Government. It could be done by asking it to invest in hotel accommodation in some difficult or marginal electorates. I sense that this is already being done by the Government.

Hon. Peter Dowding: That is fantasy. The Minister under this Bill cannot direct the board where to invest. He gives the board power to invest in particular investments or categories of investments. It is up to the board to decide where it puts the money.

Hon. D. J. WORDSWORTH: "Such investment as the Minister may approve" is the wording. It is not hard for a Minister to get across to the board the message that he is keen on approving a few investments that might happen to be in the interests of the Government of the day.

It seems strange to me, in the list of parliamentary questions to see reference made to where the Superannuation Board has put its money recently. It has been very single-minded indeed with regard to investment. I expect any day that it will announce that it is investing in a hotel development in Esperance. That is not a place that I would recommend by any means, but it might be to the advantage of a Minister who has a difficult electorate to hold.

**Amendment put and a division taken with the following result—**

Ayes 16

| | |
|---|---|
| Hon. C. J. Bell | Hon. I. G. Medcalf |
| Hon. E. J. Charlton | Hon. N. F. Moore |
| Hon. V. J. Ferry | Hon. Neil Oliver |
| Hon. H. W. Gayfer | Hon. P. G. Pendal |
| Hon. Tom Knight | Hon. W. N. Stretch |
| Hon. A. A. Lewis | Hon. P. H. Wells |
| Hon. G. E. Masters | Hon. D. J. Wordsworth |
| Hon. Tom McNeil | Hon. Margaret McAleer *(Teller)* |

Noes 10

| | |
|---|---|
| Hon. J. M. Brown | Hon. Garry Kelly |
| Hon. Peter Dowding | Hon. Mark Nevill |
| Hon. Graham Edwards | Hon. S. M. Piantadosi |
| Hon. Lyla Elliott | Hon. Tom Stephens |
| Hon. Kay Hallahan | Hon. Fred McKenzie *(Teller)* |

Pairs

| Ayes | Noes |
|---|---|
| Hon. John Williams | Hon. D. K. Dans |
| Hon. G. C. MacKinnon | Hon. J. M. Berinson |
| Hon. I. G. Pratt | Hon. Robert Hetherington |

**Amendment thus passed.**

**Clause, as amended, put and passed.**

**Clause 16: Power to borrow and guarantee—**

Hon. G. E. MASTERS: This clause refers to the ability of the board to borrow money by way of loans and overdrafts. Clause 17 follows on from clause 16.

The DEPUTY CHAIRMAN (Hon. P. H. Lockyer): You will have to seek leave of the Chamber to deal with clauses 16 and 17 together. I am quite happy for you to fleetingly refer to them.

Hon. G. E. MASTERS: The fact is that the board, under this clause, is able to borrow money and go into overdraft. I guess in the early stages of the board's operation it may have to do that as it will be starting from scratch, having no Government money behind it to manage. Although it will not be paying out long service leave for some time, it will certainly need to put its administration into gear and it will take some months before it can successfully start paying its way.

I understand the board can borrow money but there is no limit to the amount of money it can borrow. I refer members to clause 17(1). That clause suggests to me that the bureaucracy is set in gear. The board can borrow money on a contract to build an office block or construct some sort of headquarters. I ask the Minister whether that is one of the options open and if there are plans to build a headquarters and borrow money for that purpose?

Hon. PETER DOWDING: I have already indicated to the honourable member that the board has not been put together so there is no question of its making any decisions yet. I do not know where people in the building industry go to talk about the board and what they will do with their money. I have no knowledge of it and I do not know who will be nominated to be on the board. I cannot pre-empt any decisions the board might take.

Hon. G. E. MASTERS: One can read into it. If the board wanted to borrow a sum of money to build an office block or construct a building to house it, whether it be for eight to 20 people, it has to be allowed to do it. I am pointing out to the Chamber that that is where things start to go wrong.

Hon. PETER DOWDING: The board has the power to borrow money; and it is anticipated in the early stages that it will need to do that, but it does not have to seek the State's guarantee to borrow that money.

Hon. D. J. Wordsworth: Why does it need to do that?

Hon. PETER DOWDING: Because it will not have an income.

Hon. D. J. Wordsworth: It will not have any commitment.

Hon. PETER DOWDING: It will have to establish an office and pay wages, and it will need a computer to tabulate information coming in.

Hon. H. W. Gayfer: Where will those funds come from?

Hon. PETER DOWDING: The board will have to borrow them, with or without a State guarantee.

We are setting up an industry board for the sake of the industry. I have indicated already the five constraints on the operation of the board. I am not in a position to tell the Chamber what the plans of the board are because the board has not yet been nominated by the industry.

**Clause put and passed.**

**Clauses 17 to 20 put and passed.**

**Clause 21: Entitlement to paid long service leave and pay—**

Hon. G. E. MASTERS: I refer to the words "paid ordinary pay". It is clearly pointed out that the "paid ordinary pay" is the flat award rate without any extras that may be given in the way of site allowances, travel allowances, and the like. It is my understanding that "paid ordinary pay" is the award rate, nothing more or nothing less. Therefore, the entitlement for long service leave would be the award rate for those construction workers in certain categories on the day.

Hon. PETER DOWDING: I understand that "paid ordinary pay" in this definition excludes site allowance, shift allowances, travel allowances, and penalty rates.

Hon. G. E. MASTERS: Is there anywhere in the Bill that provides for an employee to make a claim? I know that an employee is entitled, after a period of service to the industry of 10 years, to a *pro rata* payment, and after 15 years to 13 weeks' payment. Where, in the legislation, does it say that a person is entitled to make a claim? Obviously he can, but where does it say that an employee can make a claim if the employee is disadvantaged or is refused payment by the board? Where can he go to enforce the payment if it is justified or there is an argument about it?

Hon. Peter Dowding: The subsequent clauses give rise to the procedure for payment. This clause gives rise to the right and entitlement.

Hon. G. E. MASTERS: Which clause does the Minister say gives the right to claim? I know there is an entitlement. It sets down the entitlement.

Hon. Peter Dowding: Clause 26 refers to the appropriate time when payment is due.

Hon. G. E. MASTERS: I will deal with it at that stage.

Hon. H. W. GAYFER: I wonder if, for the sake of the record, the Minister has a calculation in the papers in front of him as to how the 220 days have been arrived at? We have all made our own calculations, but if the Minister has a table it might be a good idea for it to be incorporated in *Hansard*. If the Minister does not have it, so be it.

Hon. PETER DOWDING: I am advised it is in common with other schemes. It is based on 260 working days, taking into account annual leave, public holidays, and some sick leave entitlement which reduces it by 40 to 220.

Hon. G. E. MASTERS: I understand that in the construction industry now arrangements are in force where the workers—certainly members of the BLF—work only a nine-day fortnight but are paid for 10 days. I gather the tenth day goes down as credit for a day's service in the industry.

Hon. Peter Dowding: That is right.

**Clause put and passed.**

**Clause 22: Additional entitlement—**

Hon. G. E. MASTERS: Great play was made in the Minister's speech in another place of the bringing in of long service leave and comparing it with the long service leave entitlements under the Long Service Leave Act. We have not argued with that idea, although we have had some strong reservations. Because the industry generally is supporting the principle, we reluctantly agreed to the second reading.

The Minister made a point that this Bill proposes nothing more and nothing less than does the Long Service Leave Act. Under that Act workers normally fully and permanently employed by a single employer over a period of time have entitlements which are listed in the Long Service Leave Act. One of the points I want to make is that under the Long Service Leave Act, where an employee is dismissed for serious misconduct, he loses his entitlement. In this Bill a special arrangement is made.

Hon. Peter Dowding: It is harsher on the employer.

Hon. G. E. MASTERS: That special arrangement, as I read it, provides for an employee who—

(a) has completed 15 years of service in the construction industry;

(b) has served any further period of service of not less than 12 months in the construction industry; and

(c) the services of the employee are terminated on any ground other than misconduct.

Clause 23 provides that a person who is dismissed for misconduct—not serious misconduct—loses eight weeks' credit.

That seems to be unreasonable. Under the Long Service Leave Act, most employees dismissed for serious misconduct lose all their entitlement. This Bill proposes that those employees lose eight weeks. That is unreasonable and unfair, bearing in mind that if the dismissal is for misconduct or for serious misconduct, that person is entitled to appeal to the Australian Conciliation and Arbitration Commission for a determination. If that person is found to have been unfairly dismissed he would have his entitlement and presumably his job back. If the commission decided he had been guilty of serious misconduct he would lose his entitlements.

This Bill should not be any different. Some of the people in the BLF and the BWIU have been guilty or have been suspected of committing serious misconduct. One man was employed by the Government and the Minister, Mr McIver, kept him on, even though he was guilty of serious misconduct.

We think no special privileges should be given to people who have a record of serious misconduct. For that reason we say there should be the same provision in both Acts.

For those reasons I move an amendment—

Page 17, line 28—To insert before the word "misconduct" the word "serious".

Hon. PETER DOWDING: The honourable member is taking a very tough clause and watering it down.

Hon. G. E. Masters: Tell me how it is tough and how I am watering it down.

Hon. PETER DOWDING: Because here one does not get the entitlement under clause 22 where one has been dismissed for misconduct. It does not have to be serious misconduct.

Hon. G. E. Masters: One must turn over to clause 23.

Hon. PETER DOWDING: Where one has been dismissed for misconduct, not serious, one does not get any of those entitlements. Where one is dismissed for misconduct one only gets a limited facility under clause 23. It is more limited. Does the member accept that?

Hon. G. E. Masters: No.

Hon. PETER DOWDING: If the member really wants to do this I suppose he has the numbers to do it, but it seems to me that clause 22 as it stands imposes a more serious penalty, because it says if one is dismissed for misconduct one does not get those benefits. Under clause 23 there is a limited number of benefits.

What the member is saying is that if one is dismissed for misconduct one should not suffer any penalty unless it is serious misconduct. If it is serious misconduct, one should suffer a penalty. What we have said is that any misconduct means one suffers a penalty.

Hon. G. E. MASTERS: If the Minister wants me to delete the word "serious" and just refer to a person whose employer has terminated his employment because of misconduct, not serious misconduct, I am quite happy to accept that proposition. But I certainly cannot accept the proposition in clause 23 that if a person has his services terminated because of misconduct he loses only eight weeks of his credit. What we are saying is that the Long Service Leave Act makes no reference to losing part of the entitlement. It says a person guilty of serious misconduct loses his entitlement.

If the Minister wants to suggest to me that we should not use the word "serious" and that we should say that a person who is guilty of misconduct loses all entitlements, I am prepared to consider that proposition, but I want him to keep in mind that the Long Service Leave Act—

Hon. Peter Dowding: You can't.

Hon. G. E. MASTERS: I do not see why not.

Hon. PETER DOWDING: The point is, it is not possible because it is different. A person might have worked for 12 years for a whole range of employers and go to an employer with whom he had absolutely no contact over that 12 year period and suddenly, at the end of that time, commit an act of misconduct or serious misconduct.

What happens as a result of that is that if we are talking about the next clause—not this clause—12 years of entitlement accumulated with many employers is lost. Quite frankly, I do not support that position and I do not believe it is equitable. It is quite different from a situation where a person has been with the same employer essentially throughout that period. The Leader of the Opposition should consider his amendment, because the combination of clauses 22 and 23 provides proper protection. They prescribe a penalty for misconduct. A person does not have to commit serious misconduct to suffer a penalty. A penalty is prescribed for misconduct and a person gets limited entitlement if he is guilty of serious misconduct. That is appropriate, particularly in a case where a person might have worked for 12 years for 20 different employers with an unblemished record.

The employer is not suffering. The employee is given all of that service entitlement that he had with an unblemished record when suddenly at the end of the day he has a blue with a particular employee. I understand that blues in the building industry are not uncommon. Personalities can clash. Something that has existed is not jeopardised. Clauses 22 and 23 provide a very fair level of penalty for these people. The Leader of the Opposition might say, "Look, you just don't get away with misconduct." A person does not even have to commit serious misconduct because a penalty is provided if he commits an act which can be described as misconduct; but he does not blow his long service leave entitlement entirely for the whole period. If the Leader of the Opposition looks at clause 23 he will see limited punishment is provided in respect of that employee's position.

Hon. G. E. MASTERS: I cannot accept that argument. If the Minister reads the Long Service Leave Act he will understand what I am getting at. I take on board the Minister's comments about people working in the construction industry who go from employer to employer, but in the normal practice of employment, when a company is employing a number of people over a period of time, the management could change, whether it be the manager himself or the directors of the company. Management personnel also change and although the company or the management changes hands the employees' long service leave entitlements in normal industry situations go on and on. Perhaps the management has changed from time to time and the people who have worked for that company for 10 or 11 years might not like the new manager; but that does not mean to say they are guilty of misconduct. I am talking about serious misconduct in the construction industry. We have the BLF and the BWIU in that industry which have a bad record of misconduct and serious misconduct, and I suggest that employees in the building industry deserve no greater preference than those employees in other industries.

Hon. Peter Dowding: Yes, but clause 22 provides a lower level—

Hon. G. E. MASTERS: But then turn over the page. It does not give it at all. The Minister is saying that a person receives no entitlement for misconduct. That is what clause 22 says.

Hon. Peter Dowding: That is only when he has completed these periods of service.

Hon. G. E. MASTERS: All right, but he receives no benefit for misconduct. Over the page it says that if he is guilty of misconduct eight weeks less service is credited to him.

This Bill should be brought into line with the Long Service Leave Act. Under the Long Service Leave Act people who have been permanently employed over a long period of time and who are guilty of serious misconduct lose their long service leave entitlement. I am arguing about misconduct or serious misconduct in that context. I am suggesting that if the Minister and the Government are genuine in regard to wanting to give these people in the construction industry the same benefits as apply under the Long Service Leave Act, they should be equal. It is quite right and proper that people guilty of serious misconduct, and who have been dismissed for that reason, should lose their entitlements, bearing in mind that whenever that happens those people are able to go to the Industrial Relations Commission and say that they were unfairly dismissed. The commissioner will listen to the argument whether it falls within the ambit of the Long Service Leave Act or the portability of long service leave Act. The same arguments will persist. The same appeal rights will apply. I see no difference at all; in fact, on the contrary. I see less reason for giving the workers in the construction industry special benefits than for other people.

I would urge members to consider my proposition that the Long Service Leave Act provision should apply in regard to this new Bill and that we should insert the words "serious misconduct" into the clause. If the Minister thinks I am being a little more lax in the requirements than those he is proposing, I would not think he needs to worry at all because those people who are pressing him to put this Bill forward certainly know what it is about and they would be happy about it. He would have nothing to fear.

I suggest that we should have equality in both Statutes—the Bill and the Act—and that it is quite improper to give special privileges to a group of people in an industry which has quite a bad record.

**Amendment put and a division taken with the following result—**

Ayes 16

| | |
|---|---|
| Hon. C. J. Bell | Hon. I. G. Medcalf |
| Hon. E. J. Charlton | Hon. N. F. Moore |
| Hon. V. J. Ferry | Hon. Neil Oliver |
| Hon. H. W. Gayfer | Hon. P. G. Pendal |
| Hon. Tom Knight | Hon. W. N. Stretch |
| Hon. A. A. Lewis | Hon. P. H. Wells |
| Hon. G. E. Masters | Hon. D. J. Wordsworth |
| Hon. Tom McNeil | Hon. Margaret McAleer *(Teller)* |

Noes 10

| | |
|---|---|
| Hon. J. M. Brown | Hon. Garry Kelly |
| Hon. Peter Dowding | Hon. Mark Nevill |
| Hon. Graham Edwards | Hon. S. M. Piantadosi |
| Hon. Lyla Elliott | Hon. Tom Stephens |
| Hon. Kay Hallahan | Hon. Fred McKenzie *(Teller)* |

Pairs

| Ayes | Noes |
|---|---|
| Hon. John Williams | Hon. J. M. Berinson |
| Hon. G. C. MacKinnon | Hon. Robert Hetherington |
| Hon. I. G. Pratt | |
| Hon. D. K. Dans | |

**Amendment thus passed.**

**Clause, as amended, put and passed.**

**Clause 23: Termination of services on the ground of misconduct—**

Hon. G. E. MASTERS: For reasons outlined in the debate on the previous clause, I ask the Committee to vote against this clause.

**Clause put and a division taken with the following result—**

Ayes 10

| | |
|---|---|
| Hon. J. M. Brown | Hon. Gary Kelly |
| Hon. Peter Dowding | Hon. Mark Nevill |
| Hon. Graham Edwards | Hon. S. M. Piantadosi |
| Hon. Lyla Elliott | Hon. Tom Stephens |
| Hon. Kay Hallahan | Hon. Fred McKenzie *(Teller)* |

Noes 16

| | |
|---|---|
| Hon. C. J. Bell | Hon. I. G. Medcalf |
| Hon. E. J. Charlton | Hon. N. F. Moore |
| Hon. V. J. Ferry | Hon. Neil Oliver |
| Hon. H. W. Gayfer | Hon. P. G. Pendal |
| Hon. Tom Knight | Hon. W. N. Stretch |
| Hon. A. A. Lewis | Hon. P. H. Wells |
| Hon. G. E. Masters | Hon. D. J. Wordsworth |
| Hon. Tom McNeil | Hon. Margaret McAleer *(Teller)* |

Pairs

| Ayes | Noes |
|---|---|
| Hon. D. K. Dans | Hon. John Williams |
| Hon. J. M. Berinson | Hon. G. C. MacKinnon |
| Hon. Robert Hetherington | Hon. I. G. Pratt |

**Clause thus negatived.**

**Clause 24: Cessation of continuous service entitlement—**

Hon. G. E. MASTERS: I draw the attention of the Chamber to the amendment standing in my name on the Notice Paper. Where a person

has been engaged as an employee for under five years and then goes out of the industry for two years he is considered to be no longer an employee under the terms of the Bill. This clause goes on to say that where a person has worked for more than five years and is then out of the industry for four years, he is no longer regarded as an employee. I suggest that for a person to spend under five years in an industry and then to go out of it for two years indicates that he has pretty well left the industry altogether. If a person has worked for two years and disappears for two years, comes back and says, "I am still a construction worker", I think he has effectively lost his entitlement, bearing in mind that we are talking about long service leave. By the same token, a person who has worked for 5½ years and then goes out of the industry for four years once again has lost his entitlement. We on this side say that the period should be one-year for under five years' service; to be out of the industry for two years or more is a long time. In this circumstance the employee should lose his entitlement.

Hon. PETER DOWDING: Whatever date exactly is actually chosen for this clause is to some extent arbitrary. It is an attempt to find some reasonable compromise between competing interests. I make the point to the Chamber that the tripartite process has achieved exactly this—compromise and agreement within the industry. I think members opposite should really consider whether the clause needs to be altered. The amendment is to some extent a shot in the dark because we have a situation in which the industry is unanimously in agreement that those were the appropriate time periods. I urge the Leader of the Opposition not to move the amendment.

**Clause put and passed.**

**Clauses 25 to 28 put and passed.**

**Clause 29: Prohibition on other employment—**

Hon. G. E. MASTERS: This is a most unfair clause which is totally biased and designed to go against the employer. In fact, under this clause a person who is on long service leave and takes employment will be charged. A person on long service leave must not take another job and, if he does, he is fined $100.

If an employer engages a person who is on long service leave—I made reference to this during the second reading debate and I used Hon. David Wordsworth as an example—he will be fined. For example, a person from Perth who wanted a job could approach Hon. David Wordsworth and say, "I am looking for a job. Do you have a seeding or haymaking job for me?" It is conceivable that Mr Wordsworth may not ask that person if he is on long service leave and employ him for farming duties.

Somewhere along the line an inspector may have wind of this person working on a farm in Esperance and goes to that farm and says, "I believe that you, John Smith, are on long service leave, but that you are working here." The inspector immediately tells him that he is breaking the law and, as a result, he will be fined $100. Mr Wordsworth, who did not know that anything was wrong, would be liable to a fine of $500.

Hon. Peter Dowding: No, he would not. He would not be found guilty.

Hon. G. E. MASTERS: The clause states that in this case Mr Wordsworth would be fined $500 and the person he employed, who knowingly took on the job, would be fined $100, which may perhaps be one day's pay.

This clause is lopsided and I think the penalties should be equal. However, if the employee knowingly breaks the law, he should be subject to a greater penalty. For that reason I have placed an amendment on the Notice Paper. I would appreciate the Minister's comments.

Hon. PETER DOWDING: A policy decision was made regarding the penalties and I will say no more about that subject. The modification of penalties is something on which one has to make a judgment.

I make the point that we are not imposing penalties; we are imposing a maximum penalty. The important point to remember is that if a conviction is recorded it is always open to the stipendiary magistrate to impose a lesser penalty than the maximum. That is very important because it means there could be a major construction firm involved and a penalty of $100 would be ludicrous. A penalty of $200 would also be ludicrous and perhaps a penalty of $500 would at least be getting into the area where it has more bite to it.

Again, it is a matter for the Chamber, and penalties are always subject to comment. I am only making the point about penalties. I think they reflect fairly in the sense that employers can be fined up to $500 and employees can be fined up to $100. It is likely that the employee's economic circumstances will be different from the employer's, and that is reflected in the penalties.

The amendment to subclause (2) is far more serious. I would urge Hon. Gordon Masters to reflect on the amendment he has suggested. It will be almost impossible for a prosecution to succeed as a result of this amendment because it would be almost impossible to prove knowledge in an arrangement like that. The addition of the word does not do anything for the rights of the employer because the employer would not be convicted of an offence where he had no knowledge. If he can demonstrate he was acting without knowledge then he has a defence, and that defence arises under the operation of the section of the Criminal Code which states—

> 24. A person who does or omits to do an act under an honest and reasonable, but mistaken, belief in the existence of any state of things is not criminally responsible for the act or omission to any greater extent than if the real state of things had been such as he believed to exist.

Hon. D. J. Wordsworth: Are you sure you are not quoting from the Family Court Act?

Hon. PETER DOWDING: Not unless it has changed in character.

Under this clause the employer has a defence if he says, "I do not know."

Hon. H. W. Gayfer: Would it be all right to insert that a person shall not knowingly engage—

Hon. PETER DOWDING: If the word "knowingly" is added, a burden is cast on the prosecution to prove that he knowingly engaged. It is a burden the prosecution should never carry. The defendant may remain silent.

If the clause is left as it is, the prosecution gives evidence by saying that the defendant employed this man who was on long service leave. The defendant would then say that he employed the fellow, but had no idea he was on long service leave.

The draftsman strongly advises against including the word "knowledge" in this clause because it would emasculate the provision. I urge the Leader of the Opposition to think clearly about moving the amendment he has on the Notice Paper. As I said, I will make no more comment about penalties.

Hon. TOM KNIGHT: The Minister's reply to the Leader of the Opposition proves to me that there should be no penalty to the employer whatsoever. The only person who knows what he is doing is the employee. He is the person who knows that he is on long service leave. There should be no reason for an employer to know that anyone applying for a job with him is on long service leave. The employee knows that he has broken the law and he should be penalised accordingly. The other person involved has no responsibility whatsoever, and the Minister has said that.

Hon. Peter Dowding: I did not say that. I said that if he does not know, that is his defence.

Hon. TOM KNIGHT: I do not believe he should know.

Hon. Peter Dowding: What happens if he does know?

Hon. TOM KNIGHT: The onus should be on the employee. It takes two hands to clap, and the employee, who knows he has done wrong, should be the one who pays the fine and the employer should be exempted.

Hon. PETER DOWDING: I disagree vigorously. We are not dealing with Mr Wordsworth and the farming industry; we are dealing with the building industry. There can be all sorts of scandals within the industry and it is very important that a person who is entitled to long service leave should not be working.

I did not say that "knowledge" was the element in the situation except to explain that where the employer says, "I have no knowledge", and it is an honest and reasonable but mistaken belief, the employer is entitled to benefit. However, where the employer knew, if he were told, or had some other reason to know, he should not employ that person.

My view is there should be a penalty on a major building company which knowingly takes on somebody who is on long service leave. Adding the word "knowingly" to the clause will mean that a prosecution will not be achieved. The onus of prosecution is placed on the established events and it is up to the employer to say, "I do not know." The lack of knowledge would be a defence. That is the advice I have received.

Hon. Tom Knight: You agree to disagree.

Hon. PETER DOWDING: Hon. Tom Knight is wrong about the legal implications if he is disagreeing with that aspect of what I am saying. If he disagrees with the policy, as he has already said, that is a matter for him. However, I regard it as most important for the enforcement of this proposed section in an industry where there is so much to-ing and fro-ing that employers should know of their obligations. They ought to have a defence where they do

not know; but they ought not to be able to escape any liability in those circumstances except where they can demonstrate that they did not know.

Hon. P. H. WELLS: I really find it quite foreign to expect an employer to know that someone is on long service or to have to ask someone whether he is on long service leave if he applies for a job.

Hon. Peter Dowding: It does not say that, Mr Wells.

Hon. P. H. WELLS: When this legislation is passed, surely that is what every employer in the State who is running a shop or a farm will be required to do—to say to everyone he employs, "Are you on long service leave?" He runs the risk that if someone can prove that he did not take all reasonable precautions to ensure that a person was not on long service leave, there may be a case against him.

Let us take the situation where a person in the construction industry decides to run for Parliament, succeeds in getting a seat, takes that seat, and gets paid off. Part of that pay-off is his long service leave. The employer is stuck. What happens in that situation? That is quite a possibility—most members, when they leave their employment, would get long service leave as part of their payment. I wonder whether there has been an omission here in terms of consideration. Certainly, when a person terminates his employment and is moving into a new type of employment not controlled by the previous arrangements of long service leave, this must be considered.

I also ask the Minister of the situation concerning the Public Service, for instance, and the Police Force. I understand that members of the Police Force are not supposed to work during their annual leave. Is there any clause in any other Act that makes it illegal to employ anyone in the Public Service who is on long service leave? I have not heard of it, but there may well be.

Hon. PETER DOWDING: There is at least a penalty on an employee who is on long service leave and engages in work while he is on long service leave. That exists in the present Long Service Leave Act. It does not impose a penalty on the employer but it creates an offence of working while on long service leave. The employer is not liable. However, this Bill does not refer to people other than those in the construction industry.

Secondly, it does not impose an obligation on people to ask the question, but it provides a defence to people where they were unaware. It becomes unworkable if there is not some obligation on the employer in this type of industry because people are moving from point to point and there ought to be an effective restraint. I do not want to say any more about that.

Hon. G. E. MASTERS: I take on board the Minister's comments about the amendment; and the words I am proposing to use are "whom he knows to be on long service leave during that long service leave". If that is the advice the Minister has and there are the difficulties he suggests, then it would not be my intention to proceed with that part of the amendment. The reason I am proposing that there be at least an equality of penalty is that I think it is unfair, as the Bill is now drafted, for the employer to be liable for a fine five times more than the employee. I dispute the comment made by the Minister that a person in the construction industry is likely to go down the road to another construction site and work during his long service leave. I think it much more likely that he would go to a country town, or out of the State, to a place where he could have something of a holiday. It is more likely he would go to a person like Mr Wordsworth than to a construction site to seek employment while on long service leave.

Having said that, I point out to members that the penalties I suggest are—

> For a first offence $200, for a second or subsequent offence $400.

That penalty would apply to both the employer and the employee, and it is taken directly out of the Long Service Leave Act. If we talk about having similar legislation, then there is no harm in using the same penalty in this Bill as in the Long Service Leave Act.

I move an amendment—

> Page 20, line 22—To delete "$100" and substitute—
>
> " For a first offence $200, for a second or subsequent offence $400. ".

**Amendment put and passed.**

Hon. G. E. MASTERS: I will not proceed with the amendment to page 20, lines 25 and 26.

I move an amendment—

> Page 20, line 27—To delete "$500" and substitute—
>
> " For a first offence $200, for a second or subsequent offence $400. ".

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clause 30 put and passed.**

**Clause 31: Registration of employers and employees—**

Hon. NEIL OLIVER: I am concerned about subclause (5). I presume it means every name and address of an employee. How does one comply with this?

Hon. Peter Dowding: It says "employer".

Hon. NEIL OLIVER: It says "shall contain every name and address . . ."

Hon. Peter Dowding: ". . . under which the employer is engaged . . ."

Hon. NEIL OLIVER: What is "every name and address"?

Hon. Peter Dowding: Multiple registration.

Hon. NEIL OLIVER: How does one implement this? Is it the address under which the employer is engaged in the construction industry? In the housing industry one may start 10 houses a week, some start 20. How is all this material correlated and deciphered to bring it into some manageable form?

The old Department of Labour and Industry required that any building which went up more than one metre—say five courses of bricks—required a licence for scaffolding. An army of inspectors wandered around.

At any time there may be 40 000 houses under construction, possibly more.

Hon. PETER DOWDING: It is the name and address under which the employee is engaged, not on which the employer is engaged. It is not each site, it is the name and address of his operation, which should be fairly clear.

**Clause put and passed.**

**Clause 32: Return to be made by employer—**

Hon. G. E. MASTERS: There is a series of amendments on the Notice Paper dealing with penalties. If an employer fails to put in a return in the prescribed period in respect of a statement in writing in the form approved by the board within 15 days after the end of the prescribed period to which the statement relates, giving such information as is required by the form, and an amount equal to the total required to be paid under the Act, he is liable to a maximum penalty of $2 500.

I understand at one time there was some pressure to have the penalty set at something like $10 000.

Hon. Peter Dowding: We were following on your precedent in the Industrial Arbitration Act. I thought the levels there were pretty rich.

Hon. G. E. MASTERS: I take the Minister's point, because when he was on this side of the Chamber he was saying, and he still says, it is ridiculous to impose penalties and fines on union members and on unions because it does not seem to be right as far as he and his Government are concerned. But in this sort of legislation he is happy to impose a heavy penalty on employers.

I know there is a need for employers to submit the required sum of money. I know there is a need for them to make a statement in writing on a prescribed form giving details.

I would like to draw the attention of this Chamber to the fact that the Government is only too eager to impose very heavy penalties on employers, but it is very reluctant to apply even a $10 fine to a union or a union member. I know there is an amendment on the Notice Paper, but I would appreciate the Minister's reply before I move it.

Hon. PETER DOWDING: The honourable member will recall his own Statute which imposed penalties of $10 000 on employers.

Hon. G. E. Masters: Yes, I recall your comments—and employees.

Hon. PETER DOWDING: I think that is far too draconian. I want to make the point again in relation to some of the member's earlier penalty amendments, that I have not vigorously challenged them because they are an attempt to set a standard, and that is obviously something which depends on what one had for breakfast.

I am most concerned about clause 32. I am so concerned because this is the key provision as far as the operation of the Bill is concerned. If employers do not comply with this proposed section, then the scheme will fall flat on its face.

Hon. G. E. Masters: The maximum is $2 500; it could be $50.

Hon. PETER DOWDING: That is right. If an employer says, "There has been a oversight", or "I am only a small operator, I did not know", or "I have not the resources", or "I am just a bit of a muddlehead", or whatever, obviously these are factors which can be taken into account.

The requirement to submit returns is the key clause to make the Bill work. I am concerned that unless a clear statement is made of the importance of this clause and the importance

of compliance with it, we may not have an effective system. So I urge that the penalty remain as it is. I hear what the honourable member says and I frankly agree that we ought to be very careful about penalties.

I repeat, this is not a set penalty, it is a maximum penalty.

**Clause put and passed.**

**Clause 33: Employer to maintain record of employees—**

Hon. G. E. MASTERS: My amendments to clauses 33, 46, and 53 all relate to the penalties applied under the Long Service Leave Act. I point out again that the Minister and the Government have gone to great lengths to say that there should be some similarities between the Act and the Bill before us, and for that reason we would have thought the penalties should be the same.

It seems in the penalties provided there is one rule for one group and one for another. I do not propose to proceed to divide the Committee or to take issue other than to make those comments.

Hon. PETER DOWDING: Clause 33 is a very important one for compliance, and we should allow the judiciary some freedom in imposing a penalty of up to $500.

**Clause put and passed.**

**Clause 34 put and passed.**

**Clause 35: Contribution by employer and assessment by the Board—**

Hon. NEIL OLIVER: This clause will be unworkable in regard to the statement—

> . . . an employer shall pay to the board in respect of a person employed by him as an employee and in respect of each week or part of a week during which that person is so employed . . .

It is common—in fact it is a daily occurrence in the building industry, particularly in regard to the bricklaying team—for a brickie's labourer to be employed on a trial basis. It is almost a continuing situation that brickies change their labourer over. In many instances a brickie may be only employed for a day.

Frankly, this clause is unworkable. As any person knowing the construction industry would know, to work on the basis of part of a week in regard to a contribution represents a mammoth amount of paper work. Everybody will be inundated with paper. In fact, I do not even believe that the employer in this team, the partnership, or the firm, would even comply with it. Frankly, the Minister cannot allow it to be passed. It is impossible for people to comply with it.

I suggest the Minister examines this clause and makes it, say, 10 days, which could be retrospective. I have not drafted or proposed any amendments, but just from looking at the clause I know the Minister should examine it. I would have no objection to it being made retrospective to, say, at the expiration of seven days; but to start dragging in a person who might work for one day and suddenly vanish off the scene, and expect the employer to make a payment in that regard is totally unworkable, particularly as regards tradesmen.

Hon. PETER DOWDING: The payment is not made after a day; it will be made after the payment period, which might be two months. The employer will keep records of the people that he has employed and make payments or *pro rata* payments. That is all it means. If 10 people came in and worked for a day each, they would be put on the list and would not be paid the full week. They would be paid *pro rata*. That is all the clause means.

The return will be lodged once every two or three months or whatever the board decides, and the payment made will be *pro rata*. I do not understand the member's objection to it. It simply provides that there is no minimum period of employment before the contribution becomes due, and that is just as easy to assess, whether it is one day, one week, or six days. It is a matter of working it out on a *pro rata* basis.

Hon. NEIL OLIVER: I wish the Minister well in regard to the administration of this clause. The Australian Bureau of Statistics finds it totally impossible. A quarterly return is lodged by every construction company in WA. There is a statutory requirement to list all tradesmen they employ by number only, not by name and address, over a quarterly period. If the Minister wishes to direct his question to the Deputy Director of the Australian Bureau of Statistics in Western Australia (Mr Bartlett) he will see how reliable those figures are. The Minister will find it is different.

This clause is one of the most ridiculous pieces of bureaucracy and it just will not work.

Hon. G. E. MASTERS: Clause 35 deals with an employer being required to make a payment to the board. It also relates to the board making an assessment of what sum of money should be paid—in other words, the levy. I would imagine that the Minister has some idea of what the levy is likely to be although the board has

not been formed yet. Perhaps he has only a rough idea of what the staffing requirements are likely to be, but I suppose some sort of comparison must be made with other States. I have heard figures of between 2½ and 3½ per cent of gross wages being bandied around. Would that be a fair assessment? Would we accept the possibility, to start with anyway, of three per cent?

Hon. Peter Dowding: The percentages quoted by the honourable member are thought to be in the possible area—not the total paid, but on the entitlements as defined by the Bill which do not include the allowances and the like.

Hon. G. E. MASTERS: Are you saying the wage rate?

Hon. Peter Dowding: Before overtime.

Hon. G. E. MASTERS: The wage rate rather than the wage which is received by the worker each week? In other words, the wage rate might well be $450, but, as I understand it, employees at the casino receive $600 or $700.

Hon. Peter Dowding: Yes, based on ordinary pay. That is the intention of clause 35.

Hon. G. E. MASTERS: So what the Minister is saying is that for workers at the casino receiving $700 a week the payment required by the employer will be, say, three per cent of the wage rate, which may be $450?

Hon. Peter Dowding: The ordinary pay.

Hon. G. E. MASTERS: Fine. I did not know that.

**Clause put and passed.**

**Clause 36 put and passed.**

**Clause 37: Employer leaving Western Australia—**

Hon. G. E. MASTERS: Would the Minister comment on this clause, please? I have no doubt that he read the debate in another place. There was some confusion, and in fact there was a suggestion that the clause may well need to be rewritten. I do not know whether the Minister has looked at it and is satisfied, but it seems there was some considerable doubt about not only the intention of the clause, but also the end result of it.

Hon. PETER DOWDING: The clause is intended to pick up a situation where an employer is departing the State before the long service leave contribution for which he is liable has been paid. I imagine that if we had, for instance, payments on a two or three-monthly basis, and it came to the notice of the board that an employer was leaving—picking up sticks and departing without making that payment because the two months had not elapsed—they could serve notice on him requiring payment there and then.

Let us remember that we are talking about employers who may be corporate bodies, so the employer leaving the State is in fact a corporate body. That is the sort of situation this clause is intended to cover.

The long service leave contribution will accrue and will be payable at whatever intervals the board determines. This really empowers the board to bring forward the date for that payment to be made.

**Clause put and passed.**

**Clauses 38 to 45 put and passed.**

**Clause 46: Power to obtain information and evidence—**

Hon. G. E. MASTERS: Clause 46 includes penalties. I discussed this matter at an earlier stage in the debate and gave an indication that that amendment and the amendment to clause 53 would not be proceeded with.

**Clause put and passed.**

**Clauses 47 to 53 put and passed.**

**Clause 54: Inspection of long service leave contributions records by union—**

Hon. G. E. MASTERS: The Opposition opposes this clause. What it sees in the Bill is the provision whereby inspectors employed by the board are able to go to employers and inspect their books, check their records, and make sure that the demands required to be made under the Bill are made and to check on the books to make sure there is no cheating and underpayment by employers. There are a number of inspectors who are ready and prepared to do the job and are paid to do it.

What this Bill proposes to do is to allow union leaders also to carry out the same function. In other words, they can go into a workplace or office of an employer and demand to see the records. Admittedly, it says in the clause that it should be during normal working hours at the office or some other convenient place; and where those records are not available for one reason or another, they could be produced within 24 hours. Time and again over recent months I have been phoned by people in the construction industry and in other industries who say they have had a very aggressive union leader who virtually demands things to be done and is putting a great deal of pressure on not only the employer but the staff

in the office as well. These people walk in and demand, using strongarm tactics, to go into the workplace. Those people have no right to do that particularly, when there are other people who can well do the job.

What I am saying is that when we are dealing with such unions as the BLF, the BWIU, and the ETU all those unions have within their ranks people who have no hesitation at all in standing over employers, threatening them, frightening their staff, and making all sorts of demands in the most arrogant way using in some cases, the most foul language. They are not my words but the result of complaints I have received over recent times. I will not name the people involved, although I could quite easily do so because most members have heard me mention their names over recent times. They have no right or privilege to go into the offices of employers and act in that way.

What I do suggest is that if they have a legitimate gripe with particular reason to believe that an employer is not doing the right thing, they simply go along to the inspectors in the department and tell them that they are being cheated or not paying the levy to the board. For that reason, the Opposition and this Committee should, in the circumstances, delete this clause and make sure that the inspectors, and the inspectors only, are the people who have this responsibility.

Hon. PETER DOWDING: I would like to make it clear that I do not have any truck for the matters Hon. Gordon Masters has referred to. We are on common ground. We do not believe those actions should be tolerated.

Before Hon. Gordon Masters decides to move an amendment, I would like to make a couple of points. Firstly, this is one of the agreed clauses. In other words, the industry agreed, and that is very important in this context. Secondly, the industry knows how important it is that these records should be maintained, and that is on both sides of the fence. I think the industry also knows how difficult it is to police this sort of thing.

We simply cannot ask the board to put together a huge inspectorate to visit all these sites all the time; but there is no doubt that the union officials who, under the awards, are entitled to inspect the books under these circumstances, will be there inspecting the books. I suppose I am putting words into the industry's mouth, but it was in its mind to agree to this clause. It was an opportunity to have extra policing at a time when policing of other issues was being addressed. There are certain safeguards here. Firstly, the inspection has to be authorised in writing; secondly, it is an inspection during normal office hours; thirdly, it is the office of the employer or other convenient place; and fourthly, it is within 24 hours, if the records are not immediately available.

I urge the Opposition to respect the points I have raised and I make it quite clear that I would want to see condemned, in the strongest possible terms, someone who misbehaved while exercising a statutory power; and it would be entirely appropriate that he should be so chastised.

The industry agreed to the clause. The power already exists in the awards for union officials to inspect the books. We will all be concerned, and I am sure industry will be concerned, to ensure this will be policed. Frankly, given the nature of the industry and its widespread activity, I do not see how it would be possible for it to be adequately policed in any way other than with the cooperation of the union movement. It is in the industry's interest as much as it is in the union's interest that it should be policed.

Hon. G. E. MASTERS: The Minister put forward his argument in a very reasonable way. Let me say that the complaints that have been given to me over recent times mostly come from smaller businesses rather than the big business groups.

In the areas of construction we are talking about there are some people who behave disgracefully. I could easily name them, and I have them on the record. Those people really have no business going into an office or workplace and behaving in the manner they do. I know it is important to police these matters, and for the scheme to be successful there needs to be some sort of policing to make sure payments are made. However, I cannot condone the way these people operate, and as we are specifically dealing with areas of construction I cannot accept that the people who are representing these unions should be allowed to continue their activities. I do not think the Long Service Leave Act makes provision for unions to inspect the records.

Hon. Peter Dowding: I am saying it can be done under awards.

Hon. G. E. MASTERS: Yes, I know that, but not under the Act. They do not have that right, as I understand it. So to keep the Bill in line with the Long Service Leave Act, and more particularly for the reasons I have given, I propose to oppose the clause. I am not doing it to

be bloody-minded. I am deeply concerned at the way some of these people operate and I cannot accept that they should be allowed to continue in that way. If they were to change their ways and the union leadership exerted some discipline, perhaps we could say at some future time it might be reasonable to amend the legislation. At this time, however, for the reasons I have given and because I am horrified at what is going on, the Opposition intends to oppose the clause.

**Clause put and a division taken with the following result—**

Ayes 10

| | |
|---|---|
| Hon. J. M. Brown | Hon. Garry Kelly |
| Hon. Peter Dowding | Hon. Mark Nevill |
| Hon. Graham Edwards | Hon. S. M. Piantadosi |
| Hon. Lyla Elliott | Hon. Tom Stephens |
| Hon. Kay Hallahan | Hon. Fred McKenzie *(Teller)* |

Noes 16

| | |
|---|---|
| Hon. C. J. Bell | Hon. I. G. Medcalf |
| Hon. E. J. Charlton | Hon. N. F. Moore |
| Hon. V. J. Ferry | Hon. Neil Oliver |
| Hon. H. W. Gayfer | Hon. P. G. Pendal |
| Hon. Tom Knight | Hon. W. N. Stretch |
| Hon. A. A. Lewis | Hon. P. H. Wells |
| Hon. G. E. Masters | Hon. D. J. Wordsworth |
| Hon. Tom McNeil | Hon. Margaret McAleer *(Teller)* |

Pairs

| Ayes | Noes |
|---|---|
| Hon. D. K. Dans | Hon. G. C. MacKinnon |
| Hon. J. M. Berinson | Hon. I. G. Pratt |
| Hon. Robert Hetherington | Hon. John Williams |

**Clause thus negatived.**

**Clauses 55 to 59 put and passed.**

**Schedule—**

Hon. G. E. MASTERS: Clause 1 of this schedule is the most fiercely contested part of the legislation as far as the Opposition is concerned, and certainly it has caused a great deal of concern to all employer groups I have spoken to. I have letters from those groups if there is any doubt about that point. The Australian Federation of Construction Contractors and the Master Builders Association wrote to me quite recently expressing their deep concern at the proposal.

This schedule proposes that if this Bill is proclaimed an appointed day will be decided by the Government after which employers and employees will be required to register their names with the board. Employees will be required to register their names as soon as possible, and those who register within three months of the prescribed day will have to their credit their length of service with their existing employer—continuous service—and a two-year credit. In other words, it will be assumed they have had two years in the industry and will have the length of continuous service with their existing employer plus two years' credit.

If a person neglects to register within three months—if he leaves it for four months, for example—he will receive the credit for the time he has been in continuous service with his existing employer but he will have no two-year credit, or retrospectivity.

If a person registered and had no job at the time he would have no credit with an employer because he was not previously employed; but now he automatically has a two-year credit. The stupidity of this is that a person may not have had much more than a week or more in the industry. For example, a 16½-year-old boy could go into the construction industry, have a job for two or three months and be registered quite properly as a construction worker. He would then receive two years' credit, even though two years prior to that he would have been a schoolboy. That seems grossly unfair because in most cases when legislation of this nature is brought forward the benefits start around the day the Bill is passed through Parliament. To give retrospectivity, no matter what the Minister says about this Bill being in the pipeline, is a grossly unfair situation.

Costs will be very high. I have already given the Minister some figures worked out by the Australian Federation of Construction Contractors which were based upon 5 000 people being registered in the construction industry. However, the Minister has said that there might be 9 000 people in the construction industry and Hon. Neil Oliver has suggested that there could be more than that. However, if we take the figures of the AFCC, it is apparent that the value of the credit could be something like $2.8 million. There has even been talk of $3 million or $4 million. The employer does not pay that two-year credit retrospectively; the board picks up a figure in the order of approximately $3.5 million. At some stage in the future the board will have to pay those people a credit of two years. The board can only get the money from the employers, and consequently it will have to lift the percentage of the levy payable. It might have to raise the levy by 2½ to three per cent to recoup that money to pay those people some time in the future.

I point out that the Opposition does not oppose the portability of long service leave in the construction industry. We have some strong reservations which have been made clear, but

in our opinion there should not to be a two years' retrospectivity. I ask members to resist that proposal and to accept the amendment I have on the Notice Paper which will give credit where credit is due. We propose that those people who register, regardless of whether they do so after the proclamation day, should be entitled to receive credit for the time they have been with their existing employer on a system of continual service. In other words, the employer could have employed a person for six or 12 months before the registered employee would be entitled to long service leave. That is proper and I would urge the Minister in this case to support the proposal and the Committee to vote accordingly.

I move an amendment—

> Clause 1—To delete the clause and substitute the following—
>
> 1. Notwithstanding anything in section 21, a person who is employed as an employee on the appointed day who applies for registration as an employee at any time on or after the appointed day and is registered as an employee is entitled to have the days of continuous service with that employer preceding the date of his application included as days of service.

Hon. PETER DOWDING: I oppose the amendment and I do so quite strongly. I urge members to consider that there is not an immediate cost arising out of this credit. A credit will be available to those workers in due course. There is a high value there, but there is not an immediate cost.

There are three points I would like to make: Firstly, this scheme, having been agreed to and proposed to be implemented, has taken some time to get to this stage. In that time the workers have been eligible to accrue the long service leave this Bill will provide. Secondly, we are talking about a fund which will be available to sustain the sort of credit payout expected in due course. The accelerated entitlement is, as we have indicated, going to be out of a fairly substantial fund, and it will be able to do that without adversely affecting the industry concerned. Thirdly, it was the practice, I understand, in some of the other States when they implemented this legislation to make similar provisions to attract people into the scheme to give the current workers who have been operating in the industry—and by and large they have been operating in the industry for some years—some benefits as opposed to the new chums who have just come into the industry and who will immediately begin to accrue long service leave.

The ACT, for instance, provides bonus credits for employers and contractors. They have received a 440 days continuous service bonus. We are not faced with an immediate cost. We are faced with an opportunity to give a credit and the view of the Government is that it would be small-minded to refuse this. It is not going to cause hardship in the industry, despite the comments that have been made to the contrary, and we really urge members opposite not to accept the amendment of the Leader of the Opposition.

Hon. G. E. MASTERS: I would like to quote from a couple of letters which are readily available to the Minister. One is from the Master Builders Association, dated 24 September 1985, which reads as follows—

> 1(b) provides for a bonus credit of 2 years to any employee who registers within 3 months after the "appointed day".
>
> Employer opposition to this has been consistent throughout and is noted in the 2nd Reading Speech. Irrespective of when the Government may have promised the legislation to the Unions, the plain fact is that such a measure confers a benefit upon building employees which is denied to all other workers in the private sector. The existing Long Service Leave Act requires a period of 15 years service, this proposal would enable building employees to qualify after 13 years.

The second letter is from the AFCC. It is dated 22 September 1985 and reads as follows—

> 1(b) We totally oppose the second part of this clause on the following grounds:
>
> It is ludicrous to add on 440 days (2 years) accrual of service. This is only a disguised benefit to get around the "Accord" and is a further unfair burden on the industry.
>
> It is not an "earned" benefit.
>
> 1(c) We totally oppose this clause for reasons as per previous item.

This is a very serious matter and I cannot accept the Minister's comments that it is not an immediate cost on employers because it is an immediate cost. Somewhere, sometime a figure of something like $3.5 million has to be paid and there is only one group that can pay—the employers. They will be required to start pay-

ing that bill immediately the scheme gets under way. For that reason, and for the others which I have given, I strongly urge members to do what we said we would be prepared to do; be perfectly fair and agree to portability of long service in the construction industry, but under no circumstances grant two years' retrospectivity.

**Amendment put and a division taken with the following result—**

Ayes 16

| | |
|---|---|
| Hon. C. J. Bell | Hon. I. G. Medcalf |
| Hon. E. J. Charlton | Hon. N. F. Moore |
| Hon. V. J. Ferry | Hon. Neil Oliver |
| Hon. H. W. Gayfer | Hon. P. G. Pendal |
| Hon. Tom Knight | Hon. W. N. Stretch |
| Hon. A. A. Lewis | Hon. P. H. Wells |
| Hon. G. E. Masters | Hon. D. J. Wordsworth |
| Hon. Tom McNeil | Hon. Margaret McAleer *(Teller)* |

Noes 10

| | |
|---|---|
| Hon. J. M. Brown | Hon. Garry Kelly |
| Hon. Peter Dowding | Hon. Mark Nevill |
| Hon. Graham Edwards | Hon. S. M. Piantadosi |
| | Hon. Tom Stephens |
| Hon. Lyla Elliott | Hon. Fred McKenzie *(Teller)* |
| Hon. Kay Hallahan | |

Pairs

| Ayes | Noes |
|---|---|
| Hon. John Williams | Hon. D. K. Dans |
| Hon. G. C. MacKinnon | Hon. J. M. Berinson |
| Hon. I. G. Pratt | Hon. Robert Hetherington |

**Amendment thus passed.**

Hon. G. E. MASTERS: I move an amendment—

Clause 2 (1)—To insert after the word "Board" in line 2 the following—

within such reasonable time, having regard to the employer's financial circumstances, as is specified by the Board; and

to delete the words "(a) or (b)" in line 3.

Clause 2 of the schedule is a little difficult for me to follow. It makes reference to the need to make a payment for a person who has worked for more than 10 years. If a person has worked for 10 years and two months with a company and this Bill is enacted, my understanding is that the board will advise the company that it has 10 years and two months of long service leave which should be paid for. Will time be allowed for some companies which may have invested the money to gain interest rather than allowing fairly large sums of money to sit around?

My second question relates to a person who has been employed by the same company for 9½ years. Does the company not have to pay anything to the board for that person?

Hon. PETER DOWDING: If the person has worked for 9½ years for the same employer, he is entitled to a credit. However, there is no payment obligation. If he has worked for 10 years he has become eligible for long service leave and the employer must make the payment to the board because there can be an immediate claim for the payment. The question of time being allowed is a matter for the board. It is an industry board and it will operate within the interests of the industry. The failure to pay gives the board the right to claim it.

Hon. G. E. MASTERS: If I employed two people in the construction industry, one of whom I employed for 10½ years and the other whom I had employed for 9½ years, and this Bill came into operation—

Hon. Peter Dowding: You would be obliged to pay for the first one.

Hon. G. E. MASTERS: Does the Minister mean the board would pick up the tab for the other person? Would I have to pay the board the credit for the person working for 10½ years and pay absolutely nothing for the person working for 9½ years? It would mean that I had saved money for the person working for 9½ years, even if that person had worked for only a day short of the 10-year period. I would be able to pocket what the board would have to pay, would I?

Hon. PETER DOWDING: That is the effect of the clause because the entitlement exists if, at the appointed day, the worker has performed for that period. If the entitlement does not exist, the worker only gets a credit for that period. Both of the situations are fairly unusual.

Hon. G. E. Masters: So what I have said is right?

Hon. PETER DOWDING: Yes.

Hon. G. E. MASTERS: I find that extraordinary. I am not arguing about it. If that is the way the Government has organised it, so be it. However, it means that a company in the position I have explained—that is, it has a number of employees who have been employed for under 10 years—will find that the employees will pocket some thousands of dollars. That is the way the Bill has been structured. I have no real quarrel with it, but it will be of benefit to some people and a problem to those companies which will have to pay their employees who have worked for under 10 years.

I do not propose to proceed with the amendment. I will seek leave of the Chamber to withdraw the motion because it appears from what the Minister has said that the board has the authority to allow reasonable time if a company is in a position where it is not able to pay some of the money. Ultimately, that money will be claimed by the board. I believe that the board's structure is such that consideration will be given by it. If it has that authority there is no point in my continuing with the amendment. I seek leave to withdraw my amendment.

*Point of Order*

Hon. PETER DOWDING: I think the honourable member will have to leave in the last line of his amendment; that is, "to delete the words "(a) or (b)" in line 3."

The DEPUTY CHAIRMAN: Order! That is consequential and will be handled by the clerks.

Hon. G. E. Masters: I knew that.

*Committee Resumed*

**Amendment, by leave, withdrawn.**

**Schedule, as amended, put and passed.**

**Title put and passed.**

**Bill reported with amendments.**

## CAMBALLIN FARMS (AIL HOLDINGS PTY. LTD.) AGREEMENT BILL

*Receipt and First Reading*

Bill received from the Assembly; and, on motion by Hon. Peter Dowding (Minister for Employment and Training), read a first time.

*Second Reading*

**HON. PETER DOWDING** (North—Minister for Employment and Training) [12.25 a.m.]: I move—

That the Bill be now read a second time

Honourable members will, I am sure, be conversant with the long and troubled history of efforts to successfully establish irrigated agricultural production at Camballin, on Liveringa Station, fed by the waters of the Fitzroy River.

The first of these projects was a rice growing venture initiated in 1950 by Kimberley Durack and Peter Farley, when the company named Northern Developments Pty Limited first came into existence. Since then a series of agreements have been negotiated with successive Governments and millions of dollars have been spent on development works—most of this by the developers, but with the State contributing its appropriate share of risk capital and operational costs on water services.

The agreement now scheduled to the Bill before the House stems from the failure by American interests backing Northern Developments Pty Limited to develop, in one very large-scale project, the irrigable lands covered by the 1969 and 1981 agreements. Had the project succeeded it would have made a spectacular impact upon the economy of the region, but the development programme ran into a series of major problems which, in February 1982, resulted in the limited partner in the venture, Aetna Casualty and Surety Company—under the conditions of its debenture charge over the assets—appointing a receiver-manager to wind up the joint venture, and to retrieve what he could of Aetna's more than $US30 million invested in the project.

The receiver-manager took over from Northern Developments Pty Limited—owned by the Australian Land and Cattle Company—and AE Four Incorporated, both of which were the general partners in the venture, and placed the property on a care and maintenance basis while negotiations as to the future of the project were taken up with the Government.

The Government's inclination was to determine the agreement, but it was evident that there was a strong moral obligation to allow Aetna the opportunity to try to recover some of its huge investment; and, of course, there was, and there remains, the Government's wish to maintain confidence among international investors that investments in this State are secure and investors will be treated fairly.

In addition to these motives there was also to be considered the State's own $15 million investment—at today's values—in water supply, roadworks, and other facilities which would be lost if no project eventuated. This aspect was not persuasive because balanced against it was the cost of the State's ongoing responsibility to maintain and operate the facilities; and there needed to be reasonable certainty that an economic water supply operation could be achieved.

It was eventually resolved that the receiver-manager should be permitted to call international tenders for the purchase of the

Liveringa pastoral lease and the rights to the 1969 and 1981 agreements. The Government indicated that if a reasonable proposal was received, it would be prepared to negotiate a variation agreement or a completely new agreement with the proponent. It was agreed that in the meantime the question of whether the State was obliged to repair the levee bank badly damaged by the 1983 Fitzroy River flood would be held in abeyance, and a waiver of claims against the State would be given. Interim arrangements for the supply of water were made to enable the property to be maintained in good condition.

Tenders were called, with an initial high level of interest being shown. However, the receiver-manager's negotiations with the highest tenderer did not succeed and after a number of extensions of time were given while other negotiations proceeded, the Government was eventually asked to consider a preliminary proposal by Mr Gad Raveh, representing an Israeli consortium.

Recognising that it was extremely difficult for anyone at this time to identify a crop or crops that could be economically established on the scale needed to earn the rights to land available under the 1969 and 1981 agreements—this still remains the position—the Government agreed to allow negotiations to remain open while further investigations were made.

The Government made it clear to the receiver-manager that it would only consider a realistic offer, one that suitably balanced with the rights to land and the State's obligations in respect of water supply and levee bank repairs and maintenance. It agreed that the agreements would remain shelved while the consortium made its investigations and put together its firm offer.

Mr Raveh visited Western Australia in February this year for inspections and talks, at which he indicated that the consortium would put to work its wide experience in international, harsh climate, agricultural projects and would proceed on three levels of activity. These would be the re-establishment of Liveringa Station as a fully stocked, viable, pastoral lease; a three to five-year experimental programme on the Camballin lands to identify crops suitable for further development; and a study of the potential for joint ventures on the project lands, which might establish ready markets and spread risk capital input.

The consortium emphasised the need for avoiding preconceived ideas about suitable crops and for slow and careful progress in investigations, with maximum input from local agricultural experts. It viewed the project as a long-term venture so far as profitability was concerned.

The Government again agreed to allow negotiations to continue and the consortium, under the name of Australasian Investments Limited, a company incorporated in England, subsequently made the "Investment and Development Submission" referred to in the agreement now before the House. I mention here that the consortium by now comprised an international group of mainly American and European people.

The submission recognised the record of failure of irrigation projects in the north of Australia and set out the management philosophy it proposed to adopt, much as I have already mentioned. It discussed the prospects for various crops and meat production, including fish, and proposed to implement a five-year restocking programme on Liveringa Station to lift the herd from the present 6 000 head to 22 000 head, at the same time carrying out a five-year experimental programme on the Camballin lands at a cost of about $3.4 million.

After negotiations with the receiver-manager led to a satisfactory method of financing the reconstruction of the levee, the Government agreed to proceed with an agreement which gave conditional rights to land progressively developed to irrigated agriculture, described in the new agreement as the leased area, and comprising some 22 000 hectares, the same as the area originally available to the previous developer. I should mention here that about 5 700 hectares had been levelled for irrigation by the previous developers.

As a result of this agreement in principle, in May this year the Minister for Lands and Surveys gave consent under the provisions of the 1969 and 1981 agreements to a contract of sale between the receiver-manager and AIL Holdings Pty Ltd which is a subsidiary of Australasian Investments Limited registered in Western Australia for the purposes of the project—and obtained an appropriate deed of covenant protecting the State's interests.

The pastoral leases and other leased property and the rights to the 1969 and 1981 agreements thus passed to AIL Holdings and the company entered into immediate possession of the properties. It should be noted that the contract

of sale provided for reversion in the event of AIL Holdings' negotiations with the State breaking down.

The company is rapidly proceeding with its development of Liveringa Station and with its studies in respect of the lands the subject of the agreement now before the House. The early ratification of the agreement is obviously highly desirable.

I will now turn to the provisions of the agreement and in doing so I do not propose to draw detailed comparisons with the provisions of the agreements it supersedes—although there are many similar provisions—but will deal with the agreement mainly on its own merits. I also do not propose to comment on those clauses which are relatively standard to all such agreements as I believe we are all familiar with their terms and intent.

The recitals describe the position regarding the 1969 and 1981 agreements to which I have referred and they also refer to the pastoral leases. Pastoral lease 398/728 is a small area currently being amalgamated with Liveringa Station after an earlier land exchange.

The remainder of the recitals explain themselves, as does clause 1, with the exception that Fitzroy Locations 30 and 39 are two areas granted in freehold to earlier developers as a result of development conditions having been met.

Of the definitions under clause 2, I draw attention to that of associated company which refers to Camballin Farms Pty Ltd, a company set up to manage and operate "Camballin Farms" also defined. This area is illustrated on plan A exhibited to the agreement, a copy of which I now seek leave to table.

*(See paper No. 234.)*

Hon. PETER DOWDING: I have already referred to the "Investment and Development Submission" and that needs no further explanation.

The definition of leased area relates to the special lease to be issued under clause 5 over the total area of Camballin Farms as described on the plan, less the area of freehold Locations 30 and 39 and an exchange area, Location 216 referred to further on in the definitions.

In relation to the definition of the mortgagee the Minister for Lands and Surveys has consented to a mortgage to Aetna under the terms of the contract of sale with the company.

The "proposed public roads" referred to in the definitions relates to clause 34, under which there is an intention to surrender the roads and make them public after the company has been able to settle appropriate responsibilities for maintenance of them.

In regard to clause 3 I have already referred to the urgent need to secure the passage of the Bill and the date mentioned in the clause reflects that urgency.

Clause 4 is standard to such agreements as to the commencement of their operation and so clause 5 is the first of the primary operational clauses, in that it requires the company, as soon as practicable, to obtain a special lease of the leased area, and for this purpose it must have the area surveyed and must surrender it from the pastoral leases.

As the company has been in possession for some months the lease will commence from 1 July 1985, and it will, along with the agreement under clause 36, expire in 25 years' time on 30 June 2010.

Survey of the leased area, the required reserves, the exchange area and the roads has already been commissioned and preliminary work has commenced on site.

The rental under subclause 5(4) is a little more than that payable by the previous developer. Although a review of that rental was due earlier this year and a reasonably substantial rise may have resulted, the rental now agreed has been deliberately retained at a conservative fugure, to give the project a modest level of encouragement.

Subclause 5(6) enables suitable undeveloped areas remaining in the special lease to revert automatically to the pastoral lease after 30 June 2010, or, if the special lease determines prior to then for any reason, the Minister is able to decide whether reversion should take place.

Clause 6 firstly provides for the obligation of the company to get on with the progressive and continuous development of the leased area under the "Investment and Development Proposal" and then provides a mechanism for the submission and approval of proposals for the development of parcels of not less than 1 000 hectares for agricultural purposes. It also sets out some basic factors which have to be covered in such proposals.

Subclause 6(2)(a)(v) is a little unusual in that it makes provision for a change in intention where it can be shown that circumstances have changed that warrant delay or discontinuance.

This recognises the volatile nature of changes that may occur in markets or other factors affecting the project.

Subclauses 6(3) and 6(4) need no explanation, but subclause (5) is new, and stems from the wish of the company, where at the present time it is unable to predict precisely how its development proposals will shape, to be not held to the framework and cost of its experimental programme when development proposals are being considered.

Subclause 6(6) provides for the Crown granting of developed areas upon the completion of approved development proposals and also provides for the grant of 2 000 hectares upon the completion of the experimental programme, provided there has been expenditure of $3.4 million by no later than 31 December 1990 and that suitable drainage and irrigation works have been installed.

The price applied to these grants under subclause 6(6)(c) is again a little more than that previously applying, but contains a level of incentive to get on with the job before reviews of rental and purchase prices fall due.

The repair of the levee under clause 7 is an important aspect of the agreement. Under the previous agreements the State had taken over responsibility for maintenance of the levee in question just before the Fitzroy River flooded to an unprecedented level and although on the face of it the State appeared liable for the substantial repairs the levee subsequently needed, it was considered arguable at that time as to whether the agreement had been abandoned. The question was never really put to the test, as a means was found between the company and Aetna to fund the cost of bringing the levee back to its original standard and for the company and the State to negotiate on the prospects of increasing its height to cope with 1983 flood levels.

As may be seen in subclause 7(1), subject to a time limit the company may elect when to proceed with the reconstruction and in fact it is intended to call tenders and to construct the bank in the next dry season. Tenders will provide for three levels—first, reconstruction to original standards; secondly, to the 1983 flood level; and, thirdly, to that 1983 level plus a reasonable freeboard.

The limit on the levee advance defined in the loan facility referred to in subclause 7(2) is the Australian equivalent of $US 750 000 as at the draw-down date. The latter date will be the next quarterly date on which AIL is due to pay an instalment of purchase money to Aetna, after Aetna is given notice that the levee advance is needed. It is that equivalent sum which will be the basis—unless otherwise agreed—of the levee credit to be created under subclause 14(1) after the works are completed. I will leave an explanation of the other provisions relating to the levee credit and water charges until I come to that part of the agreement.

Subclause 7(3) will allow the Water Authority of Western Australia to supervise construction and clause 8 will enable verification of costs.

Under clause 9 the Water Authority will carry on maintenance of the Fitzroy River barrage and offtake structure at the river's junction with Uralla Creek and will maintain the Uralla Creek watercourse, the 17 Mile Dam adjoining Camballin Farms, and the associated works through which irrigation water is made available. The Water Authority may also take over new works developed by the company and its responsibility to maintain these works and the levee previously referred to will be formalised when the lands upon which they are built are surrendered for reservation.

Clause 10 provides protection for the State and the Water Authority against any claims arising from flooding over or through the main levee either before or after its reconstruction. The company has provided an interim letter of waiver against such claims for the period until this ratification Bill becomes operative as an Act.

Under the provisions of clause 11 the company will pay water charges commencing from 1 July this year at $150 000 per year, increasing to $180 000 when the levee reconstruction has been completed. The rates recognise the recoupment arrangements that come into operation under the clause dealing with the levee credit, and reflects the State's liability for repairing the levee, offset by the attractive arrangement agreed for financing its reconstruction..

There is a level of subsidy in both scales of water charges, but at the end of five years, water charges will increase to cover full operating and maintenance costs. In the meantime the finance for reconstructing the levee is available at three per cent interest.

Clause 11(2) requires delivery of sufficient water to irrigate 7 500 hectares and provides for a rate of $20 a hectare for irrigation of a

greater area. The remaining subclauses deal with routine matters and the review of rates after 1 July 1990.

Clause 12 reflects a similar clause in the earlier agreements and will enable the company—after it has proved the practicability and economic soundness of agricultural production—to subdivide up to 50 per cent of Camballin Farms and enter into agreements with third parties for sublease and eventual Crown grant.

The subdivision design and the terms of sublease have to be approved and any conditions imposed must be carried out before the approval may become final.

Clause 13 covers the review of rents and purchase prices to which I previously referred and this brings me to the important provisions of clause 14, under which the company is recouped its cost of the reconstruction of the levee the subject of clause 7. As I stated, the credit is limited to the amount of the levee advance made available by Aetna, unless otherwise agreed between the Minister and the company.

An interest rate of three per cent per annum will apply and water charges payable under clause 11 will reduce the credit as they fall due until the credit is extinguished.

I point out that there will be a further reduction of the credit by way of the company's having, under clause 33, to pay to the Water Authority by 1 July 1990, the sum of $240 465. This sum equates to the stamp duty exempted by the provisions of clause 32 on the documents listed in that clause and the net effort is that the company will only receive an interest free holiday on paying those costs.

Clause 15 is a standard provision and clause 16 reflects the earlier agreements as do clauses 17 to 21, dealing with use of the land, the Derby-Camballin road, inspections, the use of underground water, and the establishment, when other land titles are created and transferred, of an irrigation board and its subsequent operation.

The provisions of clause 22 also reflect the earlier agreements and clauses 23 and 24, covering assignments and defaults, are relatively standard.

The indemnity under clause 25 reflects the situation where the State will effectively be operating and maintaining the water services and levee for the benefit of the company, but it has been accepted as reasonable that a proviso should exclude negligence or contractual liabilities.

Clause 26 ensures that water shall be used only on Camballin Farms unless otherwise approved and clauses 27 to 31 make standard provisions relating to variations of the agreement, *force majeure*, extensions of periods of time, arbitration on disputes, and the giving of required notices.

I have commented already on the remainder of the provisions and as the special lease scheduled to the agreement reflects the provisions of the agreement, it needs no further explanation.

I commend the Bill to the House.

Debate adjourned, on motion by Hon. N. F. Moore.

## CASINO CONTROL AMENDMENT BILL

*Returned*

Bill returned from the Assembly without amendment.

## RESERVE (No. 36636) REVESTMENT BILL

*Receipt and First Reading*

Bill received from the Assembly; and, on motion by Hon. Peter Dowding (Minister for Employment and Training), read a first time.

*Second Reading*

**HON. PETER DOWDING** (North—Minister for Employment and Training)[12.43 a.m.]: I move—

That the Bill be now read a second time.

The trustees of the Public Education Endowment have vested in them Reserve No. 36636 classified as a Class "C" reserve comprising Hamersley Lot 1.

Under the terms of the Public Education Endowment Act 1909-1981, the trust has no power to relinquish gratuitously land vested in it on trust. It may sell or exchange land considered to be beneficial to its responsibilities.

The Government could, should it so desire, resume the land thus raising the matter of compensation. The proposed legislation will eliminate the question of compensation and enable the Government to acquire the land free of cost.

The land presently forms portion of the Star Swamp reserve which was created for recreation and conservation purposes by amendment of boundaries of existing reserves in the vicinity.

I commend the Bill to the House.

Debate adjourned, on motion by Hon. V. J. Ferry.

## ADJOURNMENT OF THE HOUSE: SPECIAL

**HON. PETER DOWDING** (North—Minister for Employment and Training) [12.44 a.m.]: I move—

That the House at its rising adjourn until Wednesday 30 October at 2.30 p.m.

Question put and passed.

## ADJOURNMENT OF THE HOUSE: ORDINARY

**HON. PETER DOWDING** (North—Minister for Employment and Training) [12.45 a.m.]: I move—

That the House do now adjourn.

*Hillarys Boat Harbour Association*

**HON. GRAHAM EDWARDS** (North Metropolitan) [12.46 a.m.]: I have a matter which I wish to draw to the attention of the House as it gives me considerable concern and concerns one of my constituents even more. I will read to the House the letter I received today which was addressed to me at my electorate office in Karrinyup—

Dear Sir,

I am writing to you to seek your advice as to what courses of action are open to me, in response to a rather disturbing invasion of my privacy which occurred recently. I contacted my local member Mrs Pam Beggs MLA and her staff referred me to you as she is away on a trip.

You may or may not be aware that I am the Acting President of the newly formed Hillary's Boat Harbour Association, a group formed to constructively use the excellent recreation facilities to be provided at the new Boat Harbour site. In this capacity I have been prompted to come out publicly to defend the Harbour's siting, against the untrue and misleading campaign being waged against it by a small minority of people, many of who do not even live in this area. Our Association which we feel accurately reflects the feelings of the bulk of the 20 000 or so people in the area is non political and many people who are members come from both sides of the political spectrum. Indeed many Liberal voters in our group, are disappointed that the Liberal Party has failed to announce any policy at all on this matter. Anyway, as spokesman for this group of people I have had occasion to appear before TV and radio interviews, and to give press releases in an effort to present the true picture of the harbour development. As part of this role I was asked by Mr Ken Schultz the endorsed Liberal candidate for the area to join a consultative committee to bring interested groups of people together to advise on the best utilisation of the facilities to be based at Hillarys. Hoping that my presence and the feelings of my members would be beneficial to the project I agreed to join the committee. Mistake... I quickly found that the committee had no real basis for calling itself representative as the membership consisted of three members of anti-marina groups, myself and Schultz and Graeme Major the endorsed Democrat candidate for the area. The purpose of the committee was immediately apparent and quite openly stated. It was formed to provide the maximum embarrassment to the State Government, and therefore to further the political ambitions of the two endorsed candidates. I made the suggestion that if we wished to be truly constructive, we should invite a representative of the Government to brief us on the project. Not surprisingly Mr Schultz was not keen on this course of action.

Following directions from my members, and seeing the way in which this committee was being used, I informed Mr Schultz that I was no longer interested and wished to withdraw from the committee, and with this aim in mind I issued a press release to this effect. In the release I stayed non-political and just said that my Association saw no further point in being involved in the committee as the overwhelming majority of people had indicated their approval for the project.

I would like to quote from a Press release titled "People Behind Hillarys Boat Harbour." This appeared in the *Wanneroo Times* of Tuesday, 15 October. It reads—

People in the area of the new Hillarys Boat Harbour are now expressing overwhelming support for the project, according to the convenor of the Hillarys Boat Harbour Association, Garth Harvey.

Mr Harvey said calls of support for the marina had been coming in thick and fast since the association was formed.

"People in this area are now willing to come forward and indicate their overwhelming support for the marina at Hillarys," Mr Harvey said.

"The Wanneroo Shire Council has now also indicated that it will reiterate its support for the marina."

Mr Harvey said that the indication of support for the marina had also led the association to withdraw its representation on the Marina Consultative Committee, which has been convened by Ken Schultz.

"I was representing the members and supporters of the Hillarys Boat Harbour Association on the committee, and the membership has indicated to me that as far as the HBHA is concerned the issue is now decided," he said.

I thought that was a fairly innocent and honest Press release; hardly one which should have had the effect which followed.

Mr Harvey goes on in his letter to say—

It was at this point that the invasion of my privacy occured. Within a week I heard from several scources that I was being investigated in my private life, financial position, employment etc. It was indicated to me that the investigation was commissioned by Mr Ken Schultz.

Mr Edwards, I have always believed that the up front approach is always the best, and so instead of being gutless and going behind his back as he did to me, I rang Mr Schultz. After being pressed he finally came clean and admitted to me that he was "checking me out." Now as if this wasn't enough (I consider that as I am not a political candidate or even a local government candidate I should not have to take this scrutiny just because I hold a view on a topical local matter, a matter on which on several occassions I have upheld the right of the Anti. Marina people to have their views heard) I was then informed by . . . . . one of the anti. activists that he had been contacted the same week by a gutless anonymous scource who asked, that if they could find the dirt on me, would he be the spokesman to publicly use it . . . . . whose integrity I respect very much declined to be used in this way.

I might say I am pleased to hear that. To continue—

In talking to several people about Mr Schultz's admitted actions the comment was made that it was not surprising as he was tied up with the Scientology Group and that this type of action was condoned by this group. Once again not wishing to judge anyone, I rang this group and a spokesman told me that he had indeed been tied up with them but had been excommunicated for his extreme views and was now part of a breakaway radical group of Scientologists.

Can you please tell me whether people are forced to suffer this type of personal character assassination in this great State, and can you perhaps ask in Parliament to find out if this is an accepted liberal way or just a personal philosophy of Mr Schultz.

Hon. P. G. Pendal: Which is what you are doing to him now.

The PRESIDENT: Order!

Hon. GRAHAM EDWARDS: I do not believe this is a typical Liberal thing. I do, however, find it repugnant, offensive, and foreign. It smacks of McCarthyism, Mr Pendal.

Hon. N. F. Moore: As does your speech tonight.

Hon. GRAHAM EDWARDS: It should not be tolerated.

Hon. P. G. Pendal: Who wrote it?

Hon. N. F. Moore: Does Mr Schultz have an opportunity to respond?

Hon. GRAHAM EDWARDS: Mr Harvey may have some skeletons in his cupboard; I guess we all have somewhere. But I reject what has happened to this bloke. He is a family man with a couple of young kids and he lives in my electorate. He has taken a stand on an important local issue, and that seems to signal that he should have his privacy imposed upon, probably for some political motive.

Mr Schultz has recently moved to the northern suburbs. If he cannot modify his actions up there he should move out and take that sort of action with him.

Several members interjected.

Hon. GRAHAM EDWARDS: I suggest to Mr Pendal that it will not be tolerated in the northern suburbs and I am sure what I have said will be reflected in the ballot boxes when the people have an opportunity.

Several members interjected.

The PRESIDENT: Order!

Hon. GRAHAM EDWARDS: I am attempting to wind up my remarks. I do not like to have to bring this sort of thing before the House. It is repugnant to me as well. But when a person suffers this type of attack and he is prepared to defend himself, I am equally prepared to defend him.

HON. P. H. WELLS (North Metropolitan) [12.56 a.m.]: Before the House adjourns I want to raise a matter, but before doing so let me say I am surprised at the last member's statement being made before checking with a Liberal member. It is not in character with the member who has just spoken. I do not think it behoves him or proves his stand. I have been ready and available and would have been happy to check out the information. If anything infringes the rights of any individual, I always take action myself. I do not believe such statements are always totally correct. Before this House can accept them as authoritative they should be checked out.

Hon. Graham Edwards: I will be happy to have them checked out whenever you want.

Hon. N. F. Moore: Say it outside.

Hon. Graham Edwards: It has been said outside the House.

Several members interjected.

The PRESIDENT: Order! I suggest to the members who are interjecting that they cease those interjections and take the opportunity, if they wish to, to say something as soon as the member on his feet completes his comments.

Hon. P. H. WELLS: If the member had picked up the telephone, which he could easily have done, and contacted Mr Schultz to confirm the facts of the matter before coming to this House to make certain these things were correct rather than using innuendos and suppositions, it would have been better. I gather there is a company down town which is investigating us at the moment. Every time I walk in to get credit I am checked on. Experts have probably been trying to investigate me for a number of years.

If there has been an infringement of rights, then there is a right way to go about it.

*South Africa: Union Action*

I raise another matter which concerns Western Australian citizens. It is important in that they are affected because they are suffering hardship through the actions of militant unions. These actions seem to be supported by the Australian Government. This relates to the banning of postal services and now air links with South Africa.

It has come to my attention in two particular ways that people in our community are in financial difficulties because they are totally dependent on funds coming from South Africa. The cutting of the postal link with South Africa not only has made them financially embarrassed but also has the ability to place them in a desperate financial situation. These people in WA can do nothing about what is happening in South Africa and they are being severely inconvenienced by militant unions, which are not elected by the people of this State yet are deciding the international policies of Australia. Western Australian citizens are finding themselves being squeezed into poverty because of the action of these militant unions. As members of Parliament we should all be concerned that these citizens are being so severely inconvenienced and facing the prospect of being positively desperate. After checking with the Commonwealth Government and the Department of Social Security I found that these people could not expect short-term relief and any application for relief would take three months. These people could find themselves in desperate circumstances because of the actions of these militant unions, and they can do nothing about it.

The second group of people being penalised—again a group of people who can do nothing about the situation in South Africa—comprises a large number of Western Australian citizens who have had their communications with ageing parents in South Africa cut off. They are suffering stress because of this. The action of these militant unions cannot, I repeat, solve the problems they aim to solve. I suggest that the Western Australian Government, principally through the Minister for Multicultural and Ethnic Affairs, should make representations on behalf of the ethnic people from that area who have been so inconvenienced. If these bans continue for some time, this problem will increase.

Other minor inconveniences are created, such as that people wanting to go to Mauritius cannot do so because their only link to that country was with South African Airways. To get there now will take twice as long and involve exceptionally high costs. Again, the action taken by these militant unions is hurting Western Australians.

I repeat that the Minister for Multicultural and Ethnic Affairs and the Premier should work to have these militant unions back off. The unions should go back to looking after their workers and leave international affairs to the elected Government.

Question put and passed.

*House adjourned at 1.04 a.m. (Wednesday).*

## QUESTIONS ON NOTICE

284. *Postponed.*

### EDUCATION: TEACHERS

*Accommodation: Kojonup*

286. Hon. W. N. STRETCH, to the Minister for Employment and Training representing the Minister for Education:

Further to my question No. 270 of 17 October 1985—

(1) Is the Minister aware that many of the 26 teachers at Kojonup live in leased farm houses, some of which are quite a distance from the school?

(2) Is he also aware that some of the teachers referred to in (1) above want to move to better housing in the town?

(3) Is he further aware that one house leased to a teacher in the town is so damp that clothes go mouldy in cupboards in two weeks?

(4) In view of the foregoing, would the Minister please consider sending a departmental officer to Kojonup immediately, instead of in late November, as stated in his answer of 17 October 1985?

Hon. PETER DOWDING replied:

(1) Yes.

(2) Yes.

(3) No.

(4) An officer will be in Kojonup on 5 November 1985 to discuss housing requirements with the school principal and concerned teachers.

288. *Postponed.*

### EDUCATION: HIGH SCHOOL

*Narrogin: Additions*

289. Hon. A. A. LEWIS, to the Minister for Employment and Training representing the Minister for Education:

(1) What are the additions to the Narrogin High School which are represented by the item of $800 000 in this year's Budget?

(2) Has any money been set aside for a technical education site in Narrogin in this year's Budget?

Hon. PETER DOWDING replied:

(1) Provision of additional facilities for computers, painting and drawing, ceramics, business education, science laboratory including store and staff study, administration upgrade and additions, extensions to canteen covered area, medical suite, youth education office, guidance office, home economics laundry and fitting room plus additional staff parking.

(2) No.

### TRANSPORT: AIR

*Karratha Airport: Terminal Building*

290. Hon. P. H. LOCKYER, to the Minister for Employment and Training representing the Minister for Transport:

(1) Did Ansett WA, or any of its subsidiaries, provide any of the finance for the building of the Karratha Airport terminal?

(2) Did East-West Airlines, or any of its subsidiaries including Skywest Air Services, provide any finance for the Karratha Airport terminal?

(3) If so, how much did each company put towards this facility?

Hon. PETER DOWDING replied:

(1) and (2) The existing policy adopted by the Department of Aviation (DOA) in financing the construction of terminal buildings at all aerodromes under the aerodrome local ownership plan (ALOP) is as follows—

The DOA and the local owner—in the case of Karratha aerodrome, the Shire of Roebourne—contribute, in equal share, the finance for the construction of the shell of the aerodrome terminal building, including interior dividing walls and public facilities.

The commercial airline companies, and, where relevant various other airport concessionaires, eg. hire car companies, have the financial responsibility to "fit-out" the interior of the terminal building in a manner, and at the

expense, deemed appropriate by those companies and/or concessionaires.

(3) The cost of fitting out the interior aerodrome terminal space used by the airlines, and/or other concessionaires, is rightfully a matter for those companies.

## LOCAL GOVERNMENT: PERTH CITY COUNCIL

*Street Trader: Arrest*

295. Hon. FRED McKENZIE, to the Attorney General representing the Minister for Police and Emergency Services:

Referring to an article in *The West Australian* of 23 October entitled "Arrest Likened to Nazi Days", will the Minister advise—

(1) Whether it was a "well planned operation" as described by several witnesses?

(2) Has he examined the roles taken by the privately-employed security guards in this issue?

(3) If so, did they assume any of the powers normally vested in the police during the incident?

(4) Do security guards have any special rights over and above the ordinary citizen in relation to the laws applying in this State?

(5) If so, will he please outline them?

Hon. J. M. BERINSON replied:

(1) Police were not involved in the planning of the incident.

(2) Yes.

(3) No.

(4) No.

(5) Not applicable.

## LOCAL GOVERNMENT

*Street Traders: Confiscation of Property*

296. Hon. FRED McKENZIE, to the Attorney General representing the Minister for Local Government:

Referring to an article in *The West Australian* of 23 October entitled "Arrest Likened to Nazi Days", will the Minister advise—

(1) Does the power of confiscation of property exist either in the Local Government Act, regulations under the Act, or council by-laws at the present time?

(2) If so, can he indicate where?

(3) If such powers are in existence, why is it necessary to amend the Local Government Act in the terms provided for in legislation currently before the Parliament?

Hon. J. M. BERINSON replied:

(1) and (2) There is power in section 244 (2) (q) of the Local Government Act for a council to take possession of and remove things deposited in streets or other public places. This section is of doubtful validity when by-laws made under it are applied to street trading as distinct from the depositing of articles or other materials in a street.

(3) The currently proposed amendments add to the Local Government Act specific powers for the removal and impounding of goods being illegally traded in streets and other public places. They set out clearly the procedures to be followed by councils and their officers and provide appropriate protections for the person carrying on street trading. It will be for the courts to determine if the impounded goods are to be confiscated.

297. *Postponed.*

# QUESTIONS WITHOUT NOTICE

## ELECTORAL ROLLS

*Closure*

263. Hon. P. G. PENDAL, to the Attorney General:

In relation to a report in *The West Australian* of 28 October—

(1) Would the Attorney General, as the Minister handling the Bill in this House, agree that Mr Tonkin's reported comments in the paper to the effect that the Opposition had used its numbers to change the Electoral Amendment Bill so that a Government

could close the rolls for an election at any time is in fact inaccurate?

(2) Is the Minister not aware that the existing law now remains—that is, that a two-week period is allowed?

(3) If he agrees with that, would he agree to convey that information to the Minister in order for the Minister to make a retraction in a newspaper report?

Hon. J. M. BERINSON replied:

(1) to (3) Until immediately before the beginning of this sitting, I was not aware of that report, and I have still not had an opportunity to see or consider it. I will take an early opportunity to do that and to discuss it with the responsible Minister.

## CRIMINAL CODE

*Review: Legislation*

264. Hon. I. G. MEDCALF, to the Attorney General:

With reference to the Attorney General's comments in his statement on the review of the Criminal Code regarding the drafting of legislation on compensation, assaults, and powers of arrest will be legislation on restitution, compensation, assaults and powers of arrest provisions be introduced shortly, and are we to anticipate that these matters will be included in the Criminal Law Amendment Bill, of which we have not yet had the second reading?

Hon. J. M. BERINSON replied:

That is correct.

## CRIMINAL CODE

*Review: Legislation*

265. Hon. I. G. MEDCALF, to the Attorney General:

With regard to the statement at the top of page 4 of his ministerial statement in relation to the review of the Criminal Code, has the Government approved the drafting of legislation in those areas to which the Attorney General referred in the last paragraph on page 3 of his ministerial statement; that is, sentencing for multiple offences, the division of offences, parties to offences, preparation to commit offences, infanticide, and offences against liberty?

Hon. J. M. BERINSON replied:

Yes.

## CRIME

*Infanticide: Penalty*

266. Hon. I. G. MEDCALF, to the Attorney General:

In view of the fact that the Government has approved the drafting of legislation in respect of infanticide, could the Attorney General inform the House what penalty is proposed in relation to infanticide?

Hon. J. M. BERINSON replied:

I prefer not to anticipate those decisions in detail. I believe that that detail should wait on finalisation of the drafting.

## CONSUMER AFFAIRS

*Advertisement: Premier*

267. Hon. P. G. PENDAL, to the Minister for Consumer Affairs:

(1) Has he had referred to him a letter written by Mr Ron Slater, the Managing Director of Autocars in South Perth, in so far as it complains of an advertisement in the *Sunday Times* of 13 October?

(2) If he has not, will he have the matter investigated to see whether the Premier, advertising in that regard, breached the Trade Descriptions and False Advertisements Act?

Hon. PETER DOWDING replied:

(1) and (2) I do not understand the question and I do not have any of that material with me. If the member would like to put his question on notice, I will give him an answer.

## SHOPPING

*Supermarkets: Overcharging*

268. Hon. P. H. LOCKYER, to the Minister for Consumer Affairs:

(1) Is the Minister aware of his Federal parliamentary colleague's comments on the possibility that supermarkets are overcharging the public?

(2) To the best of his knowledge, does he know whether or not this practice is carried out in Western Australia?

(3) If not, does that mean it is restricted to every State except Western Australia?

Hon. PETER DOWDING replied:

(1) to (3) I do not know the report to which the honourable member is referring, but I had my attention drawn to a report in which the Federal member for Canning, Mr George Gear, had expressed concern about a problem that consumers were experiencing in Western Australia and New South Wales. My response to that is that in the area of under-weighing the Department of Consumer Affairs has initiated some 23 prosecutions in the past year for such offences. In relation to overcharging at supermarkets, there were, as far as I am aware, no prosecutions.

I have indicated that if anybody has any evidence which he wishes to place before me or the Commissioner of Consumer Affairs, he should do so. However, to the best of my understanding, no such information has been given.

## SHOPPING

*Supermarkets: Overcharging*

269. Hon. P. H. LOCKYER, to the Minister for Consumer Affairs:

I ask a supplementary question—

(1) What safeguards have been taken by his department to investigate the possibility of these problems occurring?

(2) Are there any random checks made on supermarkets or other outlets for overcharging, such as under-weighing or overpricing of products?

Hon. PETER DOWDING replied:

(1) In relation to weighing, the weights and measures division of the Department of Consumer Affairs does do checks on weighing machines; and I have indicated that the very substantial number of checks has resulted in some prosecutions over the past year.

(2) In relation to the issue of over-charging, that is dependent upon complaints, and I am not aware that there have been random examinations of that. I suggest frankly that random examinations are not likely to reveal any significant breaches, nor could they be justified in terms of the resources that those checks would consume.

## GOVERNMENT EMPLOYEES

*Under 21: Number*

270. Hon. TOM KNIGHT, to the Minister for Employment and Training:

(1) Is the Minister aware that according to statistics available recently, in 1971 29 per cent of the work force employed by Government departments and offices was under the age of 21, and that now, according to the latest reports, less than six per cent of the work force under that age is employed by Government departments and offices?

(2) Is he aware that that means that most of the problem of our youth unemployment is being created by present Governments?

Hon. PETER DOWDING replied:

(1) and (2) I am not aware of that. Of course, it is absolute nonsense to suggest that is the case. The present Government has not had a policy in relation to youth unemployment in the Public Service which differs from that of its predecessors up until now. The difference now is that the State Government has made two commitments, one in relation to increasing apprenticeship opportunities in the State Government sector, and one in relation to offering traineeships in the State Government sector, neither of which initiative was picked up by previous Liberal Governments.

I think the member is referring to a report on the white-collar downturn in employment of young people and the effect on the rate of youth employment opportunities. That is true, not only in Government, but in insurance, in banking, and in a whole range of white-collar areas which traditionally, until the mid-1970s, took on very significant numbers of young people. It was the beginning of a standard career structure. That has changed. It changed in the mid-1970s. The position has been identified through successive Liberal Governments which did nothing about it. As a result, youth unemployment went as high as 27 per cent when we came into office, and looked like it was going even higher.

I believe it is only through the twin-pronged attack of the Labor Governments, both State and Federal, in stimulating the economy on the one hand, and in providing special opportunities for young people on the other hand, that we have seen the rate of unemployment fall from 10.7 per cent to 7.4 per cent and the rate of youth unemployment fall from 27 per cent to about 18 per cent.

## EMPLOYMENT AND TRAINING

*Youth: Short-term*

271. Hon. TOM KNIGHT, to the Minister for Employment and Training:

(1) Is he aware of the concern of parents and young people being expressed to him and members of Parliament, by parents and young people who are fed up with the bandaid treatment of this Government in job creating by attempting to give young people jobs ranging from two weeks to seven weeks and then throwing them back on the open labour market?

(2) Does the Minister have any idea of how he can create full-time employment rather than applying these bandaid treatments?

Hon. PETER DOWDING replied:

(1) and (2) The member shows a regrettable ignorance of the true position. He, as a member of Parliament, has taken no interest in participating in the many forums that we have established to tackle the issue of youth unemployment.

The State Government has indicated, right from the beginning, that the short-term job creation schemes have had a place at a time when unemployment was peaking in the recession created by Liberal Party policies. Now that we are moving out of that period into a period of more buoyant economic activity, the time has come to abandon those short-term schemes. As a result, we have been focusing much more, over the last 15 months in Western Australia, on providing opportunities for young people to acquire skills because that is the area in which we believe great value can be achieved by a period of employment if the young person acquires skills that can be used for subsequent employment.

I believe those policies, which began with our policy called Skills West '85, which we announced towards the end of 1984, have worked well this year. The Federal Government's Priority One programme which will introduce traineeships, and of which the Western Australian Government was the first signatory, will benefit the young people of this State. If the member had been in Katanning the other day—

Hon. Tom Knight: I was there.

Hon. PETER DOWDING: He must have been asleep because he should have known that that is a good example of a place where our Skills West '85 programme has had an eminently important effect on employment opportunities for young people.

## EMPLOYMENT AND TRAINING

*New Jobs*

272. Hon. TOM KNIGHT, to the Minister for Employment and Training:

(1) Is the Minister aware that, in a recent Government news release it is stated that 47 000 new jobs have been created in Western Austalia?

(2) If that is the case, why is there still unemployment in Western Australia when, at the time we lost office, only 11 000 people were unemployed?

Hon. PETER DOWDING replied:

(1) and (2) There is more and more evidence that the member does not know what he is talking about. The figure of 47 000 applied until the end of June or July. There has been a further increase in employment of 60 000 new jobs in Western Australia since this Government took office. That is not a jelly figure produced by the Western Australian Government. That figure has been produced by the Australian Bureau of Statistics.

If members opposite are as far out of step with the business community as I suspect they are, and do not understand that new economic activity in this State is creating a very considerable number of jobs, I regret that they will remain on the Opposition benches, not only for the next term but for the one after that.

## TRAVEL AGENTS

*Complaints*

273. Hon. A. A. LEWIS, to the Minister for Consumer Affairs:

(1) Has the Department of Consumer Affairs received any complaints against travel agents in the last two years?

(2) If so, how many?

Hon. PETER DOWDING replied:

(1) and (2) The short answer is "Yes". I do not have the precise number with me. However, the Commissioner for Consumer Affairs indicated in his annual report that, not only had he had complaints, but that travel agents had actually failed. One of them which I wrongly named East West Tours was in fact Far East Tours.

Hon. P. G. Pendal interjected.

Hon. PETER DOWDING: We are hopeful that someone will send Phil Pendal on a long journey, which might not increase his ineffective representation but at least might keep him quiet during question time.

The precise number of complaints would be available in the department. If the member places that aspect of his question on notice, I will endeavour to get a reply.

## TRAVEL AGENTS

*Complaints*

274. Hon. A. A. LEWIS, to the Minister for Consumer Affairs:

The Minister is ignorant of his portfolio because he should know those figures. In saying that I am only saying something that he said when he asked questions of the previous Government.

The PRESIDENT: Order! I remind members that they are entitled to ask questions but they are not entitled to make comments or to express any opinion.

Hon. A. A. LEWIS: Will the Minister supply me with the figures for the last five years instead of the last two years?

Hon. PETER DOWDING replied:

If the member puts that question on notice, I will endeavour to get him a reply.

## CONSUMER AFFAIRS

*Motor Vehicle Sales: "Jack" Deals*

275. Hon. P. G. PENDAL, to the Minister for Consumer Affairs:

My question is supplementary to that which I asked earlier.

(1) Is he aware that, in the motor trade, an increase in price in order to give a discount is regarded as a "jack" deal and is specifically outlawed under the State's consumer protection legislation?

(2) If so, is he prepared to have his own budget advertising subjected to the same consumer legislation?

Hon. PETER DOWDING replied:

(1) and (2) I keep forgetting the embarrassment of members opposite about the success of this Government in its economic management. All I can say is that their performance was utterly dismal when compared with that of this Government.

The PRESIDENT: Order! I remind honourable members of the obligation which applies in regard to the seeking of information at question time. Similarly, the Minister does not have to answer the question put to him, but if he does answer it he should confine himself to the points contained in the question with such explanations only which will render the answer intelligible.

I advise all honourable members that question time is becoming a session for members to make long-winded statements, at the end of which they ask some sort of question, and the answers are similarly long-winded. I suggest that members look at the rules in regard to questions and answers.

## CRIME

*Infanticide: Penalty*

276. Hon. I. G. MEDCALF, to the Attorney General:

Arising out of the ministerial statement today regarding the review of the Criminal Code, and further to the question I asked earlier about infanticide, I ask the Attorney General—

(1) When giving instructions for the legislation, did he take into account the severe emotional disturbance which women who kill their new-born babies go through?

(2) Did he also take into account the possibility of not having any penalty or of using that severe emotional disturbance as a defence against the offence of infanticide?

Hon. J. M. BERINSON replied:

(1) and (2) I make no bones about the fact that the concept of infanticide is a difficult one and the question of an appropriate penalty is one which has given rise to a great deal of consideration. In fact, it is because of the complexity of this particular issue that I indicated earlier that I preferred not to go into details of proposed penalties in advance of the presentation of the legislation itself.

The fact is that despite having approval for the drafting of legislation I propose to treat this as one of those items which even when drafted should be subject to considerable further consultation, both with the legal profession and with other interested bodies.

I am happy to take Mr Medcalf's comments into consideration in the course of that further process.