Legislative Council

Tuesday, the 11th May, 1976

The PRESIDENT (the Hon. A. F. Griffith) took the Chair at 4.30 p.m., and read prayers.

QUESTIONS (14): ON NOTICE

1. RAILWAYS

Sheep Cartage: Rolling Stock

The Hon. D. J. WORDSWORTH, to the Minister for Health representing the Minister for Transport:

(1) What is the capacity of the rolling stock used to transport sheep on—
  (a) standard gauge; and
  (b) narrow gauge,
  railways tracks?

(2) How has this capacity decreased or increased during the last 10 years?

(3) Over this period, what rolling stock has been—
  (a) destroyed;
  (b) constructed?

The Hon. N. E. BAXTER replied:

(1) (a) 14 560 sheep—this includes containers which are also common to standard gauge.
  (b) 36 124—(excluding containers included under (a).)

(2) Total capacity has decreased by 8 332 sheep.

(3) (a) 288 sheep wagons;
  (b) 10 sheep wagons;
  140 sheep containers.

2. HEALTH

Community Health Sisters

The Hon. J. C. TOZER, to the Minister for Health:

Where Community Health Sisters are not available (either permanently or occasionally) in remote areas centred on isolated towns such as Halls Creek in the Kimberley, would the Minister consider the employment of trained nurses who are on station properties—usually as the wife of the leaseholder or manager or responsible station employee—as Community Health Sisters to care for the health of the Aboriginal community on the station itself and in neighbouring communities, at an agreed *pro rata* remuneration?

The Hon. N. E. BAXTER replied:

My Department will employ trained nurses on station properties under certain conditions which are—

(1) That the service is considered necessary.

(2) That the applicant is qualified, registered, suitable, prepared to undertake the necessary in service training and comply with the conditions of service.

(3) The finance is available.

(4) There is a vacancy in the establishment.

3. TOWN PLANNING

Rockingham Subdivisions

The Hon. A. A. Lewis for the Hon. I. G. PRATT, to the Attorney-General representing the Minister for Town Planning:

(1) How many applications for subdivision of rural land within the Shire of Rockingham were received by the Town Planning Board during the 12 month period to the 31st March, 1976?

(2) How many potential lots were involved?

(3) How many of the above applications were recommended for approval by the Shire of Rockingham?

(4) How many of the above applications were approved by the Town Planning Board?

The Hon. I. G. MEDCALF replied:

(1) 13.

(2) 154.

(3) 9, and a further 2 be deferred.

(4) 1, and another deferred.

4. TRANSPORT COMMISSION

Finances

The Hon. H. W. GAYFER, to the Minister for Health representing the Minister for Transport:

(1) For each of the last three financial years, how much revenue was collected by way of Transport Commission fees?

(2) For each of the last three financial years, what were the actual costs of administration?

The Hon. N. E. BAXTER replied:

(1) Revenue collected by way of Transport Commission fees—
  Year ending 30th June, 1973, $921 213;
  Year ending 30th June, 1974, $1 169 533;
  Year ending 30th June, 1975, $1 455 981.

It should be noted that this revenue includes fees received from the licensing of aircraft, omnibuses, commercial goods vehicles and coastal shipping.

(2) Costs of administration of Transport Commission:—

Year ending 30th June, 1973, $826 013;

Year ending 30th June, 1974, $1 060 101;

Year ending 30th June, 1975, $1 450 864.

5. LAMB MARKETING BOARD

Throughput, Costs, and Staff

The Hon. A. A. LEWIS, to the Minister for Justice representing the Minister for Agriculture:

(1) What—

(a) weight; and

(b) numbers of lambs;

have been handled by the Lamb Board for the last 18 months?

(2) (a) What has been the monthly cost of running the Board for each of the last 18 months; and

(b) could the Minister list the variability of costs for the last 18 months?

(3) What increases in staff and running costs have been incurred in the last 18 months?

The Hon. N. McNEILL replied:

(1) Period 18 months October 1974-March 1976.

(a) 32 597 435 kilos.

(b) 2 280 272 lambs.

(2) (a) and (b) Monthly costs of running board expressed in cents per kilo.

1974—		
October	....	1.16
November	....	1.42
December	....	4.04
1975—		
January	....	3.66
February	....	6.32
March	....	4.07
April	....	6.13
May	....	4.09
June	....	4.26
July	....	
August	....	2.63
September	....	1.23
October	....	1.11
November	....	1.41
December	....	3.29
1976—		
January	....	4.89
February	....	5.55
March	....	4.50

12 months average Board Cost—
2·27 cents per kilo
Representative Costs—
1·37 cents per kilo
Bank Interest—
·79 cents per kilo

9 months average Board Cost—
2·16 cents per kilo
Representative Costs—
1·36 cents per kilo
Bank Interest—
·35 cents per kilo

(3) Staff increased by one during 18 months.

Increases in running costs are reflected as indicated in answer (2) (a) and (b).

6. NARROGIN HIGH SCHOOL

Tennis Courts

The Hon. H. W. GAYFER, to the Minister for Education:

(1) (a) Would Narrogin Senior high school be the only country high school without tennis courts;

(b) if not, what are the others?

(2) Is the importance of this avenue of sport for the occupation of boarders and day pupils for after school hours recognised?

(3) (a) Is it proposed that such facilities will be built at Narrogin;

(b) if so—

(i) when;

(ii) what number of courts is projected; and

(iii) what is the anticipated cost of the project?

The Hon. G. C. MacKINNON replied:

(1) (a) Yes.

(b) Not applicable.

(2) Yes.

(3) (a) Yes.

(b) (i) The erection of these facilities is dependent upon funding being available.

(ii) Four tennis, four basketball (over-marked) and three netball courts.

(iii) The estimate in December, 1975, was $35 400.

7. COST OF LIVING

Kimberley: Survey

The Hon. J. C. TOZER, to the Minister for Education representing the Minister for Consumer Affairs:

When will the report on the survey of factors affecting living costs in the Kimberley, undertaken by the Bureau of Consumer Affairs in October/November 1974, be made available?

The Hon. G. C. MacKINNON replied:

The report is still being edited.

8. TRAFFIC

Motor Vehicles: Expired Number Plates

The Hon. H. W. GAYFER, to the Minister for Health representing the Minister for Police and Traffic:

(1) Is it a fact that the Road Traffic Authority has adopted the policy of all State motor registration departments discontinuing the recovery of expired number plates due to the cost factor?

(2) Has the Police Department sanctioned the above in spite of their insistence in the past to local licensing authorities that unsurrendered number plates must be collected because of the possible consequential increase in the use of false number plates?

The Hon. N. E. BAXTER replied:

(1) No. The recovery of number plates was discontinued by the Police Department in 1971.

(2) Answered by (1).

9. ABORIGINAL LANDS TRUST

Transfer of Nookanbah Station

The Hon. J. C. TOZER, to the Minister for Health representing the Minister for Lands:

(1) Has the pastoral lease covering Noonkanbah Station on the Fitzroy River been transferred recently to the Aboriginal Lands Trust?

(2) If so, what cash payment was made to effect the purchase?

(3) If not, is the Minister aware of any negotiations which are proceeding with the objective of achieving such a transfer?

(4) Is it known what Aboriginal tribal corporation(s) will occupy this property?

The Hon. N. E. BAXTER replied:

(1) Approval for sale to the Aboriginal Lands Trust was given on 5th April, 1976.

(2) Not known. Transfer document has not yet been presented for endorsement of Ministerial consent.

(3) Not applicable.

(4) No.

10. IRON ORE INDUSTRY

Single Union Coverage

The Hon. D. W. COOLEY, to the Minister for Education representing the Minister for Labour and Industry:

Further to my question of the 5th May, 1976, has the Minister received any suggestions from employers of labour in the iron ore industry that the establishment of a single union to cover workers in the Pilbara would improve industrial relations in that area?

The Hon. G. C. MacKINNON replied:

No.

11. MITCHELL FREEWAY

Scarborough Beach Road Crossing

The Hon. R. F. CLAUGHTON, to the Attorney-General representing the Minister for Town Planning:

(1) Is it intended that the Mitchell Freeway cross Scarborough Beach Road by bridge?

(2) If so, is provision being made for a future rail line in the bridge construction?

The Hon. I. G. MEDCALF replied:

(1) Yes.

(2) Not in the current construction. Sufficient land is being reserved so that ultimately a rapid transit system by either bus or rail can be accommodated. Meanwhile the present construction will provide special bus only ramps to Scarborough Beach Road to and from the freeway.

12. TELEVISION

Carnarvon

The Hon. G. W. BERRY, to the Minister for Federal Affairs:

What is the effective range of the regional television station at Carnarvon?

The Hon. I. G. MEDCALF replied:

The estimated effective range of the regional television station at Carnarvon is a radius of 10 miles from the town area. This estimate is based on a field strength survey conducted in 1973 by the Australian Telecommunications Commission.

13. ELECTORAL

Inequality of Votes

The Hon. LYLA ELLIOTT, to the Minister for Justice:

(1) Is the Minister aware that union elections currently embody the one-vote-one-value principle, so that a unionist in the Kimberley, for example, has a vote equal in value to that of a unionist in Perth?

(2) Does the Government intend to ensure in any legislation concerning union elections, that each unionist in the Kimberley will get fifteen votes to each one vote of a Perth unionist?

(3) If not, and to be consistent, will the Minister give an undertaking on behalf of the Government to amend the Electoral Districts Act to remove the inequalities now existing in that Act which give some electors votes 15 times more valuable than those exercised by others?

The Hon. N. McNEILL replied:

(1) As far as I am aware each financial member of a union is entitled to one vote at a union election irrespective of the size of the union. If this is so, then it may be analogous to the entitlement of an elector in each Electoral District.

(2) No.

(3) The question of consistency does not arise as normally union elections are held on a State-wide membership basis.

Parliamentary general elections are conducted on the basis of one person one vote in accordance with the Act as agreed to by Parliament. No further amendments to the Electoral Districts Act are currently contemplated.

14. SEWERAGE

Wembley Downs

The Hon. R. F. CLAUGHTON, to the Minister for Justice representing the Minister for Water Supplies:

Further to my question 1 on the 6th May, 1976, regarding provision of sewerage in Wembley Downs, would the Minister advise whether his answer applies to the area bounded by the streets named east of Weaponess Road?

The Hon. N. McNEILL replied:

No.

BILLS (2): THIRD READING

1. Supreme Court Act Amendment Bill.
2. Business Names Act Amendment Bill.

Bills read a third time, on motions by the Hon. N. McNeill (Minister for Justice), and transmitted to the Assembly.

JUSTICES ACT AMENDMENT BILL

Second Reading

THE HON. N. McNEILL (Lower West—Minister for Justice) [4.51 p.m.]: I move—

That the Bill be now read a second time.

At present committal proceedings in this State under the Justices Act are based on the traditional English system of recording in depositions the evidence given orally before the examining magistrate in the presence of the accused.

Under the proposed amendment, this procedure will remain available to any accused who desires to avail himself of it, but an alternative procedure in lieu of committal proceedings provides for the tendering by the prosecution or defence of written statements to be admitted as evidence in committal proceedings, to the same extent and subject to the same conditions as oral evidence. This procedure is similar to that which has existed in England since the 1st January, 1968.

The reasons for the review of the system in this State arose from the inconvenience, waste of time, and unnecessary expense involved in committal proceedings, particularly when the accused has pleaded guilty, or accepted legal advice not to present a defence until the indictment is filed.

The amendments, subject to prescribed limitations, permit written statements of witnesses to be admitted in evidence for the purposes of the committal, trial and sentencing of persons charged with indictable offences, and to permit an accused person to elect to go to trial without any preliminary hearing.

The proposals will provide adequate safeguard to ensure that the rights of the accused persons are not jeopardised. This amending Bill contains provisions for the accused to have adequate explanations of all alternative courses open to him to be made at every stage. The accused person will, at all times, be aware of the choices he may make and of his rights generally.

The accused will have the right to request a preliminary hearing if he so desires. If he elects to have a preliminary hearing, it will be conducted in the traditional manner, except that written statements by witnesses may be tendered, in the absence of objection by the accused.

To avoid any person being sentenced without any publicity being given to the allegations against him, provisions in the Bill will make it mandatory for the prosecutor in the sentencing court to outline the facts in open court in all cases where the accused, having elected to be committed without any preliminary hearing, pleads guilty.

At present the Justices Act merely provides that the magistrate may close the court in which committal proceedings are being held if it appears that the ends of justice require that action. This amending legislation proposes that the magistrate may, at any time in the course of a preliminary hearing, rule that, in his opinion, in the interests of justice it is undesirable that a report of any evidence should be given publicity.

Provision is made in clause 2 of the Bill for the Act to come into operation on a date to be fixed by proclamation. The Bill requires complementary amendments to the Criminal Code, the Juries

Act, and the Child Welfare Act, and Bills to amend these Acts are being introduced also.

I commend the Bill to the House.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

JURIES ACT AMENDMENT BILL

Second Reading

THE HON. N. McNEILL (Lower West—Minister for Justice) [4.58 p.m.]: I move—

That the Bill be now read a second time.

This Bill is complementary to the provisions in the Bill to amend the Justices Act, which concerns the procedure to be adopted in committal proceedings.

The purpose of the amendment is to repeal subsection (2) of section 57 which would become superfluous should the proposed amendment of the Justices Act become law.

The Bill provides for the Act to come into operation on the date on which the Justices Act Amendment Act, 1976, comes into operation.

I commend the Bill to the House.

THE HON. GRACE VAUGHAN (South-East Metropolitan) [4.59 p.m.]: Mr President, we have no opposition to this Bill.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

CRIMINAL CODE AMENDMENT BILL

Second Reading

THE HON. N. McNEILL (Lower West—Minister for Justice) [5.03 p.m.]: I move—

That the Bill be now read a second time.

At present the provisions contained in section 19 (6a) of the Criminal Code are restrictive in regard to dealing with a child or young person under the age of 18 years convicted of an offence punishable with imprisonment, in that the conviction must be on indictment.

This section provides that as an alternative to imprisonment, the child may be ordered to be detained during the Governor's pleasure, or he may be committed to the care of the Community Welfare Department.

There was a case in the Children's Court last year in which two children pleaded guilty to a number of serious charges, whereupon convictions were recorded and the children committed for sentence to the Supreme Court pursuant to section 20 (3) (c) of the Child Welfare Act. In this instance there was no indictment to be presented to the Supreme Court, but merely a certificate signed by the magistrate evidencing the conviction, and committal for sentence.

By deletion of the words "on indictment" from the section, it will become available in all cases where children are committed for sentence to the Supreme or District Court.

The other provision in the amending Bill is complementary to amendments contained in the Bill to amend the Justices Act concerning committal proceedings.

When a person has been committed for trial or sentence without a preliminary hearing, and has pleaded guilty to the offence, before the court passes sentence on him, the material facts of the case shall be stated aloud to the court by the Crown.

It is also provided that at the trial a written statement of an accused person is admissible as evidence if all the parties consent, and the trial judge is satisfied that the presence of such a witness is not necessary in the interests of justice.

Clause 2 of the Bill provides that the Act shall come into operation on a date to be proclaimed, and further provides that sections 4, 5 and 6 shall come into operation on the date on which the Justices Act Amendment Act, 1976 comes into operation. I commend the Bill to the House.

Debate adjourned, on motion by the Hon. Grace Vaughan.

CHILD WELFARE ACT AMENDMENT BILL

Second Reading

THE HON. N. McNEILL (Lower West—Minister for Justice) [5.06 p.m.]: I move—

That the Bill be now read a second time.

This Bill is complementary to the provisions in the Bill to amend the Justices Act, which concerns the procedure to be adopted in committal proceedings.

The purpose of the amendments is to repeal and re-enact subsection (4) of section 20B to allow for the same procedures for preliminary hearings as in the Justices Act.

The Bill provides for the Act to come into operation on the date on which the Justices Act Amendment Act, 1976 comes into operation. I commend the Bill to the House.

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

EMPLOYMENT AGENTS BILL

Second Reading

THE HON. G. C. MacKINNON (South-West—Minister for Education) [5.08 p.m.]: I move—

That the Bill be now read a second time.

Legislation regulating the management of employment brokers' offices has applied in this State since 1897, and is presently contained in the Employment Brokers Act, 1909-1918.

It will be noted that no amendment to the Act has taken place for 58 years, and it is considered desirable to propose some alteration in the format of this legislation, particularly as various parties connected with or affected by its operation have moved strongly in this direction.

Following the 1939-45 World War, the Commonwealth Employment Service had its beginnings under the Commonwealth Re-establishment and Employment Act, 1945, and it followed the principles of the ILO Convention No. 88 (employment service) which Australia ratified in 1949. This ensured the maintenance of a free public employment service which comprises a network of local and regional offices sufficient in number to serve each geographical area of the nation and of this State, conveniently located for employers and workers who are encouraged to use it on a voluntary basis.

An ILO Convention No. 34 (fee charging employment agencies) was adopted at Geneva in 1933, but it was revised and superseded in 1949 by ILO Convention No. 96 on the same matter. Australia, however, has not ratified this convention. It provides for either the progressive abolition of fee-charging agencies in Part II or the regulation of such in Part III. It is optional to adopt either part when considering ratification of the convention. In common with Western Australia, other States of Australia, except Victoria and Tasmania, have had legislation over the years to license and regulate the activities of employment brokers who have operated in conjunction with the free Commonwealth service. The acceptance of this Bill should allow Western Australia to conform to the principles enunciated by Convention No. 96 which it could not do under the current Act.

Following the industrial expansion in Western Australia in the 1960s, there was some increase in the number of employment brokers licensed, as shown in the following figures:—

1962	21
1966	40
1968	72
1972	82
1975	99

Different agencies cover either a special category or a variety of employees varying through executive, professional, office and secretarial staff, rural workers, hotel and domestic staff, and the like.

A number of employment agents took the initiative early in 1969 to form the Employment Agents Association, which was later changed to the Personnel Services Association, which is affiliated with the Perth Chamber of Commerce.

It is understood that criticism of employment brokers was one of the main reasons which caused this step to be taken, and this body was formed as a trade association pledged to a code of ethics and conduct designed to foster harmonious relations between their clients and the general public. Its membership since its formation seems to have varied between 20 and 30.

In September, 1970, a motion in the Legislative Assembly to appoint a select committee to inquire into and report upon the activities of employment brokers was defeated. It was suggested then that the Department of Labour and Industry should administer the Act in a more complete form. Some mention was also made of the qualifications of the licensees and the employees, and the necessity for a person who is charged with the responsibility of selecting people for, or of placing people in, employment to have an understanding of the duties of the vacancies and of the qualifications required of the applicants. No doubt requirements are misjudged by the agents from time to time, which dissatisfies the employer or worker. However, these agents seem to develop a personalised service which retains a clientele for them although, obviously, they cannot match the backup facilities of a national employment service with its full range of services and activities, such as assessment and counselling services, professional and executive sections, and so on.

The Personnel Services Association is anxious to adapt the legislation to modern concepts and practices, and the Western Australian Trades and Labor Council shares the same view. The Professional Musicians Union was of the opinion that the entertainment industry has, over the years, been plagued by exploitation of performers, causing every country to grapple with the problem of preventing exploitation by those in the guise of managers, entrepreneurs, representatives, entertainment consultants, and so on.

Because of the ever-present lure of success and stardom in show business, the performer tends to be more gullible to the wiles of smooth operators, and the annals of the history of that industry are filled with legendary cases of these cankerous practices.

The Bill contains basic principles and new provisions which have been developed in consultation with the interested parties,

and in the main seems to have their support. It endeavours to deal with those things which have caused concern in the past, such as excessive control of unemployed persons by virtue of access to employment opportunities, over-charging of fees to either party, the use of agency provided circumstances to profit under cover of the agency, whilst acting as employers, contractors, or subcontractors.

The definition of employment came under debate in another place, when attention was drawn to what is considered an anomaly between the Bill and the Industrial Arbitration Act, inasmuch as the definition includes domestic work whereas, in the Industrial Arbitration Act, a domestic working in a private home is excluded from the definition of "worker".

There are many issues which arise by including a domestic as a worker under the Industrial Arbitration Act, and the point has been well debated in the past when that Act has been under discussion in Parliament. The corollary that an award under the Industrial Arbitration Act cannot be made to cover a domestic working in a private home is a matter of fact.

However, the inclusion of domestic work in the "employment" definition in the Employment Agents Bill has the effect of covering an agent under the legislation where he indulges, for reward, in procuring engagements for domestics and, as well, he is required to give a domestic the details in writing of the employment offered—in accordance with Clause 42—when referring a domestic to an employer.

It can be fairly said that the employer is the person who sets down the employment conditions, and not the employment agent, who really conveys to the prospective worker the details as given to him by the employer—although, from experience, he would no doubt guide the employer. The final contract of service is that between the employer and the worker. A worker should endeavour to get as full information as possible before proceeding to a location to accept work. If the conditions of employment are not to his liking, he is not bound to proceed to or accept such employment. The agent and employer may be in a position to dictate terms because of a lack of award conditions, but the prospective worker is not obliged to accept them, or the position. In fact, he should be completely satisfied with the offer before committing himself to acceptance.

The definition of an employment agent is of primary concern, and any person or business which obtains reward for securing engagements for persons seeking to be employed, or on the other hand for employers wishing to engage workers, should assess the position under this legislation in order to establish whether they are subject to licensing and other requirements under the Bill.

Some classes of business in the past may have had doubts as to their activities, or a part of their activities coming within the scope of an employment agency; for example, management consultants, or accountants operating on behalf of clients in staff recruitment. A business which services a client, who is to be the employer, in the procurement of an employee, even where a charge for service is made to the client only, is deemed to be an employment agency within the ambit of the Act, and is required to conform to the obligations therein.

Those categories of managers or agents who obtain their livelihood by arranging artists' engagements by theatres, night clubs, hotels, etc., can be classed within the definition of employment agent, even though they may have written contracts which literally give them carte blanche authority to organise engagement, collect or distribute earnings of the performer, or the like. Such contracts can be made irrespective of the Act, but do not necessarily allow escape from its provisions.

Then again, a true theatrical employer is not to be regarded as an employment agent. By that is meant a person, firm or company, syndicate, society or association, which employs for its own theatrical enterprise a theatrical performer of any kind for the purpose of giving a performance or performances in any theatre, music hall or other place of public entertainment, the main purpose of which is the financial benefit of that theatrical employer and/or the theatrical performer. In New South Wales, the Industrial Arbitration Act authorises the Department of Labour and Industry to control the theatrical employer to the extent of the issue of a permit to operate as such, but similar control in Western Australia is not contemplated in the Bill before the House.

A distinction exists in respect of what is commonly known as a temporary service contractor, or temporary staff agent, where the agent, as principal, is the employer who is fully responsible for the payment of wages or other lawful obligations; for example, payroll tax, workers compensation to an employee and who, as such an employer, provides to other persons of the services of his employees to perform or to do work of a temporary nature, on the basis of pre-determined rates agreed between those other persons and himself as such employer. Providing no fee or expense is charged to the employee, the service provided to the customer does not come within the meaning of employment agency.

However, the placement by agencies of workers such as nurses, models, mannequins, typists, and cleaners in short term jobs where the onus is on the other person as the actual employer to be responsible for wage payments and other lawful obligations of an employer has caused concern in the past. An agent who operates in this

manner for reward from one or both parties for the service provided will be deemed to be an employment agent and clause 41 of the Bill will apply in this case.

Over the years, employees in various occupations, in accepting these short term placements, have often encountered difficulty in collecting their due wages, because the terms and conditions of their engagement is unclear, and there is uncertainty in establishing who is the person actually responsible to pay the wages.

This Bill, if passed, will require a consequential Bill to amend section 178 of the Industrial Arbitration Act—but this is of a minor nature only—so as to alter the reference in that Act to the Employment Agents Act.

Some major changes in approach occur in the Employment Agents Bill, and will be dealt with in the committee stage. In considering the new provisions, close study was given to the Auction Sales Act of W.A., and it was agreed that its provisions in regard to licensing and some other requirements were appropriate for the Employment Agents Bill, and have been utilised accordingly.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. D. W. Cooley.

INDUSTRIAL ARBITRATION ACT AMENDMENT BILL

Second Reading

THE HON. G. C. MacKINNON (South-West—Minister for Education) [5.19 p.m.]: I move—

That the Bill be now read a second time.

The amendment proposed in this Bill is a consequential one, and dependent upon the passing of legislation now before the House to repeal the Employment Brokers Act and replace it with an Act providing for the regulation of employment agents, which I have just explained to the House.

In such an event, it will be necessary to substitute the word "agent" for "broker" and the passage "employment Agents Act 1976" for "Employment Brokers Act, 1908-1918" in section 178.

This is the most simple Bill one can imagine, and I commend it to the House.

Debate adjourned, on motion by the Hon. D. K. Dans (Leader of the Opposition).

PUBLIC AND BANK HOLIDAYS ACT AMENDMENT BILL

THE HON. G. C. MacKINNON (South-West—Minister for Education) [5.20 p.m.]: I move—

That the Bill be now read a second time.

The standard awards of the Western Australian Industrial Commission make provision for a day to be observed as a holiday without deduction of pay in lieu of Boxing Day, when that day falls on a Saturday, Sunday, or Monday.

This provision applies only to workers embraced by awards.

To ensure that public holidays are uniformly observed, the Public and Bank Holidays Act, 1972, is designed to provide parallel holidays to cover persons not included in awards.

The purpose of this Bill is to correct an anomaly in the Act which at present does not make provision to allow a day in lieu of Boxing Day when that day falls on a Monday.

Although the situation will not arise until next year, early action to correct the anomaly is necessary because the Department of Labour and Industry, which administers the Act, has already received numerous requests for details of the holidays in 1977.

It is proposed to amend the Act by adding the words "or Monday" after the word "Sunday" in line 20 of the second schedule to the Act.

The Bill also provides for an amendment to section 8 to correct an obvious error in wording.

I commend the Bill to the House.

THE HON. D. K. DANS (South Metropolitan—Leader of the Opposition) [5.21 p.m.]: We agree with this Bill in detail and definitely in principle.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

LAND TAX ASSESSMENT BILL

Second Reading

THE HON. N. McNEILL (Lower West—Minister for Justice) [5.22 p.m.]: I move—

That the Bill be now read a second time.

Mr President, a brochure has been prepared containing explanatory notes on each clause of this Bill and, together with a brochure on a complementary Bill which is to follow, is available for distribution to all members.

I trust members will find the notes useful in their consideration of this proposed legislation. With your approval, Sir, I will table a copy of each brochure.

The brochure was tabled (see paper No. 200).

This Bill has been designed firstly, to implement the Government policy undertaking to "remove land tax completely from land under the family home—up to 5 acres (2.02 hectares). This land will not be added to any other land belonging to the same person for the purpose of

total land tax assessment"; and secondly, to update our land tax legislation, correct anomalies, and remove the relatively high unimproved scale.

Details of the intention in respect of the first proposal will be given at a later stage in this speech, as it is the latter proposals which form the framework on which the whole legislation is to be based, and can be conveniently dealt with first.

Our land tax legislation is largely outdated, having been originally enacted in 1907. It is difficult to interpret, and contains numerous anomalies and inequities. In addition, land taxes are the most expensive of our taxes to administer.

The average cost of assessing and collecting all of our taxes in 1974-75, including land taxes, was 1.38c per tax dollar. The costs ranged from 0.07c in the dollar for pay-roll tax to 9.82c for land taxes.

The high costs for the assessment and collection of land taxes arise mainly from the existing complex legislation, the manual recording and assessing procedures, and the semi-manual accounting system.

Before any system change can be introduced to further improve efficiency, and to reduce costs, the law on which any new system is to be based must be clarified and simplified.

The Bill now before the House has been set out in the same uniform way as the other revised taxing Acts in this State, and it is hoped that it will be far easier to follow, by both taxpayers and administrators, than is our existing law.

At the same time as revising the layout of the legislation, and simplifying its terms, certain basic changes have been made to our existing land tax structure.

The first of these is to introduce a single scale of rates.

Under the existing Land Tax Assessment Act, land which is to be assessed is divided into two categories. One of these is land which is unimproved; that is, vacant land. The other is improved land; that is, where buildings and other improvements have been erected on it.

The unimproved values of each of these types of land are separately aggregated for the purposes of assessment, and separate rate scales are provided to be applied to each total.

One is known as the "improved scale" and the other as the "unimproved scale".

The unimproved scale imposed on vacant land is generally considered to be much too high, and many complaints are received, particularly from those engaged in the provision of land for housing, who have publicly stated that the high tax rate inhibits genuine development.

The original objective of a higher rate for unimproved land has largely been self-defeating. It was intended to force quicker development. All it has done has been to add a further cost to land coming onto the market. Experience shows that there are other more effective practical ways of expediting development. An amendment made in 1973 is providing some interim relief of a limited nature to land developers.

An anomaly which has been brought to the attention of the Commissioner of State Taxation, and the Parliamentary Commissioner for Administrative Investigations, is the case where a person may own vacant land which cannot be sub-divided and improved. The land involved is often a small holding of two to four hectares in area. The planning authorities in these situations will approve only urban subdivisions and the erection of dwellings where deep sewerage is available.

In the cases brought to notice, provision of an approved sewerage system by the owner would be completely uneconomic from his point of view, as it would be impossible to recover the cost of installation, if permitted, in the sale price of the sub-divided land.

In addition, there is often no indication when the Metropolitan Water Supply, Sewerage and Drainage Board will be able to extend the sewerage system to service the land concerned.

There are other situations where the high scale of tax can operate unfairly.

One instance of these is where buildings are demolished in city or urban areas to make way for future development, and the land is therefore vacant at the 30th June.

This is the date each year on which land tax assessments are based, so this temporarily vacant land attracts the higher rate of tax for the next assessment year.

In one of these cases, the increase in assessed tax amounted to approximately $7 500 in one year.

The introduction of the single tax scale will not only correct these anomalies, but will also eliminate considerable administrative problems and attendant clerical errors.

Taxpayers will no longer need to advise the department when improvements are made, and the constant arguments as to what legally constitutes improvements to qualify land for the lower rating will be resolved.

Another advantage will be that "rural zoning" records will not be required to determine which scale of tax applies.

The common scale of tax is to be applied to all land whether it be improved or unimproved, and the unimproved values of all land in the one ownership will be aggregated to determine the rate of tax under the single scale.

The single scale of tax that is proposed to be used is the existing "improved scale".

The application of a single scale of tax at the improved rate will substantially reduce the tax levied in many assessments, particularly where all of the holdings are vacant land.

For example, under the existing law and rates, a single vacant lot of land valued at $4 050 attracts $50.62 in tax. Under the new legislation it will attract only $22.27 annually, being a saving of $28.35 to the owner.

However, it must be remembered that, because all taxable holdings will be aggregated, whether improved or unimproved, in a few cases there could be a small increase in tax, but this is inevitable when a new system is introduced to grant relief in the majority of cases.

For example, where an owner holds land valued at $5 400 which is improved but is not land on which his home is erected, and also an unimproved block valued at $3 030, giving him an aggregated unimproved value of taxable land of $8 430, under the current legislation, because separate rates and conditions apply to each class of land, he pays total land tax of $37.87 a year.

Under the new proposals, he will pay $49.79, or an increase of $11.92 per year.

This is the effect of aggregating the more valuable improved land with the unimproved lot.

The examples given are from actual cases. It is emphasised, however, that those cases where the increases apply are exceptional ones, and will affect very few out of the approximately 50 000 total number of taxpayers that exist.

There will be a large number of taxpayers assisted by the elimination of the "unimproved" scale.

Another basic change that is proposed to the existing structure of land tax is to the exemptions, particularly those which relate to Crown land, local authority land, and land owned by charitable bodies of one kind or another.

Under the existing law, the exemptions provided may be broadly classified under four headings. These are—

Crown land, which includes public roads, reserves, parks and commons, and land vested in the various Government instrumentalities, such as the railways.

Local authority land, which also includes certain road reserves, other reserves, parks, cemeteries and the like.

Land owned by charitable bodies.

Charitable bodies, for the purpose of the Land Tax Assessment Act, includes land owned by churches, universities, and educational institutions, as well as those bodies which are normally described as charitable. It is very important to realise the definition of "charitable bodies" is not what members would normally think.

Also included is land used for specific purposes, which includes land used for primary production, as mining tenements, for showgrounds and residences, or that owned by social security pensioners.

Under the existing law, where Crown land is leased for a nonexempt purpose, the lessee is taxed direct at full rates of tax.

Where local authority land is similarly leased, no tax is levied on the lessee.

Land leased by a charitable body for a nonexempt purpose is taxed to that body, but on a concessional rate applied to the aggregated values of all the leased land.

The exception is that land owned by universities or other tertiary educational institutions is not taxed, irrespective of whether it is leased or used for nonexempt purposes.

The brief description of the existing situation clearly demonstrates the anomalous and chaotic situation which has developed in the exemptions contained in the existing Act. Therefore, it is proposed that—

> All land leased by local authorities be assessed under the same conditions as now exist for leased Crown land. This will place business and commercial people who lease land either from the Crown or from a local authority on exactly the same footing in respect of liability for land tax, and in a similar position to a lessee of privately owned land who would be charged by the owner with land tax paid by that owner on the leased land.
>
> It is pointed out that under the provisions of this Bill, where land is leased by a local authority and used for recreational purposes, this land will be exempt from tax, as it is under existing legislation.
>
> All vacant or unimproved land held by charitable bodies, including the universities, which is not used for the purposes of these bodies or reserved for those purposes, will be taxed at full rates.

I have mentioned that land which has been leased by charitable bodies, with the exception of the universities, is already subject to tax at concessional rates. However, vacant land which they hold is now exempt from tax.

Quite clearly, a number of these bodies have been, and still are, holding land for the purposes of investment and development and are, therefore, enjoying advantages over other developers using or holding land for similar purposes.

It is for this reason it is proposed that vacant land held by charitable bodies for investment and development purposes shall be subject to tax. However, it is proposed to defer levying tax on this particular class of land until the 1st July,

1978. The reason for this deferment is to give the bodies concerned an opportunity to either make use of the land for their own purposes, or to develop or dispose of it in the next two years, as they think fit.

In dealing with land owned by charitable bodies, which embraces educational institutions, I advise the House that recently a point has been raised that as the Bill is drafted, some educational institutions owned by private bodies may not be exempted as is intended.

So that these bodies will not be denied exemptions, I foreshadow the introduction of an amendment to the Bill at the Committee stage which will make it perfectly clear that these bodies are to enjoy exemption.

Another feature of the law in respect of imposing tax on vacant land held by charitable bodies is that if a charitable body is holding the land for some use which is for its own particular purposes of operation, then that land will be granted exemption on advice being given to the commissioner of the reservation of the particular parcel or lot of land for those purposes. However, if the body sells the land without having used it for the purposes for which it was reserved, land tax will be payable for the previous five years, or back to the 1st July, 1976, whichever is the shorter period.

No doubt, after a study of it, members will understand the reason for this is to avoid the sort of case where, say, a university which is holding large tracts of land—as some of them have, and they have incurred a lot of criticism from members of Parliament and members of the community for not developing it—declares that the land is for the normal purposes of the university. If it does this merely as a means of escaping the tax, and then all of a sudden decides a few years later that, because the values are high enough it proposes to sell as an ordinary developer, provision is made for the previous five years' tax to be imposed so that the subterfuge will fail.

There is one other change to be made in respect of the tax payable under these conditions, and that is the rate of tax to be levied on land which has been developed and leased by charitable bodies.

Currently, tax is payable by these bodies on the leased land, such as the sites of office buildings, flats, and the like, at the improved rate, but with a maximum of 1.1c in the dollar. The scale provided for improved land rises to the maximum of 2.4c in the dollar. It is proposed in the new legislation that land leased by these bodies will be taxed at half of the normal rate. This will mean that in some cases the tax will increase slightly, but in other cases it will fall. At the same time, it is proposed that charitable bodies such as tertiary educational institutions, which lease land for commercial purposes, shall be subject to concessional rates of tax.

Currently they are exempt, but as from the 1st July, 1976, they are to be taxed in the same way as are properties owned by other bodies which qualify under the definition of "charitable bodies".

Under the existing law the fourth exemption concerns—

> Land used for genuine primary production; which will continue to be exempt.

However, the provision for exempting the primary producer in the existing law is difficult to administer and is, unfortunately, regularly abused.

Under the present legislation it is possible for a person to fence a large tract of land in the metropolitan area, arrange for a few sheep or other animals to be grazed on it, and successfully claim exemption. This is because it is correctly claimed within the existing law that the land is used only for primary production.

The purpose behind many of these cases of legal avoidance of tax is to minimise the holding costs of land at the rate imposed by the high "unimproved" scale. In fact, by entering into these arrangements, all land taxes are avoided. For example, in the metropolitan area one area of land comprising 1 260 hectares is leased by the owners for grazing. This land has a value of $325 000 and by leasing it for this purpose, the owners are successfully avoiding tax of $7 288 per annum, although they, themselves, are not in any way engaged in a business of primary production.

Another example is 14 hectares of urban land valued at $94 500 which is owned by a syndicate but leased to one member who uses it in a minor way for grazing purposes. This syndicate is thus avoiding tax of $1 272 each year.

Under the Bill before the House, it is proposed that the exemption be restricted to genuine primary producer owners; that is, owners who derive at least one-third of their income from a defined activity of primary production.

The foregoing limitation is to apply only to land which is located in the metropolitan region, or falls within the boundaries of an approved town planning scheme. In addition, where the owners are companies, and those companies are related, such as holding and subsidiary companies, they will be treated as one owner for the purposes of this income test.

Any other land which is used for primary production will continue to enjoy the existing exemption; that is, complete exemption.

Therefore, under this proposal, all rural or agricultural land outside the metropolitan region used for farming will be

unconditionally exempted as it is today. This means that so far as the genuine primary producer is concerned, there will be no change in his exemption. Quite clearly this type of exemption has given rise to many cases which are difficult to determine, and may continue to do so.

It is impossible to provide statutory rules which will allow perfect equity in all situations. For example, a genuine producer may not produce a sufficient percentage of defined income by reason of circumstances beyond his control, such as the result of a natural disaster.

To cover cases such as this, which are not numerous, the commissioner is to be given a discretion to apply exemption where, after examination of all the factors, he is satisfied that the land is being genuinely used in a defined business of primary production.

This discretion will also be applicable in other "grey" areas of other exemption provisions such as defining "benevolent institutions".

Since the Bill was introduced in another place, some concern has been expressed by members of Parliament, local authorities on the fringe of the metropolitan area, and by a number of genuine primary producers, that some of these genuine primary producers will not be able to meet the tests that are set out in the Bill. They fear they will not, therefore, enjoy the exemption provided for primary producers.

Examples have been brought forward of those who hold an area of land in the metropolitan region and use it as part of a farming activity which is carried on elsewhere.

Another situation is where a genuine primary producer located in the metropolitan region finds he cannot meet the income test—that is, one-third of the income being derived from primary production—for some period because economic circumstances have temporarily reduced his income, or he has encountered losses from his primary producing business.

Concern has also been expressed for those who are genuine primary producers in water catchment areas, or in what are referred to as "green wedges", that is, the rural zoned area between the planned corridors of urban development in the metropolitan region.

These producers fear that they will lose their exemption because they will be unable to meet the income test and will not be permitted to subdivide their land or put it to any other use.

It is for these reasons, and the others that I have already mentioned, that clause 22 appears in the Bill.

As I have just explained, under this clause, which is a vital one, the commissioner is given power to exercise his discretion in favour of the taxpayer where the commissioner is satisfied that exemption should be granted.

I admit that, generally speaking, discretions in the law, especially relating to taxation, are not particularly popular with either the taxpayer or the administrator.

Both prefer the law to be spelt out, if this is possible, but in the situations I have outlined, it is not possible to spell out the law, as we might well be inhibiting some of the exemptions that could be given to all sorts of people, including pensioners.

It is emphasised that the discretion written in clause 22 can be exercised only for the benefit of the taxpayer. It cannot be used against the taxpayer.

So that members are clear on the way in which the commissioner proposes to deal with the primary producers' problems I have outlined, I will explain in detail some of the tests that the commissioner proposes to apply, after consultation with the Government, in determining whether he should exercise the proposed discretion. I shall deal with each of the examples I have given in turn in the following explanations—

Where land is in the metropolitan region but is used as part of a total primary producing business, most of which is carried on in country areas, and there is no doubt that the land owner's main source of income is obtained from primary production, this land will be granted exemption.

Where land is in the metropolitan region and is used for genuine primary production but for some reason, which is usually economic, the producer is temporarily unable to meet the income test, the land will be granted exemption.

Where land is in the metropolitan region and is used for genuine primary production but where the owner cannot meet the income test and the town planning authorities not only refuse subdivision but restrict the activities which can be carried on on the land to one of the forms of determined primary production, the commissioner will provide exemption subject to the following tests—

The first is an inspection and check of past records to ascertain that primary production was and is being carried on on the land.

The second test is to obtain advice from the Commissioner of Town Planning that approval to subdivide is not likely to be given in the foreseeable future because the intention is to preserve the area for its existing use.

The third test is that the owner's main use of the land is for primary production.

These tests, of course, are not exhaustive and the commissioner is open to hear other reasons that his discretion should be used.

In addition, I point out that the discretionary power of the commismissioner is subject to an appeal to the Treasurer against the commissioner's decision on an application for the exercise of his power.

The foregoing information should make it clear that no genuine primary producer need fear that he will lose his exemption under the proposed legislation.

The discretionary power can be used, of course, also in the case of pensioners who are, for example, solely dependent on the pension for their income, but the property on which they live exceeds 2.02 hectares in area.

In other cases it may be that the pensioner requires some deferment of his taxes to assist with any temporary financial difficulty or would prefer to have them deferred until his death.

Under clause 38 of the Bill, the commissioner has this power and will be exercising it sympathetically in the case of any hardships which the changed provisions may inflict.

The concession now given to land used for genuine forestry purposes will remain unchanged.

Earlier in this speech I mentioned that I proposed to give further details of the exemption to land on which the owner's home is built.

It is proposed to exempt fully the land, up to 2.02 hectares—five acres—in area, on which the owner's home is built, and which is used for no other purpose.

Where the land is in excess of 2.02 hectares, a proportionate exemption will be allowable for 2.02 hectares of the land.

In order to implement this policy, it is necessary to legislate for three different residential situations. These are—

Where the land is 2.02 hectares or less in area, and is used solely or principally as a home in which the owner resides, the exemption will apply to the whole of the unimproved value of the land, and no tax will be payable thereon.

Where the land is in excess of 2.02 hectares in area and is used only for a home in which the owner resides, the exemption will apply to 2.02 hectares only, and tax will be payable on the excess.

The method of calculation of the amount of exemption will be the proportion of the unimproved value which the unimproved value of 2.02 hectares bears to the whole of the unimproved value of the usable area.

Where the land is used for a combined purpose, such as a home and a business, for example, a shop with residential accommodation attached, or a small factory and home erected on a single lot of land, or is used both for a home and some other nonexempt purpose, the area of land used for other than residential purposes will be taxable.

The exemption allowable will be that proportion of the unimproved value which the value of the land used as a residence bears to the whole of the unimproved value of the land.

The tables demonstrating this are in the brochure.

This proposal will mean additional initial work for the valuations division of the State Taxation Department, but it will place everybody on the same footing whether a home is erected on 1 012 square metres of land—a quarter acre—or a 40-hectare lot—100 acres.

It will remove also the anomaly which, under the existing law, exempts one person who owns a palatial home and no other land, and receives his income from investment earnings, but taxes all land owned by another person who owns a modest home and receives his income from operations on a commercial site which he owns.

The proposed exemption will be made, where applicable, before the tax is calculated. Members will realise that this is in the favour of the taxpayers.

Therefore, not only will this proposal exempt all of the land on which homes are erected, but also it will reduce the aggregated value of the land liable to assessment. In other words, it will be complete exemption.

There are revised provisions where home units are held under strata title, or as a share in corporate or joint ownership. Currently, the Act contains provisions which allow each unit to be assessed as a separate entity, and allows the owner to claim exemption if the unit is his residence, and is the only land owned.

These provisions will remain, but with this difference: Where the owner holds other assessable land, he will be entitled to claim exemption on the unit if it is his place of residence.

Another aspect which has been raised in connection with home ownership is the few cases where homes are owned by private family companies in which the only shareholders are members of a family.

For these cases a special provision is proposed which will allow the exemption for homes to apply for so long as all the shareholders live in the residence.

In addition, representations have been received for cases where a natural person owns a home jointly with a family

company. I foreshadow an amendment at the Committee stage to deal with this situation.

As a result of the proposed introduction of a total exemption for land on which the home is erected, and the use of a single tax scale, a number of existing concessions are either unnecessary, or are no longer warranted, and are to be repealed. These are—

The provision which allows the value on the land on which the owner's home is situated to be determined at the value applicable to a residential zoning where it has been rezoned for a higher use since his occupancy. As all land up to 2.02 hectares in area, and used by the owner as his residence is to be completely exempted, irrespective of zoning, this provision is no longer required.

The provision which exempts improved land of up to $10 000 in aggregated value and applies a concessional tax base for land valued in excess of $10 000 but less than $50 000. The main purpose of this exemption and concession was to eliminate or reduce the tax charged on land used as home sites of the owners. Because the owner's home is to be fully exempt, this concession is no longer necessary and, further, has created anomalies by allowing land used for income-producing purposes to obtain a concession aimed at relieving home owners.

The provision which allows a rebate from the unimproved rate to the improved rate, for a period of up to four years, when a home is erected on a vacant lot.

Because there is to be a single lower rate of tax for all types of land, this provision is no longer necessary. However, the present section will continue to operate in appropriate cases until eligibility is exhausted by efluxion of time.

That, of course, is a transitional clause, to avoid people being losers under the present conditions during the transitional period. To continue—

The provision which limits the value applied to certain lands zoned as "rural".

Under the existing law, land in the metropolitan region which is zoned "rural", and not otherwise exempt, has a limit placed on the valuation used as the tax base. This provided primarily a concession to those whose homes were on this type of land, the area of which was usually in excess of the prescribed half acre limit for gaining exemption. Under the proposed provision, where a home is erected on this land, up to 2.02 hectares will be exempted. Now that there is a common tax rate, and the home site is exempted completely, the concession is no longer warranted.

The provision which exempts all land owned by social security pensioners.

When these exemptions were placed in the law, all land, including that used for an owner's residence, was subject to land tax. The original purpose of the pensioner's exemption was to remove from the tax field the land on which his home was built.

Because the land up to 2.02 hectares on which the owner resides is to be exempted, the provision of exemption of any other land owned is not justified.

In addition to this, there is another reason that this concession should be removed. With the existing and projected gradual elimination of the means test, everyone will eventually qualify for a social security pension. This would mean that, under the existing provision, all land, with the exception of that in corporate ownership, would be automatically exempt from tax.

In addition to the changes proposed in the taxing of land and which have been outlined, the Bill provides for changes to administrative procedures, clarification, and bringing up to date the definitions and terminology used in the law.

The first of these administrative changes is to the time for the payment of tax. It is proposed that the tax be paid within 30 days of issue of the assessment, irrespective of the lodgment of an objection.

As matters now stand, a number of taxpayers, particularly some with very large assessments, lodge objections against assessments which cannot be sustained, merely to gain automatic deferment of payment. These are wasteful and time-consuming, and they also slow down the rate of collection, and should not be allowed to continue.

These situations arise because of the provision in the existing law relating to valid objections against land tax assessments under which the taxpayer is required to pay only one-quarter of the assessed tax pending determination of the objection.

Under all other taxing legislation in the State, all of the tax is payable within 30 days, and the procedure for objection and appeal continues without extending the time for the payment of tax.

The proposals in this Bill will require the tax to be paid on the due date, in line with all other taxing laws, irrespective of objection or appeal. This will remove also another unsatisfactory feature in the existing legislation relating to the lodgment of objections and the rights of appeal to the courts.

Under the existing law, a taxpayer may lodge what would be an otherwise valid objection carrying the right of appeal,

but which neglects to fulfil the requirement of paying at least one-quarter of the tax, in which case he loses automatically the right to go to appeal. With the proposal to make the tax payable by the due date, this situation will be resolved.

Another minor administrative change in the Bill is an extension of the time allowed for the lodgment of an appeal. Under the existing law it is provided that—

Tax is payable within 30 days of issue of an assessment.

A taxpayer may lodge an objection within 42 days of receipt of the assessment.

If the taxpayer is not satisfied with the decision on the objection, he has 30 days from receiving notice of the decision to request the objection be treated as an appeal.

In the Bill before the House, the time for payment is the same, the time for lodging an objection is unchanged, but the time for requesting an appeal has been extended to 42 days.

The Bill under consideration still contains the same provision as the existing legislation, under which the commissioner is able to defer payment beyond 30 days and, further, is able to enter into arrangements for the payment of tax which suits the particular problem of the taxpayer involved.

Another administrative change is in regard to the liabilities of landowners to lodge annual returns of land. Under the existing law there is a requirement that landowners should lodge a return each year, listing the taxable land owned. However, over the years the system, by administrative action, has reached the stage where returns are requested only where there is a change in the ownership of land.

Under the planned administrative system, it is proposed that all taxpayers who own assessable land be required to lodge an annual return. This is purely a change in administrative procedure, and not a change in the law.

Under the existing procedure, the department has, in effect, to operate a miniature land titles office and land recording system to trace the ownership of land. It is impossible under the present system to avoid errors, particularly as taxpayers often neglect to send in returns and other necessary advice. This does not prevent them, however, from stringently criticising the department, which is vulnerable to the extent that the system automatically accepts the liability for determining how land is owned at a relevant date.

Subsequent corrections of errors are costly and time-consuming, in addition to which the constant maintenance and processing of ownership records absorbs a substantial number of unproductive staff, thus adding to the cost of administering the law. The introduction of an annual return system, as authorised by the existing and the proposed legislation, will pave the way for a complete staff re-organisation and, in due course, an ultimate substantial reduction in costs.

The adoption of the principle of the landowner filing an annual return will ensure that assessments are properly raised on the information flowing to the department, because obviously the owner is the one person who has the full knowledge of what land he owns, whether it be registered in his name, or is being purchased by him under contract of sale.

Errors in this information will need to be detected by the department, but the new procedure will remove a constant source of criticism, because the mistakes will have been made by the taxpayers concerned, and these can be corrected easily by department officers without undue friction.

Under the existing and the proposed legislation, there are about only 50 000 taxpayers out of a total of 300 000 land holders who own taxable land, and who will be required to furnish annual returns. Most of these people—about 75 per cent of them—already submit returns each year, because of changes in land ownership. Therefore, there will not be any great change or problems presented to taxpayers in this State.

Further, after the system is operating satisfactorily, it is the intention of the commissioner to provide a simple form of return for use by those people whose landholdings do not alter from year to year, in which case they can indicate by a tick in an appropriate block that there is no change in their land ownership. The furnishing of the annual return will be the basis on which the new system will be founded, and is essential for its successful operation.

To facilitate administration, the Bill before the House is set out in the standard format that is designed to make reference easy—that is, if any tax law can be made easy to understand.

In addition, a number of definitions such as "land", "lot", "parcel", and "unimproved value" have been clarified.

As "unimproved value" is the base on which tax is calculated, attention is directed to this definition. This has, in the past, created some difficulties, and members will see that land leased from the Crown now is to be valued on a fee simple basis. Quite clearly this is necessary to preserve equity.

If a private owner leases his land to another person for use in a business activity, the owner is required to pay tax based on the fee simple value of his land,

and under usual lease arrangements, the tax he so pays is passed on in some form to the lessee. Therefore, where land is leased from the Crown for use for business purposes, obviously the same base should apply.

In addition, members will note that the definition of "unimproved value" has been updated to clarify the wording, and to conform with valuation practice.

Another change in the law under the heading of administration, relates to sections which deal with limiting the commissioner's power of recovery from what are known as "present owners". Under the existing law, where a taxpayer fails to pay his taxes, and the department has exhausted all available avenues of recovery without result, if the taxpayer has disposed of the land, the law authorises the commissioner to recover the total outstanding tax from the person who then owns the land— that is, the "present owner".

This provision has sometimes resulted in inequitable and unfair treatment of taxpayers. In some cases, this arose where the issue of assessments was delayed for some reason, such as difficulty in obtaining information. This resulted in the late issue of assessments, and eventually the department seeking to recover from present owners taxes which should have been collected from previous owners.

Under the existing law, the power of recovery from a "present owner" is vested in the commissioner, even under conditions where a new owner may have sought and obtained under the department's tax inquiry system what was virtually a tax clearance.

There have been a number of taxpayers who have been required to pay arrears of taxes under the "present owner" provisions, who had officially inquired about outstanding taxes, and who had received advice either that there was no tax owing, or were incorrectly advised of the amount of back taxes to be paid.

As a measure of equity in such cases, and with the concurrence of the Treasurer, the commissioner has levied taxes on present owners only where no inquiry was made; or, an inquiry was made and the amount of liability duly notified to the inquirer.

In the latter case, if the amount notified remains unpaid, the department recovers from the present owner, but only to the extent of the amount so notified.

Any outstanding taxes which cannot be recovered by the application of these principles are being written off.

These arrangements, of course, apply only to past taxes, as tax inquiry advices relating to taxes for the current assessing year are an estimate, and this is clearly shown in large print on the advice supplied to taxpayers.

The Bill now before the House contains provisions which will bind the commissioner to observe the administrative arrangements now being carried out. This will ensure that purchasers of land who make proper inquiry of the department at the time of purchase, and who comply with the official requirements as to the payment of back taxes designated on the advice, are protected from any further liability in respect of these past taxes which could be imposed upon them under the "present owner" provisions.

The administrative arrangements in this Bill include, of course, the usual provisions for enforcement and, in the course of drafting these and prescribing penalties, an anomaly crept in, in that the penalties for certain offences are not prescribed at a uniform level. I therefore foreshadow that at the Committee stage I will be moving an amendment to correct this anomaly.

It is proposed that, subject to this legislation being passed by Parliament, it will come into operation on the 1st July, 1976— that is, it will first apply to the assessment year of 1976-1977.

It is necessary that the operation of the new law be deferred until that time, as systems have to be designed and tested by the department; staff training and public education will be necessary to ensure smooth transition, and financial planning at Treasury level will need to be made to absorb the impact on revenue of the major concessions granted under this Bill.

It will mean that the cost in the dollar of assessment and collection will at first rise marginally. However, in due course, it will be possible, when the system is operating smoothly, to use data processing for the assessing and collecting of land taxes, at which stage the cost of collection should substantially reduce.

The annual reduction in revenue as a result of these proposals is expected to be approximately $1.6 million.

In addition, the new system is designed to improve efficiency, to provide a better service to the taxpayers, and to ultimately reduce the cost of assessment and collection.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. Grace Vaughan.

Sitting suspended from 6.06 to 7.30 p.m.

LAND TAX BILL

Second Reading

THE HON. N. McNEILL (Lower West— Minister for Justice) [7.30 p.m.]: I move—

That the Bill be now read a second time.

This Bill is complementary to the Land Tax Assessment Bill, and its prime purpose is to impose the single scale of tax to commence on the 1st July, 1976, pursuant to the provisions of the Land Tax Assessment Bill.

Under the existing Land Tax Act there are three scales of tax. These are—

The unimproved rate, which is the highest, rising from 1 cent to 5.25 cents in the dollar.

The improved rate, which rises from 0.3 of a cent to 2.4 cents in the dollar.

The "club" rate which rises from 0.3 of a cent to 1.1 cents in the dollar.

It is proposed in this Bill to repeal the existing Act and impose for the 1976-1977 and succeeding assessment years, a single rate which will be the present improved rate, ranging from 0.3 of a cent to 2.4 cents in the dollar.

The "club" rate, which is applied to various charitable, sporting and other bodies, is to be replaced by a provision in the Land Tax Assessment Bill, which stipulates that the tax to be paid by these bodies is to be at 50 per cent of the rate detailed in this Bill.

There is also a saving provision in the Bill in respect of the legislation to be repealed to enable the old rates to be applied where this is appropriate and necessary.

I commend the Bill to the House.

Explanatory notes were tabled (see paper No. 201).

Debate adjourned, on motion by the Hon. Grace Vaughan.

METROPOLITAN REGION TOWN PLANNING SCHEME ACT AMENDMENT BILL

Second Reading

THE HON. N. McNEILL (Lower West—Minister for Justice) [7.33 p.m.]: I move—

That the Bill be now read a second time.

This Bill is consequential to the proposed land tax legislation already before the House.

It is necessary because the metropolitan region improvement tax is assessed on the same basis as land tax, and the Metropolitan Region Town Planning Scheme Act authorises the mode of assessment.

The main amendment proposed in the Bill is to delete the exemption provisions for primary production land which were originally inserted in the law when the first Bill for the Metropolitan Region Town Planning Scheme Act was drafted. At that time the land was subject to land tax.

This provision has not been necessary for some time because primary production land exemptions are now fully covered in the land tax legislation and are, and will be, automatically applied to metropolitan region improvement tax.

The other amendment is merely to update the reference to the title of the Land Tax Assessment Act because of the proposed change in that legislation.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. Grace Vaughan.

METROPOLITAN REGION IMPROVEMENT TAX ACT AMENDMENT BILL

Second Reading

THE HON. N. McNEILL (Lower West—Minister for Justice) [7.34 p.m.]: I move—

That the Bill be now read a second time.

Amendments to the Metropolitan Region Improvement Tax Act, 1959-1966, are necessary as a consequence of the proposals contained in the land tax legislation already before the House.

As the improvement tax is assessed on the same conditions as are contained in the Land Tax Assessment Act, it is necessary to update the references in the Metropolitan Region Improvement Tax Act to correspond with the new land tax legislation.

This has been achieved by adding a new section to the principal Act which will operate from the 1st July, 1976—the same commencing date as the proposed new land tax law—and which contains the updated references.

The rate of tax imposed on and after the 1st July, 1976, is the same as the existing rate of one-quarter of a cent in the dollar.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. Grace Vaughan.

JETTIES ACT AMENDMENT BILL

Second Reading

THE HON. N. McNEILL (Lower West—Minister for Justice) [7.35 p.m.]: I move—

That the Bill be now read a second time.

The Jetties Act was enacted in 1926 and provided necessary authority for regulations to be made for the management, use, maintenance and preservation of all jetties.

Similar provision is also made in the Act for authority to regulate in respect of buoys and for the prevention of injury or damage to any public jetty or bridge by vessels.

The original penalty for the breach of any of these regulations was set at £20 and this, or its now dollar equivalent, still applies.

On today's money values such a penalty would be of little consequence to an offender and it is therefore proposed in this Bill to increase the penalties which apply to the regulatory powers of the Act to an amount of $200.

I commend the Bill to the House.

THE HON. S. J. DELLAR (Lower North) [7.36 p.m.]: The Minister has explained the Bill. So far as the Opposition is concerned, we do not intend to oppose its passage and we support the second reading.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

WESTERN AUSTRALIAN MARINE ACT AMENDMENT BILL

Second Reading.

THE HON. N. McNEILL (Lower West—Minister for Justice) [7.39 p.m.]: I move—

That the Bill be now read a second time.

Regulations have been made from time to time under the Western Australian Marine Act to provide for greater boat safety, and to include certain recommendations which were implemented, following the conduct of a Royal Commission into the subject.

With the advent of rapidly growing numbers of vessels used for either recreational or business purposes such regulations are obviously desirable, and should be strictly observed by boat owners, not only for their own safety, but also for the safety of those who may be on board in the course of operating the vessel.

At the present time, the Act provides for a maximum penalty of $40 or imprisonment not exceeding one month for a breach of any regulation made under the parent Act.

These regulations include—

Prohibiting the navigation of vessels which cannot be safely navigated;

prohibiting the use of any specified waters by any vessel;

prescribing safety regulations in connection with navigation, mooring and berthing of vessels.

This penalty is considered inadequate, particularly when life has been endangered by the nonobservance by a boat owner of basic safety requirements.

The Harbour and Light Department has been advised on several occasions by the Crown Law Department that magistrates hearing charges against persons for breaches of the regulations have commented that a $40 fine is farcical for the nature of the offence.

This Bill proposes to provide a maximum penalty of $200 to give a better opportunity to emphasise to boat owners the seriousness of any breach of the regulations.

I commend the Bill to the House.

THE HON. S. J. DELLAR (Lower North) [7.40 p.m.]: As with the last Bill with which we dealt, the Opposition has no intention of opposing this measure and we support the second reading.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

WEIGHTS AND MEASURES ACT AMENDMENT BILL

Second Reading

THE HON. G. C. MacKINNON (South-West—Minister for Education) [7.42 p.m.]: I move—

That the Bill be now read a second time.

The systematic conversion of across-the-counter weighing in retail stores has been proceeding since 1974 in other States and experience has shown the desirability of carrying out the conversion under regulated programmes which achieved effective results without disadvantage to consumers or retailers—that is, better retailer co-operation and support; acceleration of instrument conversion; dual pricing quickly declined to be replaced with sole metric pricing.

Some shops in Western Australia are already trading in the new units, but some traders who have converted their scales continue to trade and advertise in Imperial units or adopt nonuniform metric pricing techniques because of a fear that going metric would put them at a disadvantage with their competitors who still operate in Imperial units.

Following a recent successful regulated programme in South Australia, the Metric Conversion Board fully supports a similar programme be adopted to provide regulations to ensure a smooth and effective exercise in Western Australia.

The purpose of this Bill is to insert into the Weights and Measures Act the power to make regulations in relation to the conversion to metric of across-the-counter weighing in retail stores in Western Australia.

The regulations will detail the units to be used and the progressive dates for conversion in various zones when all retailers in the prescribed zone will be required to mark, display, or advertise metric prices in stipulated units only.

Additional unit prices in terms of Imperial units will be permitted, provided the Imperial information is not more prominent than the metric.

I commend the Bill to the House.

THE HON. D. W. COOLEY (North-East Metropolitan) [7.44 p.m.]: The Opposition supports the principles contained in the Bill.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

TEACHERS' REGISTRATION BILL

Second Reading

Debate resumed from the 5th May.

THE HON. R. F. CLAUGHTON (North Metropolitan) [7.45 p.m.]: The subject of this Bill was a matter of discussion within the teaching profession before I was elected to Parliament in March, 1968. That gives a clear indication that the topic has been well canvassed. It is one of a number of lines which have been pursued by the teachers in their endeavour to achieve a greater professionalism; that is, to achieve higher standards in their selected vocation. Perhaps the teaching profession has been regarded as the poor relation among professions. It has never commanded the salaries obtainable in other vocations such as the medical profession, but perhaps that is a good thing.

However, there is still a great need for those in the profession to conform to extremely high standards and in order to achieve that, it is necessary to take the step that is contained in the Bill.

I have referred the Bill to the State School Teachers' Union of WA, the largest organisation of teachers in the State, and it has indicated that it is largely in agreement with the measure. There are one or two minor matters which it wishes to pursue with the Minister or his department, but I do not think that at this stage they warrant a delay in the passage of the Bill.

It is interesting to note the composition of the board when compared with the composition of boards controlling other professions. It is clearly stipulated in the Bill and comprises a chairman who is to be appointed by the Governor; and the other members are as follows—

(b) two shall be persons appointed on the nomination of the Director-General of Education;

(c) three shall be persons appointed on the nomination of the Union being persons elected for such nomination at an election conducted by the Union amongst its members;

(d) one shall be a person appointed on the nomination of the Catholic Education Commission of Western Australia;

(e) one shall be a person appointed on the nomination of the Independent Schools Salaried Officers' Association being a person elected for such nomination at an election conducted by that association amongst its members;

(f) one shall be a person representing institutions providing teacher education courses, appointed on the nomination of the Western Australian Tertiary Education Commission constituted under the Western Australian Tertiary Education Commission Act, 1970;

(g) one shall be a person appointed on the nomination of the Association of Independent Schools of Western Australia.

Under the Medical Act seven members are appointed to the board controlling that profession and all seven are appointed by the Governor. There are no elected members at all and no indication is given from where they will be selected.

To the board established under the Architects Act 10 members are appointed, three by the Governor, one nominated by the WA Chapter of the Royal Institute of Architects, and the other six are elected by the registered architects. Consequently that board is governed largely by practising architects.

Under the Dentists Act the board comprises seven members, four of whom are dentists elected by dentists, two nominated by the Government, and one is a medical practitioner nominated by the Australian Medical Association. There is a fair range in the composition of those boards.

Perhaps there is still some mistrust of the teaching profession because it has not been allowed to elect its members from those people who may be considered eligible to be registered as teachers. The board is to be representative of the community. However, I will not oppose the arrangement. As I have said, the union has accepted the provisions at the present time in order that the advance which the Bill will allow may be made. The Bill will be supported by the Opposition. It may be that there will be some objections, but there will be time for these to be raised in another place.

With those words I support the Bill.

THE HON. G. C. MacKINNON (South-West—Minister for Education) [7.52 p.m.]: I thank Mr Claughton for his comments. The Bill has certainly had a long gestation period, but the reason is tied up really with one matter raised by the honourable member; that is, the composition of the board.

Unlike architects, dentists, and medicos, teachers are divided into fairly watertight compartments. For instance, we have religious teachers in the Catholic fraternity and this does not apply among the medicos or architects. It does among nurses. It

applies not only to Catholics, but also to other religions in which the medicos are trained, and they then stay within their religious structure. Some people are trained and stay with the independent schools. Therefore, it is necessary to have this division and this is the predominant reason for the delay in the presentation of the Bill.

For a long time the union considered it reasonable that it should have the predominant number of members on the board and a lot of argument ensued about this. It was not agreed to by previous Ministers or by me. That is the major difference between the board to be established under the Bill and the other boards referred to by the honourable member. The other boards are not involved in any automatic division within their professions.

However, that matter has been resolved and everyone has met on the common ground of professional competency, and that is highly desirable.

The board will be financed from its own fees and funds and that, too, is desirable because the board will then be much more independent.

I thank the honourable member for his interest in the Bill and I trust that the board will work to the advantage of the community and everyone in general and will improve the lot of the students—that is, the children in this State—because, when all is said and done, that is the predominant interest, I am sure, not only of ourselves as legislators, but also of the community as parents, and the teachers themselves.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (the Hon. Clive Griffiths) in the Chair; the Hon. G. C. MacKinnon (Minister for Education) in charge of the Bill.

Clauses 1 to 22 put and passed.

Clause 23: False claim of registration, etc.—

The Hon. G. C. MacKINNON: Although most members have probably read the Bill very thoroughly and are aware of the fact, I think I should perhaps state that in many schools a number of casual teachers are used. For instance, a school will get in a person to instruct girls in dressmaking, ballroom dancing, or any one of a variety of subjects. Indeed, at one school an elderly Aboriginal taught the youths of the tribe in that area the proper way to make woomeras, boomerangs, spears, and the like. They went into the bush, collected the right timber, brought it back, treated it, and made the various items. They use chain saws now instead of stone, of course. Nevertheless, he taught them the right way to make these items.

There is provision in the Bill—in clause 22—to enable this system to be continued even though those doing the work are not qualified as teachers. I am sure everyone will agree with this proposal, but I thought I should draw attention to it.

The Hon. R. F. CLAUGHTON: Mr Deputy Chairman—

The DEPUTY CHAIRMAN (the Hon. Clive Griffiths): Order! We are actually on clause 23. I was very tolerant with the Minister; he was talking on the wrong clause.

The Hon. R. F. CLAUGHTON: I had noted the situation referred to by the Minister. It would be a serious loss to the profession if these persons who are expert in their own field were not in some way authorised to instruct or impart their skills to the pupils. They cannot do so under clause 23.

The Hon. G. C. MacKinnon: I realise that.

The DEPUTY CHAIRMAN (the Hon. Clive Griffiths): Order! If the honourable member is speaking to clause 23 I would like him to give some indication of how he ties his remarks into it.

The Hon. G. C. MacKinnon: It might be considered they were making a false claim for registration, but they would not be. It would be quite genuine.

The Hon. R. F. CLAUGHTON: That is the point I was going to make. We would not like them to be put in the position provided for in clause 23 of being liable to a fine of $200. They would be holders of an authorisation from the department.

In relation to clause 23 would the Minister explain the position of some of the private organisations such as commercial schools, where many of the persons instructing are not qualified teachers but people with practical experience who operate to the benefit of the community? Are they at hazard because of clause 23 or will they be provided for under clause 22?

The Hon. G. C. MacKINNON: As with most Bills such as this, the organisation itself has to earn a degree of authority and acceptance by the public, and that is implicit in the expression "registered teacher". It is an offence to assume the title "registered teacher". One can call oneself a teacher of ceramics when one might just be a practical person who can do pottery. The offence occurs in using the title "registered teacher".

It is hoped that in a reasonable period registration in Western Australia will be such that unless one is a registered teacher one will not be considered to be good enough. That is why the offence is the assumption of that title—to stop people without any qualifications setting up as teachers in, say, religious instruction. One cannot become a registered teacher unless one has special qualifications and is registered by the board.

The Hon. R. F. CLAUGHTON: I think it was as well to draw out that point. It was not referred to in the Minister's speech and it is possible that some schools around the city would be worried about their position. We may go through a period when there is some heartburning about these matters.

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

The Hon. R. F. CLAUGHTON: There is the question of false advertising, and so on; but with anything new these problems arise.

Clause put and passed.

Clauses 24 to 31 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

ADJOURNMENT OF THE HOUSE: SPECIAL

THE HON. N. McNEILL (Lower West—Minister for Justice) [8.05 p.m.]: I move—

That the House at its rising adjourn until 2.15 p.m. tomorrow (Wednesday).

Question put and passed.

House adjourned at 8.06 p.m.

Legislative Assembly

Tuesday, the 11th May, 1976

The SPEAKER (Mr Hutchinson) took the Chair at 4.30 p.m., and read prayers.

QUESTIONS (12): ON NOTICE

1. MAGISTRATE

Bunbury: Workload

Mr BERTRAM, to the Minister representing the Attorney-General:

(1) Has any request been made for an investigation of the workload of the magistrate at Bunbury in each of the last three years?

(2) Have such investigations been made?

(3) What were the results of any such investigations?

(4) Has the appointment of a second magistrate to Bunbury to handle the present magistrate's circuit to other towns and the Collie and Harvey courts, which are currently serviced from Narrogin and Rockingham respectively, been considered?

(5) What was the result of any such consideration?

Mr O'NEIL replied:

(1) Yes. A request was made by the South-west Law Conference in October, 1973.

(2) Yes.

(3) to (5) The service provided by the court at Bunbury was found to be completely satisfactory and it was considered unnecessary to appoint a second magistrate to that centre.

2. SUPREME COURT AND FAMILY COURT

Registries, and Filing of Documents

Mr BERTRAM, to the Minister representing the Attorney-General:

(1) Is it a fact that a divorce costs country residents between $50 and $150 more than city residents because of the need for country legal practitioners to engage agents in Perth to file documents and to undertake other work?

(2) Has consideration been given to the establishment of supreme court and/or family court registries at Bunbury?

(3) If (2) is "Yes" what plans are there for the establishment of the registries?

(4) What plans, if any, are being made to enable family court and/or supreme court documents to be filed by country legal practitioners direct by mail?

Mr O'NEIL replied:

(1) Prior to establishment of the Family Court it was necessary in divorce proceedings for country legal practitioners to engage agents in Perth for which there was an additional fee between solicitor and client within the scale of between $25 and $75.

(2) and (3) It is not planned to establish registries in country areas immediately as the Family Court will go on circuit to country centres including Bunbury.

(4) After 1st June, country solicitors may forward documents direct to the Family Court in Perth where they will be processed and if in order listed for the next visit of the circuit court.

It is intended that every effort will be made to ensure that people in the country will not be at a disadvantage in these matters.