But it would still be the responsibility of the producer, especially if it were a matter of fodder conservation, soil analysis, or anything of that nature, to seek the advice of the officers of the department; and that advice would be readily available to the producer who sought it.

As far as I can see, the position is fairly clear. I do not think there will be any overlapping and I am sure that, from the board's angle, and also from the departmental angle, efforts will be made to co-operate in every way to see that the producer who is in difficulties will be able to get that advice and assistance which will help him to overcome the solids-not-fat problem.

The member for Murray suggested that the consumer should expect a good quality product. That will be the result of the improved scheme which the board will endeavour to bring into effect. I can assure consumers not only in the metropolitan area, but wherever milk is sold, that it will be the keynote of the board to see that consumers get a good-quality product.

It was also suggested by the member for Murray that the question of the compensation fund be kept in mind. He said it should not be allowed to increase to proportions that would not be considered reasonable. I can assure the honourable member that this matter will be watched; and I would point out that in other compensation funds where the sum has reached proportions that are considered to be quite safe, the contributions paid by the producers have been reduced. This matter will be kept constantly under review; and when it is considered that the fund has reached reasonable proportions, thought will be given to reducing the contributions made by the producer.

The member for Warren and the member for Harvey also put forward some suggestions. The member for Warren referred to the fact that this group of producers could be classed as a closed group. When the Milk Board started its functions those producing milk nearer the metropolitan area were called upon to supply that product to consumers in the metropolitan area. But as the activities of the board have extended so also has the area of the producer supplying milk extended. As the demand increases so will the area where the milk is produced be extended. While I cannot completely agree with the honourable member's view, I do admit that producers in these areas find themselves in perhaps a more favoured position than those in other parts of the State.

I am quite sure that the details mentioned by the member for Harvey will be looked into by the board, because from time to time it will be necessary to make regulations; and I am sure the details pointed out by the honourable member will be given due consideration. If it is felt that the regulations are not operating in the best interests of the industry then the House will have an opportunity to look at them and discuss them if it is felt necessary to do so. I again thank members for the reception they have given this amending Bill.

Question put and passed.

Bill read a second time.

In Committee

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

Third Reading

On motion by Mr. Nalder (Minister for Agriculture), Bill read a third time, and transmitted to the Council.

House adjourned at 11.35 p.m.

Legislative Council

Wednesday, the 16th November, 1960

CONTENTS

CONTENTS—*continued*

The PRESIDENT took the Chair at 4.30 p.m., and read prayers.

BILLS (7)—ASSENT

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

1. Fisheries Act Amendment Bill.
2. Paper Mill Agreement Bill.
3. Dog Act Amendment Bill.
4. Traffic Act Amendment Bill.
5. Dairy Cattle Industry Compensation Bill.
6. Lotteries (Control) Act Amendment Bill.
7. Supply Bill (No. 2), £21,500,000.

QUESTIONS ON NOTICE

ELECTRICITY SUPPLIES

Commission's Policy in Farming Areas, etc.

1. The Hon. F. D. WILLMOTT asked the Minister for Mines:

(1) What is the present policy of the State Electricity Commission so far as extensions of electric power are concerned in farming areas?

(2) To what extent do commercial users, such as sawmillers, assist in the extension of power mains in farming areas?

(3) What is the minimum requirement for current usage before three-phase current may be considered?

(4) What is the maximum horsepower motor that can be worked from single-phase current?

Extensions Under Self-help Scheme

(5) (a) What extensions have been made or approved under the self-help scheme; and

(b) what areas are concerned?

The Hon. A. F. GRIFFITH replied:

(1) The State Electricity Commission policy has not changed, but consumers may now contribute towards longer extensions than before under the State Electricity Commission Amendment Act (No. 3) of 1959.

(2) Sawmilling, and other commercial loads, encourage extensions to an extent depending on their consumption and the length of the extension necessary to connect them.

(3) and (4) Motors under 10 horsepower can usually be supplied single phase. Larger motors are supplied three phase, but a relatively greater consumption is necessary to justify the higher cost of three-phase mains and transformers.

(5) (a) Many applications have been received and are under discussion with the applicants.

(b) At the present time, one extension in Pinjarra and one in Bakers Hill have been constructed and the consumers supplied.

RIVERVALE LEVEL CROSSING

Traffic Problem

2. The Hon. G. E. JEFFERY asked the Minister for Mines:

(1) Is it the intention of the Government to take action regarding the traffic problem that exists because of the unsuitable level crossing at Rivervale?

(2) If so, what is to be done?

(3) Will consideration be given to an overhead bridge connecting Howick Street from Rutland Avenue to Kitchener Avenue, thereby reducing to a minimum the traffic entering Great Eastern Highway from Rutland Avenue and causing congestion at the Rivervale crossing?

(4) If the proposal contained in No. (3) is not considered to be a suitable solution, will consideration be given to replacing the existing level crossing with—
(a) an overway; or
(b) a subway?

The Hon. A. F. GRIFFITH replied:

(1) Improvements to Rivervale crossing have been under consideration for some years. Future planning is of a complex character and is as yet only in the preliminary stage. Surveys have been made for the widening of the existing crossing.

(2) Answered by No. (1).

(3) This proposal is included in the planning referred to in the answer to No. (1).

(4) Such a grade separation is included in the over-all planning.

OPTOMETRISTS ACT AMENDMENT BILL

Further Recommittal

On motion by The Hon. L. A. Logan (Minister for Local Government), Bill again recommitted for the further consideration of clause 3.

In Committee

The Deputy Chairman of Committees (The Hon. E. M. Davies) in the Chair; The Hon. L. A. Logan (Minister for Local Government) in charge of the Bill.

Clause 3—Section 5 amended:

The Hon. L. A. LOGAN: The reason for the recommittal of this clause is to endeavour to tidy up the drafting which the House accepted the other evening. The principal Act says that the board shall consist of eight members to be appointed by the Governor, and of the members so appointed the Act would then go on to read as follows:—

> The Minister shall appoint a person—

My proposed amendment will provide that the board shall consist of eight members to be appointed by the Governor. Of the members so appointed, one, who shall not be a registered optometrist or a registered medical practitioner, shall be nominated by the Minister to be chairman of the board. There is no alteration to the meaning; the paragraph is simply redrafted to make it read better when inserted in the principal Act. I move an amendment—

> Page 2, line 24—Delete pragraph (e) inserted by a previous committee and substitute the following:—
>
> (e) one, who shall not be a registered optometrist or registered medical practitioner, shall be nominated by the Minister to be chairman of the Board.

Amendment put and passed.

Clause, as further amended, put and passed.

Bill again reported with a further amendment.

BETTING CONTROL ACT AMENDMENT BILL (No. 2)

Report

Report of Committee adopted.

Third Reading

On motion by The Hon. H. C. Strickland, Bill read a third time, and transmitted to the Assembly.

STATE CONCERNS (PREVENTION OF DISPOSAL) BILL

Further Report

Further report of Committee adopted.

Third Reading

THE HON. H. C. STRICKLAND (North) [4.44]: I move—

> That the Bill be now read a third time.

THE HON. A. F. GRIFFITH (Suburban—Minister for Mines) [4.45]: I would like to say a few words on the third reading before the Bill is finally passed by the House. The measure, in its present form, is less objectionable to me as an individual, and I am sure to the Government, than it was when it was originally introduced. In its original form the Bill provided that before any State trading concern could be sold parliamentary approval had to be obtained. Last night the Committee removed from the schedule reference to the State Building Supplies, and now the schedule contains only a reference to the meat works at Wyndham and at Robb Jetty, and also the State Engineering Works.

As I said on the second reading, it was not the Government's intention to sell the meat works at Wyndham or the W.A. Meat Export Works, and therefore in its present state the Bill is fairly innocuous. But it is rather ironical when we remember that reference to these concerns was removed from the Act by one named Baxter—and I refer to the late Hon. C. F. Baxter, the father of the Mr. Baxter who is now a member of this Chamber, and who helped to have reference to those concerns replaced in the Act. It is ironical and I hope the honourable member will accept that statement in the same spirit as I make it.

So far as the Government is concerned this is a question of principle. I do not cavil at the decision of the House, but I propose to call for a division and to vote against the third reading.

THE HON. N. E. BAXTER (Central) [4.47]: I, too, would like to have a few words to say on the third reading. My late father, referred to by Mr. Griffith, was Minister for Agriculture when the Wyndham Meatworks were established; and, knowing him better than the Minister, naturally, I know that he would not admire me if I did not have the courage of my convictions and if I did not follow up what I thought was the proper principle in relation to these matters. I am quite certain that would have been his attitude. He was a man who believed that times change; and he would have realised that a different set of circumstances could apply in 1960 as compared with 1930—particularly when, as I said at the second reading stage, in 1930 the Government

had no funds at all and it was a case of clutching at any straw, or of using any port in a storm. That is not the case today. I support the third reading.

Question put and a division taken with the following result:—

Ayes—17.

Hon. N. E. Baxter	Hon. F. R. H. Lavery
Hon. G. Bennetts	Hon. A. L. Loton
Hon. E. M. Davies	Hon. C. H. Simpson
Hon. J. J. Garrigan	Hon. H. C. Strickland
Hon. W. R. Hall	Hon. R. Thompson
Hon. E. M. Heenan	Hon. W. F. Willesee
Hon. R. F. Hutchison	Hon. F. J. S. Wise
Hon. G. E. Jeffery	Hon. J. D. Teahan
Hon. A. R. Jones	*(Teller.)*

Noes—12.

Hon. C. R. Abbey	Hon. R. C. Mattiske
Hon. J. Cunningham	Hon. S. T. J. Thompson
Hon. A. F. Griffith	Hon. J. M. Thomson
Hon. J. G. Hislop	Hon. H. K. Watson
Hon. L. A. Logan	Hon. F. D. Willmott
Hon. G. C. MacKinnon	Hon. J. Murray
	(Teller.)

Majority for—5.

Question thus passed.

Bill read a third time and transmitted to the Assembly.

EDUCATION ACT AMENDMENT BILL

First Reading

Bill received from the Assembly; and, on motion by The Hon. L. A. Logan (Minister for Local Government), read a first time.

Second Reading

THE HON. L. A. LOGAN (Midland—Minister for Local Government) [4.52]: I move—

That the Bill be now read a second time.

Several important matters are dealt with in this Bill. One of the proposals is of particular importance because it would remove teachers from the jurisdiction of the Government Employees Promotions Appeal Board and the Public Service Appeal Board. As a consequence of this proposal, it will be desirable for me to explain later two small complementary measures which it is proposed to introduce to amend the Government Employees (Promotions Appeal Board) Act and the Public Service Appeal Board Act.

But I shall first deal with this Bill and explain each proposal in the order in which it is first mentioned. Under clause 3 of the Bill, the long title of the principal Act is to be amended to make provision for the intention to establish a Government school teachers' tribunal. I would in this connection draw the attention of members to clauses 24 and 25 of the Bill which provides for the constitution of this new body, its jurisdiction, and procedure. It will be noticed that these clauses occupy 13 of the 20 pages of the Bill, and I propose a little later to explain several of the more important aspects contained in these pages.

By way of introduction, I should explain that the Director of Education and officers of the department have been more than a little concerned over an extensive period with the conditions affecting teachers' appeals under the provisions of the Acts previously mentioned. There have been occasions in the past when the decisions on salary appeals have entailed a delay of more than 12 months. Delays in hearings of some promotional appeals have necessitated postponing final decisions on school staffing well into the new school year.

Success for one teacher in a promotional appeal could well affect the prospects of several other teachers and also necessitate staffing changes in a number of schools. All this disruption seriously impairs school efficiency, and cannot fail to have some detrimental effect on students themselves. These problems, as also the assessment of teachers, with which I shall deal later, had been the subject of such extensive negotiations between the department and the State School Teachers' Union of Western Australia, that on the 28th April last, the Minister addressed the union at considerable length, and in the most pressing manner pointed out ways and means which he considered should be adopted if the negotiations were to succeed in the foreseeable future.

As a result of the response by the union, proceedings thereafter continued on extremely friendly terms and most frank discussions took place, the Minister himself taking part in some of these; and the over-all result of the positive approach, and the positive response by the union, is the measure which I shall shortly explain to the House.

Before proceeding further, I should add that the draft Bill was submitted to the representatives of the Teachers' Union who expressed themselves as completely satisfied with the proposals. Teachers at present have five boards to which they may appeal regarding particular aspects of the teaching service conditions. The boards are—

(1) The Public Service Appeal Board which deals with appeals on salaries and allowances and appeals against interpretation and application of regulations.

(2) The promotion appeal board which handles appeals against recommended appointments to advertised vacancies.

I might add here that regulations which have been in force for a long period, and which were designed for very different conditions, are inadequate to meet the needs of the present day. This is the case with the present promotional system which was formulated more than thirty years ago and which has become extremely cumbersome

and difficult to operate as the department has grown in size and complexity. The other boards are—

(3) An appeal board under section 37 of the Education Act with jurisdiction to hear appeals on disciplinary action.

(4) A board established under the regulations of the Education Department to hear appeals against rents fixed for departmental houses.

(5) An appeal board which hears appeals by students of teachers' colleges whose courses have been terminated.

The long delays previously referred to are occasioned through the growth of the Education Department, the heavy commitments of the chairmen of these boards and, in some instances, the pressure of their other duties. Chairmen are frequently magistrates who are otherwise heavily engaged and unable to deal expeditiously with such appeals.

Legislation governing promotion and assessment in the Education Department was framed to suit conditions appertaining to the civil service and, consequently, does not take into account the special needs of the teaching profession. It is becoming increasingly difficult to apply the provisions of the Government Employees (Promotions Appeal Board) Act to teachers, and its serious shortcomings are more evident as the department expands.

There are three main objections to persevering under existing conditions. They are—

(1) The long delays which occur in bringing appointments to finality;

(2) the unprofessional atmosphere which tends to develop at the hearings; and

(3) the disruption of school staffing caused through the absence of teachers attending appeals.

The Bill proposes to establish a single full-time tribunal to deal with all the functions at present handled by the five separate boards previously referred to. In the meantime, arrangements have been made for a magistrate to be made available as from the 21st of this month to deal with appeals that are in course.

The Hon. F. J. S. Wise: Does the Minister know how many there are?

The Hon. L. A. LOGAN: No, I cannot say. This special arrangement was effectuated only because of the utmost urgency of these cases. It is hoped that this arrangement will facilitate the clearing up of appeals by a date sufficiently early to enable satisfactory staffing arrangements to be made and teachers made aware of their respective movements.

The sole duty of the tribunal will be to consider and determine matters affecting the conditions of service. A tribunal with greater permanency in membership will acquire a more complete knowledge of the complexity and needs of the Education Department and of the teaching service. This can only lead to more consistency of judgment and a greater degree of efficiency in the handling of cases. Certain advantages can be expected from the projected changes in procedures. It will be possible, while still retaining the teacher's right of appeal in the matter of salaries and allowances, for negotiations to take place between the department and Teachers' Union. Only matters on which agreement cannot be reached will be referred to the tribunal. Many matters regarding conditions of service, now made the subject of much exchange of correspondence as between the department and the teacher or between the department and the Teachers Union, would in future be referred to the tribunal.

All rights of the teachers have been preserved and also there has been some extension in the right of appeal in promotional matters. There will be no exceptions in future: even the most highly paid teachers will have the right of appeal. The jurisdiction of the tribunal shall also extend to the following matters: Application by the union for review of salary and allowances; assessment of efficiency when the teacher is dissatisfied with the procedure used by or the method adopted by the superintendent. The tribunal will be competent to make a decision as a result of an appeal by a teacher or by the union or in matters referred to it by the Minister himself concerning any decision involving the interpretation or application of any Act or regulation governing the service of the teacher or group of teachers. The decision of the tribunal shall in each case be reported in writing by the tribunal to the Governor and the Minister; and effect shall be given to the decision according to its tenor.

Other matters which this body will decide are appeals by a teacher disciplined because of an alleged misconduct or breach of the regulations; an appeal by a trainee-teacher whose course has been terminated by the Minister; an appeal by a teacher against rent charged for departmental quarters; and, finally, the tribunal is competent to hear and determine such other matters as may be prescribed. One of the new procedures which should facilitate the expeditious hearing and deciding of cases appears in paragraph (c) of a new section 37 AI, which makes provision for the evidence of a witness to be given by affidavit when any witness is resident more than 30 miles from the place where the tribunal is sitting.

Under paragraph (g) of the same new section, the tribunal may fix the costs of any appeal, application, or any other matter heard or determined by it, and direct by whom and in what manner the costs

shall be paid. It is proposed under subsection 3 of this section that appellants may be represented by an agent, but no legal practitioner within the meaning of the Legal Practitioners Act, 1893, may appeal on behalf of any such party unless in any particular case the tribunal grants permission. When such permission is granted, it shall be applicable to both parties.

Clause 24 making provision for the constitution of the tribunal provides for three members, and clause 25 makes provision for the appointment of a secretary. A person to be eligible for appointment to the office of chairman needs to be a practitioner, as defined by the Legal Practitioners Act, 1893, of not less than seven years' practice and standing. The chairman will be entitled to hold office for a term of seven years and be eligible for reappointment. The nominee member, nominated by the Minister, and the elected member elected by the members of the union, shall be appointed to hold office for a term of three years and be eligible for reappointment. The Minister may with the approval of the Public Service Commissioner appoint a person who is subject to the provisions of the Public Service Act, 1904, to be secretary to the tribunal; and the remuneration and allowances of the secretary shall be such as the Minister determines.

As previously stated, the tribunal has jurisdiction to hear an appeal by the union for a review of salaries and allowances. The procedure for many years past has provided for the determination of salaries of teachers by the Minister in the first instance. There has been a legal obligation for a reclassification of teachers every five years. In actual fact, reclassifications have taken place recently as frequently as every three years. It is proposed that the next reclassification will be made as at the 31st July next, approximately four and a half years after the last reclassification.

Under the law, as at present existing, the Minister may determine the salaries by publication in the *Government Gazette* under the Public Service Appeal Board Act, or by regulation under the Education Act. Because of the proposal in this Bill to abolish the authority provided under the Public Service Appeal Board Act, the pertinent point arises whether it is desirable for salary regulations, approved by the Governor and by Parliament, to be then subject to appeal and alteration by a separate board of appeal. It is accordingly proposed to amend sections 28 (1), 28 (2), and 28 (2) (a) of the Education Act in order to enable the Minister to make salary determinations for publication in the *Government Gazette*, as is now provided under the Public Service Appeal Board Act. And that, I should think, is a fairly comprehensive explanation of the provisions in the Bill relating to the tribunal and the substituted rights of teachers.

The Education Act was amended in 1955 in order to enable some assistance to be given to non-governmental schools. The assistance given was by way of subsidy in respect of the purchase of projectors and radio equipment. Clause 8 of the Bill provides for an amendment of section 9 (a) of the principal Act to provide for an extension of this subsidy for the purchase of books for school libraries to the extent of one-half of the total cost of the purchase up to a maximum amount equal to the amount of subsidy which would be granted to the school purchasing the books had that school been a governmental school; and, additionally, for the purchase of pianos to the extent of one-half of the total cost of the purchase of not more than one piano in respect of any one school up to a maximum of £125. It has been estimated that the maximum possible additional cost of this provision would be £15,000 in any year. It is not expected, however, that such an amount will be expended even in the first year of operation.

Opportunity has been taken, now that the Education Act has been thrown open for amendment for the highly important purpose of the establishment of the new tribunal, to clear up several administrative requirements. The term "elementary schools" is no longer applicable. It is desirable in the interests of smooth administration to replace this term with the term "primary" and "secondary"; and there are several amendments along these lines. Because of the expansion of the department, some degree of confusion is beginning to creep in, in respect of certain titles of long standing. In order to remove this confusion, it has been decided, in the first instance, to define the "Director" as the "Director-General." This will enable the use of the title "Director" to be applied to the existing divisional superintendents. This provision enables a clear differentiation of titles at Head Office; and from henceforth a superintendent can only mean a "superintendent in the field." Other States have previously adopted this approach, and its adoption here is suited to Western Australian conditions.

It is understood there has been some doubt in the past as to the Minister's power to delegate authority for transfer or promotion of teachers to the permanent head of the department. This doubt is cleared up through the amendment which is proposed to section 7 (2) of the Act. A minor point is to make the terms of reference to the "Teachers College, Claremont" a general term because this is not now the only teachers training college. There is another one at Graylands. Section 3 (1) of the Act defines "Government School." It is now desirable that this

definition should include teachers' colleges and technical colleges as well as technical schools.

A boarding allowance has been paid for many years in respect of pupils. Payment has been made under the regulations, and though no complaint has been made on the question of paying this boarding allowance, there is no clear authority under the Act for such payment. Now is the desirable time for clearing up this matter. There is no specific provision in the Act under which the Minister might specify, by regulation, the import of the phrase "misconduct of teachers." The amendment proposed to section 28 (1) (d) of the Act would enable this to be effectuated. This is a matter in which the Teachers' Union sought an assurance which has been given to the effect that the union view will be taken into consideration before any regulation is promulgated.

The Hon. F. J. S. Wise: Do you know whether that has been given in writing?

The Hon. L. A. LOGAN: I do not know, but I will find out. I will also obtain information regarding the honourable member's other question. It is proposed to delete section 28 (1) (m1) of the Act regarding compulsory treatment of children who are ill. The deletion of this section is considered appropriate in view of the fact that similar provisions are available under the Public Health Act, and these provisions authorise the Commissioner of Public Health to act.

Finally, a committee of departmental and association officers has submitted recommendations in respect of the recognition of the Federation of Parents and Citizens' Associations together with suggestions as to streamlining of machinery matters concerning funds, as also the necessity to delete references in the Act to school boards which no longer operate. The amendments proposed to sections 22 and 27 of the Act meet these requirements.

In recommending this measure to members I feel under an obligation to repeat what has been said in another place regarding this proposal, namely—

> There have been at least two abortive attempts to reach some measure of agreement on this matter so that legislation could be introduced. There was quite naturally and properly an unwillingness to attempt any legislative amendment until a substantial measure of, if not complete, agreement could be obtained between the department and the body of teachers referred to.

There is no doubt that the teachers, over the years, have, through statutory enactments, obtained certain rights, and it is considered these rights have been safeguarded in the drafting of this Bill. I have a letter here which may answer the query raised by Mr. Wise. This letter was written by the Minister for Education on the 28th April, 1960, to the General Secretary, State School Teachers' Union, W.A. Inc. It reads as follows:—

> I acknowledge receipt of your letter of the 15th March, on the subject of the assessment of teachers.
>
> I appreciate the Union's difficulties with regard to the proposed revision of the assessment system and realise that your Executive feels bound by the decisions, reached by the Teachers' Conferences in 1957, 1958 and 1959.
>
> It is not my wish that the Department should impose a system against the wishes of the teaching body. I would point out that the views of the employing authority must be taken into account as well as those of the Union, and that the Department is emphatic that improvements must be effected. It appears to me that the present method of assessing teachers which has been in operation for thirty-five years is in need of revision and overhaul, and I should say that this view is shared not only by the Superintendents, all of whom were themselves teachers, but also by most members of the teaching service who are in a position to form an opinion. I therefore regard the revision of the system of assessment as a matter of urgency and I am anxious that the negotiations which have proceeded for the past five years should be brought to an early conclusion.
>
> The history of the negotiations which have taken place indicates that every effort has been made by the Department to ascertain the views of the teachers and give effect to them wherever possible. At no time has the Department closed the door on further consultation and negotiation, and I have made clear in my previous letter that the proposals already agreed to are not final in their present form, but will be modified in any reasonable way to make them more acceptable to the teaching body.
>
> A point which you seem to have overlooked is that these proposals are not those of the Department but were reached by consultation between Departmental and Union representatives and endorsed by your Executive, and that every request so far received for amendments to make them more acceptable to the teachers has been met.
>
> I read your President's comments on "equal partnership" with interest because I am convinced that this is the basis on which negotiations between the union and the department should proceed. But this implies that both parties to the negotiations must be given power to act so that any

agreement which is reached will be binding on both the department and the union. Negotiations must inevitably break down if one of the parties reserves the right to veto or repudiate any agreement reached by the negotiators. In the present instance the department met the union in good faith and conceded every objection raised, only to find the agreed proposals summarily rejected without any reason being given and without any offer of compromise or further consultation. If, as you state in your letter, the union has a case against the proposals it seems strange that the nature of this case has not previously been disclosed, because as far as I can discover, the only reason advanced for their rejection was that they were unacceptable to the union. However, it is not my purpose to criticise what has happened in the past, but to consider how best to deal with the problems at present confronting the department.

Since my return to office as Minister it has become increasingly apparent to me that in addition to the matter of assessment there is a need to overhaul the whole departmental machinery for the making of promotions and the hearing of appeals. It seems to me that these three matters of assessment, promotion and appeal are interlocked and should be considered together, and I believe, furthermore, that the problems which are being encountered arise mainly from two factors—

(a) Regulations which have been in force for a long period and which, because they were designed for very different conditions, are inadequate to meet the needs of the present day.

This is the case with the present promotional system, which was formulated more than thirty years ago, and has become extremely cumbersome and difficult to operate as the department has grown in size and complexity. There appears to me to be an urgent need to simplify and streamline procedures to allow the system to work more smoothly and to enable teachers to see more clearly the promotional opportunities at the different levels.

(b) The Education Department is covered in appeal matters by legislation which was framed to suit conditions pertaining to the Civil Service and does not take into account the special needs of the teaching profession.

The Promotions Appeal Board Act has proved difficult to apply to teachers' cases, and its effects are growing more serious as the department increases in size.

The Hon. H. K. Watson: In what particular way?

The Hon. L. A. LOGAN: The difficulty of arranging all the different promotions. There are five different appeal boards at the moment.

The Hon. H. K. Watson: That is too many; why not have one for all?

The Hon. L. A. LOGAN: That is what we are seeking to do by this measure. To continue—

Some of the main objections are the long delays which occur in bringing appointments to finality, the unprofessional atmosphere which tends to develop at the hearings, and the disruption to school staffing caused through the absence of teachers attending appeals.

A lot of this is covered in the second reading speech I made, but what I am reading is contained in a letter from the Minister to the union. To continue—

It is to my mind essential that the present Act should be replaced at the earliest possible moment by legislation designed specifically to meet the requirements of the teaching service.

As well as resuming negotiations with a view to devising a more suitable system for assessing teachers, I should also like the representative of the department and the union to meet for the purpose of working out more suitable procedures for dealing with promotions and the hearing of appeals. I believe that the position would best be met by the establishment of a single board which would combine the functions of all the present appeal boards with which the department is concerned. I have not as yet given a great deal of thought to the detailed functioning of such a board, but it should not be difficult to assign to it functions which would enable it to replace the existing boards and make it a more efficient and satisfactory instrument for dealing with teachers' cases. The union would, of course, be represented on the board, as is the case at present, and all the rights of teachers would be conserved; the great advantage from the point of view of the teachers would of course be that the board would be specifically constituted to meet their needs, and would be in a position to take into account the specialised nature of the duties teachers perform.

Before negotiations commence it will be necessary to lay down procedures to avoid the possibility of a repetition of the deadlock which has been reached on the assessment issue. What I propose is that the union and the department should each have two representatives with power to act. In the event of the representatives being unable to reach agreement on any points these would be referred to an independent arbitrator whose decision would be final and binding on both parties. I am convinced that, given goodwill on both sides, a committee operating in this manner would provide the most satisfactory means of developing more suitable machinery to deal with these matters. I think, too, such a committee is the best hope of avoiding the deadlocks which have tended to bog down department and union negotiations in recent years, and I am sure that this proposal must commend itself to your union as being in accordance with your president's pleas for equal partnership in dealing with professional matters.

I shall be glad if the above proposals could be given early consideration by your executive as I am anxious that the representatives should be appointed and negotiations got under way with the least possible delay.

That letter was sent by the Minister for Education. I suppose that as a result of that letter the Minister himself then addressed the union, and following the negotiations which took place this Bill has been drafted with complete agreement between the union and the department.

The Minister has given an undertaking, by letter, that no regulations will be put up until they have been discussed with the union.

On motion by The Hon. F. J. S. Wise, debate adjourned.

GOVERNMENT EMPLOYEES (PROMOTIONS APPEAL BOARD) ACT AMENDMENT BILL

First Reading

Bill received from the Assembly; and, on motion by The Hon. L. A. Logan (Minister for Local Government), read a first time.

Second Reading

THE HON. L. A. LOGAN (Midland—Minister for Local Government) [5.22]: I move—

That the Bill be now read a second time.

This Bill is complementary to—or should I say, consequential on?—the provisions of the Education Act Amendment Bill. The initial amendment accordingly affects the definition of "Department" to the extent that the Education Department is excluded from that definition. As a consequence, the definition of "Employee" in the principal Act requires amendment.

A further consequential amendment requires the alteration of section (5) of the principal Act in order to exclude teachers of Government schools or teachers in training colleges from that section; and, consequently, the two following amendments are necessary.

In the matter of "Unions," it is essential to exclude the Teachers' Union from section 6 of the principal Act. Section 6 (3)(b) makes provision for a representative of the Teachers' Union to sit on the Public Service Promotions Appeal Board when deciding teachers' appeals. The proposed establishment of the new tribunal renders this reference unnecessary.

There are two amendments affecting the use of the word "seniority" as applicable to teachers. Subject to the passing of the important amendments to the Education Act, such reference would now no longer be necessary. It follows that the reference to the Education Act in the schedule of the principal Act would also require deletion.

Members will readily appreciate that the amendments proposed to this Act are, as I have stated, complementary to and consequential on the provisions of the Education Act Amendment Bill, just recently explained.

On motion by The Hon. F. J. S. Wise, debate adjourned.

PUBLIC SERVICE APPEAL BOARD ACT AMENDMENT BILL

First Reading

Bill received from the Assembly; and, on motion by The Hon. L. A. Logan (Minister for Local Government), read a first time.

Second Reading

THE HON. L. A. LOGAN (Midland—Minister for Local Government) [5.25]: I move—

That the Bill be now read a second time.

The amendment to the Act, as proposed by this Bill, is necessitated by the amendments proposed to the Education Act recently explained. The first two amendments provide for the removal of the teaching staff of the Education Department from the provisions of section 2 of the principal Act. The next four amendments serve the same purpose in respect to section 3 of the principal Act.

Section 6 of the Public Service Appeal Board Act would no longer apply should the amendments to the Education Act become law; and, in anticipation of this event, the amendments in clause 5 have been drafted with a view to excluding the Minister for Education from obligations prescribed under the Public Service Appeal

Board Act. Consequently, it is proposed under the next amendment to remove the Teachers' Union from any obligation under Section 7 of the Act.

A further amendment is necessary in order that the permanent head of the Education Department might not in future be obliged to place education problems before the board for decision. A further consequential amendment provided for under the two following clauses serves the same purpose in respect of the Minister for Education.

The final amendment refers to the Elementary Education Act of 1871 which is no longer operative and about which the principal Act should have no concern at all. It is apparent that this measure and the previous one are consequential on the main Bill.

On motion by The Hon. F. J. S. Wise, debate adjourned.

RESERVES BILL

First Reading

Bill received from the Assembly; and on motion by The Hon. A. F. Griffith (Minister for Mines), read a first time.

MILK ACT AMENDMENT BILL

Second Reading

THE HON A. F. GRIFFITH (Suburban—Minister for Mines) [5.28]: I move—

That the Bill be now read a second time.

This Bill deals with three important aspects of the industry—quality of milk; improvements in the industry; and financial aspects as between the board, the suppliers, and the retailers. Some of the provisions of this measure are directed towards strengthening the board's power and authority.

It was considered at the time of the passing of the parent Act in 1946, that that piece of legislation empowered the board to control milk quality from the cow to the consumer. That was the board's interpretation of the law, and regulations were brought down to give effect to that interpretation with a view to enabling the board to take suitable action in the event of milk of an inferior quality being supplied.

As a result of a successful appeal, the Full Court of Western Australia ruled that the relevant regulations were *ultra vires* the Milk Act. Consequently an important provision in the Bill is the correction of that state of affairs. The loss of statutory power to fix a minimum standard poses an otherwise insoluble problem to the board. The Bill provides that one of the functions of the board shall be the fixing of minimum standards for milk and cream, thus preventing a supply of milk and cream which does not comply with the prescribed standard. This provision is considered essential for the maintenance of nutritional value of this basic food at the highest possible standard.

The board, being also a price-fixing authority, is under a direct obligation to pursue every means within its power to standardise this product on the basis of good value for money. The milk industry has become highly organised during the past decade. Conditions differ vastly from those existing in 1946. Approximately seven-tenths of the Perth metropolitan supply is transported in great tankers replenished at the Coolup, Wagerup, Harvey, and Brunswick Junction treatment plants. It is accordingly essential that the board inspectors should be empowered to sample and test milk regularly at the source. Unless provision is made for milk of poor quality being detected at the source, corrective measures cannot be taken, and as a result the proprietors of treatment plants, and milk vendors also, could be placed in a most invidious position.

On the other hand, there is no intention to give any impression, during the explanation of this measure, that the majority of milk producers would market an inferior product. The Minister for Agriculture has given his assurance that the great majority of producers are providing a high quality product. The parent Act provides that licensees may be charged an annual license fee not exceeding 10s. Licensees are required to contribute to the board an amount not exceeding 1½d. in respect of every 5s. of the gross proceeds derived from the licensed business; but that is the maximum figure—1½d.

The actual annual license fee at present is 2s. 6d., and rates of contribution to the administrative fund of the board are: dairymen, eleven-thirtieths of one penny; and milk vendors, five-thirty-seconds of one penny in respect of each 5s. of gross proceeds. In addition to the contributions paid to the administrative costs of the board, dairymen at present may, if they wish to receive compensation for T.B. reactors, contribute to the compensation fund at a rate not exceeding ½d. on each gallon of milk sold by them under the Milk Act. The actual rate at present is one-thirtieth of a penny per gallon, or 1s. 9d. per week for a dairyman on a daily quota of 90 gallons.

Shopkeepers selling less than 500 gallons of milk in any year may pay an annual fee of 10s. and this relieves them from any further contribution. A fee of £1 per annum is payable by a shopkeeper selling 500 gallons, but less than 1,000 gallons. It is proposed to amend section 30 of the Act to make provision for graduated license fees. This will be based on the amount of milk sold or treated, as the case may be, in the year immediately preceding. For

this purpose dairymen and milk vendors would be divided into groups and a fee fixed for each of the several groups. The system proposed represents a more simplified method of finance than the present rather involved one.

It is proposed that the over-all fee be payable on application for a license. This fee would discharge the licensee's obligation to the board's administration and compensation funds for that year. The present system requires the submission of monthly returns by licensees. These have to be assessed and advices sent to the licensees. Appropriate accounts need to be credited with moneys received and receipts issued. As indicated previously, the board considers it to be an unnecessarily complicated method of raising finance. The system proposed is more economical and streamlined, and would obviate certain existing difficulties.

The present method was designed to meet the requirements of times and conditions long passed when many persons engaged in the industry, particularly the farmers, were very badly off financially and not in a position to pay even a moderate annual fee in full in advance.

The wholemilk industry is well known to be in a much-improved position these days as compared with, say, the early thirties. In view of this fact, there is no question but that the payment of the whole amount due to the board in one sum would not impose any hardship on either dairymen, milk vendors or proprietors of treatment plants. It has also been accepted that the industry itself should meet the costs of the board entrusted with its regulation. This is particularly so in the case of the Milk Board which has so greatly benefited the wholemilk industry.

It is proposed that the board fix fees annually, and though it is expected that the amount payable will be practically the same as at present, special rises in costs and contingencies cannot be estimated. However, such rises would be purely relative in the over all, and under the new graduated scheme producers in the future will not suffer through the new fee-fixing method. It is desired to include the compensation fund payment in the total fee so that the board may be able to deduct an agreed amount from the fee and credit it to the fund. Though this would have the effect of making the compensation fee compulsory, there should be no quibble on this score, because the present rate is only one-thirtieth of a penny per gallon per day.

The Bill makes provision for a continuation of the Government's contribution to the compensation fund on a pound for pound basis for dairymen. Such success has accompanied this anti-T.B. drive that we are now in the happy position in Western Australia of being able to claim with confidence that the contraction of bovine tuberculosis by humans has been practically eliminated.

Section 62 of the Act empowers the board to submit at any time to the Minister a scheme for the improvement of the supply, treatment, sale, and distribution of milk to consumers. Upon approval by the Minister, a scheme may be put into effect. The board is now giving consideration to a scheme whereby producers of poor quality milk may be assisted and encouraged to overcome their apparent difficulties, thereby lifting eventually the standard of their product. Nevertheless, to make such a scheme workable, there needs to be provision for certain action to be taken in respect of producers continually supplying inferior milk.

Under the proposed amendment, they would be stood down from supplying, in which case the purchase of their product by the proprietor of a treatment plant would be subject to penalty. The Bill provides the necessary machinery measures for effecting such a scheme. Paragraph (a) of clause (3) rectifies an obvious typographical error. I recommend this measure wholeheartedly to members, and would add that the principal amendments have a bearing on the good health of the community.

THE HON. N. E. BAXTER (Central) [5.38]: I am more than pleased to see this Bill before the House. Some four or five years have passed since I first tried to impress upon members of Parliament of the various political parties that a Bill of this type was needed. The provisions of this measure deal, in the main, with license fees and the licenses relating to the different categories of producers. There are also provisions which will enable the board to fix the standard of milk and cream which, according to a court ruling given on the board's powers, it is not able to do under the existing Act.

The Bill also outlines a scheme for the improvement of milk production; and it seeks to impose penalties on persons including the holders of licenses, for breaches of the Act. Being a member of a committee that has been discussing this matter for some months, in co-operation with the Minister for Agriculture, I have been assured that the Bill will be followed by a scheme for milk improvement which will deal with the producer. If members will look at the report of the Milk Board of Western Australia for 1960, page 19, they will find some details of suggested schemes for milk improvement. The scheme will, of course, be first submitted to the Minister and finally approved by the Governor. Naturally, if it is adopted,

it must be published in the *Government Gazette*. The following appears on page 19 of the Milk Board's report:—

> The purpose of the scheme was to prevent the purchase of under-standard milk from dairymen by treatment plants who hold milk vendors' licenses and also to prevent its supply to consumers.
>
> It was recommended that under such a scheme a dairyman whose milk, on the report of an analyst, appointed under the Milk Act, had been found to be of a chemical quality of less than 3.2 per cent. fat and 8.5 per cent. solids-not-fat on two occasions within a period of three months, and such dairyman had been so advised by the Board and his milk was again found on analysis to be under-standard, the Board may instruct such dairyman, by notice as prescribed, that his milk cannot be sold under the Milk Act until such time as he demonstrated to the Board that he could supply milk of the quality required under the Act, and the Board consented to his resuming the sale of milk.

Therefore, as can be seen, a dairyman will be given a period of up to three months to bring his milk up to standard. It is then up to the board, at its discretion, to advise him, if he has not been successful in his efforts within that period, that he will not be allowed to supply wholemilk and he will have to divert his milk supplies to a butter factory or cheese factory, or use the milk for some purpose other than milk treatment.

It is envisaged that assistance will be rendered to a producer whose milk supplies have fallen below standard in order that he may regain his position in the industry. I point out to members that this situation is not common to Western Australia alone, but the problem is considered to be very great in other parts of the world. I had in my possession a report issued by a milk committee which was appointed in England to inquire into this problem, but some time ago I left it at the Department of Agriculture for the information of the Minister and his officers. That report was quite a detailed survey of the position in the United Kingdom. It showed that the conditions in that country, although appearing to be better than ours, are just the same in regard to under-standard solids-not-fats.

My investigations into this problem led me to believe that, in the majority of cases, the seasonal conditions, particularly during one period of the year—that is, from about March to April—are the cause of the production of under-standard solids-not-fat milk. This is especially so on dry farms where the fodder and the conditions are unsuitable for a high standard production of milk. The proposed conditions which are to be laid down under the milk improvement scheme give the producer an opportunity, during that bad season of the year, to tide himself over; and the scheme will also give the Milk Board and officers of the department the opportunity, at a later stage, to assist that producer in the following season, especially from the commencement of that period of the year when conditions are unsuitable; that is, from March to April. The object of this assistance will be to try to counteract the effect of the unsuitable conditions and to build up his herd so that it will produce milk of the standard required.

The leading article in this morning's issue of *The West Australian* was rather interesting. It suggested that a Select Committee be appointed to inquire into this matter. Apparently the writer was completely unaware that a committee has been in existence for this purpose under the jurisdiction of the Minister for Agriculture. Nevertheless, the writer of the article referred to one facet of this business with which I agree. He pointed out that in this State there are two authorities which have the necessary powers to take samples of milk and have them analysed; and, if they are found to be under-standard, to take action for prosecution. These two authorities are the Milk Board, which has power under the Milk Act, and each local health authority which has power under the Health Act, not only in the City of Perth but also in the country areas.

I earnestly believe that this matter should be administered by one authority, because if any person can suffer as a result of two authorities being in charge, he is the primary producer. It is a pity this matter was not adjusted during the present session when the Health Act was being amended.

I am pleased to see this Bill being introduced. I am sure it will be the means of giving more confidence to milk producers in the future. In the past we have found that the imposition of fines and the launching of prosecutions have not answered this problem which faces the milk-producing industry. Under the Bill the problem is being approached in a much more sensible manner.

I must express my appreciation to the Minister for Agriculture who was most co-operative in his deliberations with the committee dealing with the industry. He helped the committee as much as he could, and the members of the committee also helped him in return. It is only by such co-operation that the industry will get anywhere. I support the Bill wholeheartedly.

THE HON. G. BENNETTS (South-East) [5.46]: I support this measure. During the second reading the Minister told us how far this State has gone in ensuring that milk is supplied in hygienic and clean conditions. Reverting to the days around 1902, when the late Mr. Alfred travelled overland from the Eastern States with a

herd of cattle and settled at Trafalgar on the goldfields, the conditions of milk production were vastly different.

Today the system of milk production and distribution is of a high order; it is pretty foolproof. The conditions in this State can be likened to the conditions at Whyalla in South Australia. When I visited Whyalla some years ago I found that the dairy herds were in first-class order, and the conditions under which they were milked were second to none. The cattle-run was built near the dairy itself, and the cattle coming in to be milked had to walk through a tunnel. A terrific draft of air was directed through the tunnel, and this blew the loose hair and dust off the animals as they walked through to the milking pens. On reaching the pens the animals were sheeted. Everything possible that could be done was done to ensure that the milk was extracted in a hygienic and clean condition.

I was a friend of the Alfred's. On one occasion all the members of the family were stricken with influenza. I was asked to go over to give them a hand during their illness. The milking was done in this manner: The dairy herd was driven into the yard and each cow was led by the ear into a milking pen. If the cow was not in the right position the practice was to screw its tail and slap it on the hindquarters to bring it into position. The milking then proceeded. After the milking was completed the cans were cleaned with hot water and a scrubbing brush.

From that it will be seen that conditions are vastly different today. With the establishment of the Milk Board and the improved legislation which has been passed in this State, the quality of the milk and its hygienic production have been ensured.

In 1956, when I was employed on the Commonwealth Railways, I was on the platform at the Kalgoorlie Railway Station when trains arrived and departed. Milk was sent from Perth in those days in cans. These cans were transported in the brake-van, which also contained the mailbags and livestock. Wet bags were placed over these cans of milk when the train left Perth. After the cans were unloaded in Kalgoorlie the bags were thrown aside to be returned to Perth when the cans were emptied. Many dogs used to pollute the cans and the bags while they were at the station. Subsequently the bags would be dumped into the empty cans to be returned by train to Perth. All that has been overcome by the introduction of the bottle system of milk distribution and the introduction of the tanker method of transporting milk to Kalgoorlie.

As a member of the Kalgoorlie Municipal Council at one time, I was aware that the health inspector carried out his duty of inspecting the quality and standard of milk in an efficient manner. In those days, milk was watered down on many occasions. A person was never at a loss to add a few drops of water to the milk when he was running short; but that does not happen today. By the closer inspection now made, and by the improved legislation relating to the quality of milk, there is no danger of malpractice. We have reached the stage when the public no longer has any fear of contracting disease from consuming milk.

On motion by The Hon. J. G. Hislop, debate adjourned.

GOVERNMENT RAILWAYS ACT AMENDMENT BILL

Second Reading

Debate resumed from the 10th November.

THE HON. J. D. TEAHAN (North-East) [5.52]: This Bill, which seeks to amend the Railways Act, has been introduced mainly for the purpose of clearing up some anomalies, especially those relating to penalties which may be imposed for offences against the Railways Act; and of bringing the penalties up to date in line with the changing values of money.

One amendment seeks to have the investigating officers appointed to the Railways Department trained by the Police Department. In the past the investigating officers have done their work to the best of their ability; but to have them trained by the Police Department in the future will be an improvement. The appointment of investigating officers afforded the Railways Department protection. We should realise that it takes a long period to train a person to become an investigating officer, and the method proposed in the Bill will be an improvement. The new method of training these officers will have the effect of curbing the pilfering of goods transported by the railways. Should this prove to be so, I am sure the unions will be very pleased, because they do not desire their members to be lightfingered.

It is an offence to cross a railway line when locomotives are within one quarter of a mile. Today many crossings are fitted with automatic light signals; therefore this provision is somewhat out of date. While it has to be retained to cover the position at centres where there are no automatic signals, it will be of no value at others.

Another offence is to travel on a train without a ticket. With the alterations in the railway system, this provision is out of date. Many stations which were attended for years are now unattended, and there is a system for the collection of fares while the passengers are aboard the train. The Act will have to be amended by deleting the reference to this penalty.

There is a wise provision in the Bill which will enable the Commissioner of Railways and the Minister to arrange for special freight rates. Today competition is very keen and the railway system is losing

business year by year to road transport. To enable the Railways Department to meet the competition from road transport it is essential for the Commissioner and the Minister to be empowered to offer special freight rates with a view to recapturing some of the lost traffic.

There is a disquieting provision in the Bill, which the Minister should explain in detail when he replies to the debate. It seeks to give the commissioner the right to inflict a double penalty on an employee of the department for certain types of offences. At one time, when dealing with an employee, a penalty imposed under the Traffic Act would not be regarded as a penalty under the Government Railways Act. Today the position has changed, because the department runs many road vehicles. The driver of such a vehicle could be charged in the local court with negligent driving and the appropriate penalty could be inflicted on him. In my view that is sufficient punishment; but under the Bill power is sought to enable the Commissioner of Railways to inflict a further penalty for the same offence.

If an employee of the department is penalised by being transferred to another district, it is a severe penalty. This person may have children attending various schools, and his home may be established in the district. To be transferred to another centre at certain stages of a person's career is a severe penalty. While I support the second reading, I hope that in the Committee stage the provision relating to the imposition of a double penalty will be removed from the Bill.

THE HON. G. E. JEFFERY (Suburban) [5.59]: I support the second reading of this Bill. I take no exception to most of the provisions in it, although there are a couple about which I am not quite happy. Most of the amendments in the Bill seek to tidy up provisions of the parent Act which have become obsolete with the passage of time. These relate to penalties which may be inflicted under the Act. As these penalties were prescribed somewhere around 1904, with the passing of 56 years it is not before time that they were brought up to date and into line with modern standards.

The first major proposal in the Bill is that the responsibility for payment of demurrage by consignors shall be determined clearly. All that the provision does is to put in legal parlance a practice which has been going on for years. There has been no argument as to the party responsible for the payment of demurrage. The provision seeks to tidy up a practice which has been in existence ever since the railways started operating in this State.

One provision about which I am not very happy is that which caters for the appointment of special constables within the Western Australian Government Railways system. There are too many half-baked schemes being brought into operation. The Minister told us, when introducing the measure, that in the Eastern States members of the Police Force are attached for periods to the Railway Department to perform these duties. That would be a much better arrangement to establish in Western Australia than to appoint special constables.

The same system obtained at the Fremantle wharves at one stage. The Police Force on the wharves belonged to the Fremantle Harbour Trust. Now they operate from a station which, in effect, is really a suburban police station. That is a much better scheme. When it is all boiled down, a policeman is responsible to the people of this State. He is not biased—or should not be—in the execution of his duties.

If a man is employed to perform these duties and is not a member of the Police Force, he may be asked to act in a manner which would not be impartial; and this would not be right. For this reason the Minister should reconsider this provision and stipulate that the duties should be performed by policemen and not by special constables appointed in the railway system. I am not condoning thefts in the railways or anywhere else; but I suggest it is a serious matter for anyone to be charged with theft, and especially in a Government service, because there a person would not only be punished but would lose his position and a lot of privileges that go with it.

I have a vivid recollection of an incident which occurred about two years ago. A Midland Junction Workshop employee, under this half-baked scheme, pleaded guilty to a charge of theft, because he thought that by doing so he would receive a lighter penalty. Of course he did not realise the full ramifications of the situation. He was found guilty, naturally, because he had pleaded guilty, and the penalty was imposed. Subsequently, when the facts became known, the magistrate concerned took a personal interest in the case. I felt that was a very wonderful gesture on his part. The conviction was ultimately quashed and the individual was restored to his position. He had not been guilty in the first place.

This sort of thing does happen in the best of societies, but there would be less chance of its occurring if members of the Police Force were attached to the railway service for a period, rather than special constables being appointed to carry out the same duties.

The Hon. C. H. Simpson: Who was the magistrate involved in the incident to which you referred?

The Hon. G. E. JEFFERY: It was the magistrate who was sitting in the gallery not so long ago—Mr. Taylor. If members

wish to pursue the matter further, I am sure that if they contacted him he would be prepared to supply them with the details. I do not desire to discuss the matter further because I do not want to mention the employee's name. The point is that if it is desired that the duties of the Police Force should be performed then let them be performed by the members of the Police Force.

Repeating myself, I think it is most important that members of the Police Force be attached to the service because they are responsible to the Commissioner of Police and the Government of the State. Special constables who would be employed by the Railways Department would be subject to the dictates of their employer. For this reason the Minister would be well advised to reconsider the position and, as is done in the other States, attach members of the Police Force to the railway system.

The Bill makes provision for higher penalties for various breaches of different by-laws, and I do not think there is a great deal of argument that can be raised in connection with them. Likewise, the amount of £10 which is payable for damages incurred to goods in transit, has been increased to £25. I think that is a fair and reasonable proposition because those desirous of consigning goods by the railways will find the proposition a little more attractive.

I was very pleased to read the provision which will allow the railway commissioner or his officers to enter into special contracts regarding the cartage of certain freights. Being one who has a great affection for the railway system and its staff in this State, I am exceedingly pleased with that provision; and I hope that, with its assistance, the department will be able to obtain some of the freight it has in mind. I believe that all members, whether from rural or metropolitan areas, will be equally pleased about this provision because if some of this extra freight is obtained by the Railways Department, the railway deficit will be reduced and the railway system placed on a sounder basis.

I am not so sure that the increase in the penalty for a person who enters a railway crossing against the lights is a good one. The increase is from £50 to £100, and I do not believe it will have the desired effect. I do not condone the offence, but it is quite an easy one to commit; especially in the metropolitan area on some of the more popular roads such as the one which intersects the Rivervale crossing, and the one at Swan Street, Guildford. No-one in his right senses would attempt to go through lights; only the fool on the road who crops up anywhere.

Therefore, as it is an easy offence to commit, I think the penalty of £50 is sufficient because, after all, the alternative is to be buried in Karrakatta. I do not wish to argue the point any more, but I do not think the increased penalty will reduce the number of offences.

The amendment to section 51, which deals with drunkenness, contains another contentious provision, and I do not think it will in any way reduce the number of offences; nor will it affect the operation of the railway system or assist in deciding whether a person is guilty or not. It must be realised that enough difficulty is already experienced in trying to establish whether or not a person is drunk. Now it is intended that the section will also apply to those who are under the influence of liquor or drugs.

Frankly I believe that this provision will place the railway officers in a very invidious position with their workmates. After all, they all have to work with one another subsequently; and this is such a serious matter, and the penalties imposed are so heavy, that a railway officer will be most reluctant to carry out the provisions of this legislation if it becomes law. If I were an officer in the department I would be very reluctant to take action unless I was very sure of the situation.

I suggest that the Railway Officers' Union might be able to approach the Arbitration Court for a disability allowance in its award when it is realised that an officer has to smell the employee's breath to determine whether he is under the influence of drink. Every day we read in the Press of arguments between the members of the medical profession as to what constitutes being under the influence of liquor. In our Police Court news reports we read of these professional men arguing whether a man was, or was not drunk. Therefore, imagine the situation if the decision were placed in the hands of laymen who would merely decide by smelling a person's breath and sizing up his general demeanour and appearance. By those methods only is the layman going to be able to ascertain whether or not an employee is under the influence of liquor or drugs. Some funny decisions are going to be made.

It must be remembered that, despite the stories we have heard of employees being "full," the safety record of the Railways Department over the years proves conclusively that this offence is rarely committed. Most of the accidents which have taken place in the railways have been brought about largely by the economic position of the State since the war. A lot of accidents were caused by the lack of maintenance during those difficult years. Therefore I believe that this section is one which could be left alone. The Act as it stands provides for a man who is found drunk on the job. It would not be wise to include the proposed amendment to this section. As I have said, professional men argue about the matter; and, therefore, it would be very dangerous to place the interpretation of such an important

question as this in the hands of laymen —railway officials, who would be reluctant to take action because of the nature of the penalties.

Incidentally I notice that the penalty in the parent Act is a most unusual one. A person can be taken before two justices and can either be imprisoned for six months or fined £50. This is another matter the Minister should study. I am not going to say that £50 is too much or not enough; but there is a great difference between a man being fined £50 and a man being sent to gaol for six months.

The Hon. L. A. Logan: The penalty is to be increased to £100.

The Hon. G. E. JEFFERY: I know which punishment I would prefer. I believe that the situation regarding the transfer of an individual is clear as it exists under the principal Act; and it is admirable, because an employee has the right of appeal to the board if he is wrongly penalised. It is very foolish of the Government to tinker with this matter at all because, quite frankly, the infliction of the penalty of being transferred, as well as having to pay one's own expenses, is not a sound one so far as the employee is concerned.

An employee could be found guilty, and depending on the circumstances and the attitude of his superior officer, so he will be punished. For instance one man could be transferred, the expenses associated with such transfer being an insignificant sum of £15 or £20. Another offender might be involved in transfer expenses of £100, although he would have committed the same offence. I suggest the Government could easily withdraw the proposed amendment and leave the Act as it is. Despite all that has been said, I believe the railway appeal board has done a very good job, and it has a respect for the employees and the commissioner. I do not believe in tinkering with this type of situation because it has been very fairly administered by the board which is in existence.

With the exclusion of those items, the measure can be supported without any fears or doubts. Most of the other amendments are consequential.

Another important point, however, is that of travelling on the railway system without a ticket. As admitted by the Minister, a lot of commonsense will be necessary in the enforcement of this amendment, if it is agreed to. On the first Monday morning in the month it is very difficult to purchase a ticket at a suburban station which is staffed, because the officials are not only trying to issue weekly tickets, but also monthly tickets and, at certain times, quarterly tickets to schoolchildren. It is easy to join a train at such a station and be unable to purchase a ticket.

The Perth Station, which is one where many people dodge buying a ticket, could be improved. At the moment the offenders leave the train and walk through the bar straight into the street. However, as I have said, provision is being made to prevent that occurrence. Thousands of pounds must have been lost in that way.

As I have said, commonsense will be necessary for the enforcement of this provision, and I hope that it will prevail. If so, I think we can support it. However, I have always been doubtful whether the original intention of Parliament finally prevails. Legislation is passed and subsequently, when it is in actual practice, the sad conclusion is reached that there is a big difference between what was in the minds of members at the time Parliament passed the legislation and the way in which the legislation is enforced.

Be that as it may, with the exception of the appointment of special constables; the power to penalise, to my mind, unfairly; and the provision for penalising a man under the influence of drink or drugs, I support the Bill.

Sitting suspended from 6.15 to 7.30 p.m.

THE HON. F. R. H. LAVERY (West) [7.30]: In rising to support the Bill, I do so with the usual reservation that there are one or two clauses I wish to criticise. By and large it is a Committee Bill. There are three points on which I wish to speak. The first is in regard to clause 3 which prescribes the powers, authorities, and duties of, and the form of authority to be furnished to special constables.

We read a lot in the Press of another country where the military state and the police state take effect. As this session comes to a close I am beginning to wonder whether we are going to pass any legislation of a non-restrictive type. Reading through my records of orders of the day I find that almost without exception the whole of the legislation this year has been of a restrictive type.

I endorse the suggestion made by Mr. Jeffery—as a matter of fact, he quoted my thoughts on the matter—that constables, as outlined in this Bill, who are now being trained by the Police Department will never be complete members of the constabulary and will therefore always be open to suspicion. As Mr. Jeffery pointed out, the position will always remain where they will have to do what the boss tells them.

I suppose we could say the same thing with regard to the Police Force in that what the commissioner orders police officers to do, within the law, they have to do. Having worked in private industry for a great number of years, I am one of those people who believe that we are working towards a state of what I might call Americanised efficiency, and towards a type of police state.

I do not mean that in any derogatory manner. But we are getting efficiency experts from America, and we read in the Press where clerks in offices are being displaced by machines. We have proof of that in the Federal Social Services office here in Perth, where a number of employees have been displaced by machines. I am beginning to wonder whether, if we are going to have special constables in the Railways Department, as outlined in the Bill, they cannot be what the Minister says they should be. We are told by the Minister that in the Eastern States the police are seconded to the Railways Departments to do this work. I believe that is the proper way.

To a certain extent we have to agree with Mr. Teahan that, when it comes to transportation of public goods, we have to protect those goods because they belong to a vast number of people in this State. If we are going to have the Police Force carry out this type of work, I believe they should be under the control of the Commissioner of Police. That has been my opinion for a long time.

Clause 11, according to the Minister's notes, makes it an offence for a passenger to attempt to leave a railway station without tendering the appropriate fare. I believe it is right that the person to be punished should not be the railway employee, or tramway or bus employee, who does not collect the fair, but the person who does not pay the fare.

If a service is provided, I expect the person who serves me to give me what I am paying for, even if I merely go into a shop to buy a bag of fruit. If I get on a bus or a tram I should be expected to pay my fare for the services rendered to me. I recollect that while I was in Sydney a couple of years ago there was a furore going on in the tramway system because the head of the system had a number of employees up for not collecting fares. As members know, I came up through the Transport Workers' Union; and employees with whom I spoke pointed out that some members of the public were very cunning. They studied the conductor, and they boarded a tram and stood in a certain position; and they deliberately boarded the tram with the intention of not paying their fare. I think this clause is a very good one.

During the last hockey season I was travelling by train to Fremantle. On the train was a group of young fellows—lads in the 15-16 year age group—who were going to Fremantle to play hockey. A number of fellows in this group attempted to evade paying their fares by saying they were under 14. The conductor was trying to do the right thing by the department by collecting the correct fares, and the stage was reached where this group of young people had the conductor harassed. I took my gold pass out of my pocket and I said to the group, "I am an inspector. I saw that officer try to collect your fares; now, you pay your fares." Each one paid up, and the conductor thanked me afterwards for what I did. I did that because, having been so long in the passenger industry, I know what it is to see people trying to dodge paying their fares. Clause 11 is one which I think we should all support.

My final point is again in regard to the amended section 73. In 1948 a proviso was added as follows:—

> Provided that no fine shall be inflicted under this section for any act or omission for which an officer or servant has been punished under section thirty-one or thirty-two of the Traffic Act, 1919-1948, and provided that the Commission shall not inflict on any such officer or servant more than one form of punishment for the same offence.

The Minister made the following statement:—

> This proviso has been interpreted as meaning that where an employee in the course of his duty has been driving a departmental vehicle and has contravened a provision of the Traffic Act which has resulted in his being punished under sections 31 and 32 of that Act, the department could not also fine such employee for that same offence although it left it open to the department to inflict some other form of punishment.

It has to be accepted that the Railways Department today is also a road transport department; and the employees driving the department's vehicles are subject to traffic regulations the same as is every member of this Chamber. In the industry in which I worked, if a driver was not carrying out his duties the employer had the right to take him off the road and give him some other job. But where the driver was fined for a breach of the traffic regulations, he had to report to the company—I am speaking of private enterprise—and the company either accepted or rejected his explanation and dealt with him accordingly.

Commonsense is necessary in these matters. If a man has been a driver for any length of time, that fact must prove to the department that he is efficient to do the work. I am speaking on behalf of the road transport driver. Otherwise the department would have taken him off the road some time before. If he has committed a breach—I would exclude drunken driving—and the commissioner thinks it would be best to take him off the road, then it is my belief that we should oppose this clause; because if a man has had a sentence imposed upon him and he is shifted from one district to another, it could cause a big upset in the financial and economic balance of his family.

As far as I am concerned, I do not believe this clause will be as beneficial as the Minister or the commissioner believes it will be; that is, if the commissioner is going to use it, as the Minister is trying to tell us he is. The commissioner does not always make these decisions; they are made by officers lower down.

I repeat, that if a person whether he is an employee within private industry or the railways—has been doing a job over a period of time it is quite obvious that he is sufficiently capable of carrying on the work; and if he has committed a minor offence he should not be punished twice. I would not fine a drunken driver £100, but would take his license away from him.

The Hon. L. A. Logan: What are you going to do with him after you have taken his license away?

The Hon. F. R. H. LAVERY: I think I was fair enough to suggest that if his license was taken away from him, the commissioner had the right to shift him to another job.

The Hon. L. A. Logan: Not unless you alter the Act.

The Hon. F. R. H. LAVERY: He also has the right to dismiss him. I have had to pay for any sins I have committed. I think the Minister's interjection is fair. I would not fine a drunken driver £100, but would take his license away from him. With those remarks I support the Bill.

THE HON. L. A. LOGAN (Midland—Minister for Local Government—in reply) [7.45]: There are only three phases of the Bill which have received any criticism. The first is in respect of police officers; the second the double penalty; and, the third, which was raised by Mr. Jeffery, is in respect to an employee being drunk or under the influence of intoxicating liquor or drugs.

Taking the first point—the one in regard to police officers—I would remind members that a provision in respect of this matter is already in the Act; so I do not know what they are quibbling about. All we are doing by passing this Bill is allowing that provision to be put into effect. It has been found in the past that the commissioner has not been able to put into effect what was originally intended, and this is to rectify the position. Up to date the commissioner has not had the power to do what he wanted to do, and the work has been done by the Railways Investigation Branch.

If members cast their minds back to the time of the recent Royal Commission into the Railways Department, and into this particular branch of the department, they will recall that the men who were employed as investigation officers were not shown up in a very good light. It was because of their lack of training that the Royal Commissioner recommended that police officers be appointed for this work. He recommended that those officers be trained and appointed, and the regulations altered to give effect to that set-up.

When we appoint a Royal Commissioner to do a job, and he makes the necessary investigations and takes all the evidence required, it is up to us to follow out his recommendations wherever they are practicable. On the evidence produced the investigation branch did not stand out in a very good light.

The Hon. F. R. H. Lavery: They should be fully qualified policemen.

The Hon. G. E. Jeffery: That is all the more reason why we should have members of the Police Force doing the job and attached to the department.

The Hon. L. A. LOGAN: We must remember that from a railway point of view it is a special class of work. What is the difference if the department takes two officers off the streets and puts them in the railway yard under the control and regulations of the Railways Department; or if it trains two fellows for the work? Both principles are the same.

The Hon. G. E. Jeffery: Under one they will be controlled by the Commissioner of Police.

The Hon. L. A. LOGAN: No. They will be under the control of the Commissioner of Railways while on commission property. What is the good of doing what the honourable member wants to do? We might as well leave them outside the boundaries.

The Hon. J. G. Hislop: What is the length of their training?

The Hon. L. A. LOGAN: Six months. They will spend six months under the Commissioner of Police before they are transferred to the railways. I admit that it is not a very long period of training but they will be officers with some capabilities before they start their training. I repeat: This provision has been in the Act for some time without the necessary power to enable it to be put into effect.

As regards the second point—the double penalty—I think Mr. Lavery answered the question better than I could. A man who has been convicted of drunken driving, and who has had his license taken from him, will have to stay on the job unless we give the commissioner the power provided by this Bill to transfer him somewhere else. It appears to me as though members have an idea that a transfer in the Railways Department is a penalty. It is not a penalty; it is part and parcel of the job.

The Hon. F. R. H. Lavery: It is a penalty to a lot of people.

The Hon. L. A. LOGAN: No; it is part and parcel of the job. Men in the Railways Department are getting transferred every week. I know of many men who have been transferred from Geraldton to Perth. Men in the Railways Department are transferred all over the State; it is part and parcel of their work.

The Hon. F. R. H. Lavery: But it is still a penalty; you cannot get away from that.

The PRESIDENT: Order!

The Hon. L. A. LOGAN: A man might be transferred from Midland Junction to Meekatharra or Leonora. Is there any difference between his being transferred at the request of the Commissioner of Railways or at his own request? If a man is transferred to Leonora or Marble Bar—I should not have said that name because there is no railway there now—

The Hon. J. J. Garrigan: Under the Act—

The Hon. L. A. LOGAN: It is not a matter of the Act at all. If the Commissioner says to Tom Brown, "You are being transferred to Leonora," and Tom Brown has a house in Midland Junction, some members say it is a penalty. It is not a penalty at all; it is part and parcel of his job.

The Hon. F. R. H. Lavery: Of course it is a penalty.

The Hon. L. A. LOGAN: It is part of his employment.

The Hon. F. R. H. Lavery: But don't say it isn't a penalty.

The Hon. L. A. LOGAN: It is not a penalty; it is part of his employment.

The Hon. F. R. H. Lavery: It is an economic penalty.

The Hon. L. A. LOGAN: It is part of his employment and that is governed by different awards.

The Hon. G. Bennetts: He might be on a certain grade and to get promotion he has to go where he is sent.

The Hon. L. A. LOGAN: If a man is demoted because of a misdemeanour, and there is no job available for him in the area, what else can the commissioner do but transfer him?

The Hon. G. Bennetts: I had to go away myself once on promotion.

The PRESIDENT: Order! Might I suggest that the Minister address the Chair to avoid so many interjections.

The Hon. L. A. LOGAN: I am sorry, Mr. President; I am trying to point out the necessity for having these clauses in the Bill. What members want to do is put the man who applies for a transfer, of his own accord, on a worse footing.

The Hon. F. R. H. Lavery: No.

The Hon. L. A. LOGAN: Yes. He will be on a worse footing than the man who is guilty of a misdemeanour and has been demoted and transferred. That is what members want to do.

The Hon. F. R. H. Lavery: No.

The Hon. L. A. LOGAN: That is exactly what will happen.

The Hon. F. R. H. Lavery: That is not what would happen.

The Hon. L. A. LOGAN: Today a man who is transferred at the request of the Commissioner of Railways has fares paid for himself, his wife, and his family. In addition he gets travelling time and he is given the day off before he goes to enable him to pack, and the day after he gets to his destination to enable him to unpack. He also gets free freight on the furniture and is paid £10 to cover the cost of taking the furniture from the railway station to his home.

Where a man asks to be transferred he gets paid travelling expenses for his wife, himself, and his family, and he gets his furniture transported free of cost. But that is all he gets if he applies for a transfer. If members allow the Bill to remain in its present form the man who is demoted because of some misdemeanour, and has to be transferred because there is no job available for him in the area, will get exactly the same concessions as the man who applies to be transferred. Is that too much to ask?

The Hon. H. C. Strickland: Of course.

The Hon. L. A. LOGAN: If a man is demoted because of some misdemeanour, and there is no job available for him in that new classification in the area in which he is stationed, and he has to be transferred to enable him to fulfil his functions as an employee of the Railways Department, he gets free transport for himself, his wife, and his family; and his furniture is transported free of cost. Surely that is not a great penalty to pay. After all, he was the one who committed the misdemeanour.

The Hon. G. E. Jeffery: But it might cost him a couple of hundred pounds a year as well.

The Hon. L. A. LOGAN: That is his fault. He is the one who was guilty of the misdemeanour.

The Hon. G. E. Jeffery: Do you want to belt him forever?

The Hon. L. A. LOGAN: It is not a case of that at all! Where can he go? Does the honourable member want to pay him £100 a week while he is being transferred? If the Bill is not left as it is we will have the position where a railway employee transferred at his own request will receive less than the man who has committed some misdemeanour. I do not think any honourable member wants that.

The Hon. H. C. Strickland: This Bill does not deal with that aspect.

The Hon. L. A. LOGAN: Yes it does.

The Hon. H. C. Strickland: No, it does not.

The Hon. L. A. LOGAN: Yes it does. The honourable member has to remember that under the Act as it stands the man who has been suspended cannot be demoted and taken back. That cannot be done today because a suspension is

classed as a penalty. Unless he is a very good employee he takes the risk today of being sacked because he cannot be sent anywhere else. If honourable members are not going to allow the second penalty—as they have called it; but I do not call it a penalty at all—to be applied that will be the position.

In my view it is not a penalty because a transfer is part and parcel of a railwayman's work—to be sent anywhere in the State where the railway service operates.

As regards the third point, dealing with changing the word "drunk" to the words "under the influence of intoxicating liquor or of any drug," Mr. Jeffery admitted that there were not many charges under this section. That is quite true, because it is almost impossible to prove that a man is drunk. But I venture to say that there have been many cases in the Railways Department of Western Australia—and Mr. Bennetts the other night said that it had happened on more than one occasion—where enginedrivers have driven trains when they have not been in a fit condition to do so. Unfortunately for the department, and the men in the department, those particular people have never been brought to book.

However, I think it is common knowledge that drivers of goods trains have, at different times, and at remote stations where there has been a hotel nearby, left their trains and gone across to the hotel and stayed there for quite a considerable time—long enough for them to be under the influence of liquor when they have gone back to their trains. The difficulty is to prove that a man is drunk. At the moment there is no reference in the Act to the taking of drugs, and if a man is accused of being drunk he immediately says he has been taking drugs and a charge against him cannot be proved.

In the Traffic Act the words "intoxicating liquor or drugs" are used; and I think the same applies to nearly all other Acts of a similar character. It is very difficult to interpret the word "drunk"; and therefore I hope the Bill will be passed in its present form. It will be in the interests of the Railways Department and the men.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (The Hon. G. C. MacKinnon) in the Chair; The Hon. L. A. Logan (Minister for Local Government) in charge of the Bill.

Clauses 1 to 12 put and passed.

Clause 13—Section 51 amended:

The Hon. G. E. JEFFERY: I believe this is one clause that could be deleted from the Bill. In his reply the Minister admitted that it is hard to determine whether or not a man is drunk or under the influence of liquor. In my second reading speech I said that medical opinion differs on this point. We would be throwing the worker to the wolves if we permitted a layman to determine whether he was under the influence of liquor or drugs.

The point raised by the Minister is not pertinent. He referred to a lot of people who were under the influence of liquor while on duty, but who were difficult to catch. Probably there are such cases, But my view is that if we cannot convict a person under one statute, we make provision for him to be convicted under another. It is a bad principle. It is better that a man who commits an offence should get away with it rather than have a law such as this administered by a layman.

The question of whether engine crews stepping down from the footplate have indulged in liquor is not pertinent to this Bill. We know the arguments that ensue over the speed of motor vehicles in the police courts. In Government service, once a man is penalised for breaching the law it remains with him to the end of his service. We should retain the provision in the parent Act.

The Hon. L. A. LOGAN: All the amendment in the Bill seeks to do is to add words to section 51 of the Act. Section 51 already provides for any person who is found drunk while on duty, and this clause provides for such a person if he is found under the influence of intoxicating liquor or of any drug. It is difficult to prove a person drunk if he says he has been taking drugs. It is only possible to prove this by having a medical man on the spot, which is not always practicable. In the case of railway workers such as signalmen, guards, and those engaged in transport duties where one mistake can cost many lives, I do not think it is going too far to provide that if a person is found under the influence of intoxicating liquor or drugs he shall be liable.

The Hon. H. C. STRICKLAND: In his second reading speech the Minister said the provision covered a number of offences such as negligent driving, careless driving, and so on.

The Hon. L. A. Logan: This deals with a different section.

The Hon. H. C. STRICKLAND: Does it not deal with section 73?

The Hon. L. A. Logan: No; it seeks to amend section 51.

The Hon. H. C. STRICKLAND: I beg your pardon, Mr. Deputy Chairman.

The Hon. F. R. H. LAVERY: It is all very well for the Minister to use the words "drunken driving."

The Hon. L. A. Logan: I have not used the words "drunken driving" on this clause.

The Hon. F. R. H. LAVERY: I would refer members to paragraph (a) of the clause. It is agreed that in all walks of life men may be found under the influence of liquor while carrying on their jobs. I will vote against this clause, because it spoils what is otherwise a good Bill. If a man is drunk on the job it should make no difference whether he is employed in a Government job or by private enterprise. If a man were employed by private enterprise and were found to be drunk, he would be dismissed immediately. If a man were found drunk on the waterfront he would be suspended immediately. Under this provision, however, a man will suffer two penalties. I oppose the clause.

The Hon. L. A. Logan: You are on the wrong clause.

The Hon. C. H. SIMPSON: I hope the Committee will support the Minister and agree to the clause as printed. It is true that the crew of a train carry heavy responsibilities in the discharge of their duties. The great majority of the men—and I speak with an intimate experience of 30 years—are efficient and considerate individuals. They would be the first to agree that a person who did not measure up should be punished. But there is a fellow feeling for fellow creatures among the employees of the railways, and when a person is thought to be guilty it is difficult to get his workmates to give evidence against him.

I have seen the driver of a train take over from his fireman who was helplessly drunk. I have seen a train arrive with the guard unable to walk properly, through having had so much liquor. These things, however, apply in outback areas far removed from authority; and, in some cases, the employees do transgress both the spirit and the letter of the railway regulations. Sometimes the plea is made that a person is taking medicine.

We must not forget that there is a railway punishment board, and such boards in very few avenues of employment, where a railway man can have his case heard and where the punishment is either mitigated or wiped out. I hope the Committee will support the clause.

The Hon. G. E. JEFFERY: The previous speaker supported my argument when he said that drunkenness does take place in country towns far removed from authority. A medical officer would not be available in such towns. If a man is drunk on the railways, we are all aware of the seriousness of the offence and the possible repercussions in loss of life; and we realise that he should be punished to the limit of the law. We disagree, however, on the method of defining his physical condition. It is dangerous to permit a layman to determine whether a man is under the influence of liquor or drugs. He would have to determine this by hesitancy in the man's speech, or by smelling his breath. which would be a most unwholesome job.

If a medical officer were given the job of determining whether a man was under the influence of liquor I would have no objection. It should not be left to a layman. It is a dangerous principle when a man's livelihood is involved, because once a railwayman is degraded he never makes up his loss of service. He would be better off in private enterprise where he would be dismissed for such an offence.

I do not suggest that this sort of thing does not occur, but because of the seriousness of the implications we should not leave it to a layman to determine whether a man is under the influence of liquor or drugs. The Act already provides for a person who is found drunk on duty, and that provision should be allowed to remain. It is easily understood and should not be disturbed. These things can be determined differently by people with different outlooks.

The provision conjures up a picture of a man under the influence of liquor; but I suggest it is a dangerous one. I thought Mr. Simpson, as an ex-Minister for Railways, would have produced some cases where accidents had occurred because of the physical incapability of train crews to perform their duties owing to the effects of excessive drugs or liquor.

The Hon. E. M. HEENAN: I think this phrase is going too far. A man who has had one, two, or three drinks could be adjudged to be under the influence of liquor. There are plenty of medical men who will assert that anyone who has had a couple of drinks is under the influence of liquor to some minor degree. Section 32 of the Traffic Act reads as follows:—

> Any person who, when driving or attempting to drive, or when in charge of a vehicle in motion on a road, or when attempting to drive a vehicle on a road, or when in charge of a horse or other animal or drove of animals on a road, is under the influence of drink or drugs to such an extent as to be incapable of having proper control of the vehicle or the horse or other animal or drove of animals, shall be guilty of an offence under this Act.

The words used in this Bill are, "or under the influence of intoxicating liquor or of any drug." This is different phraseology altogether from that used in the Traffic Act. It is hard to say when a man is drunk. If provision were made that he was under the influence of liquor to the extent that he was not properly capable of doing his job, that might fill the bill. However, the phrase used at present could, in my opinion, cover the man who has had one or two drinks; and he could be convicted. He might be completely sober in the ordinary meaning of the term but if he has had any drink at all I think he could be charged and convicted of being under the influence of liquor. I do not

think we intend to go that far; and I do not think my interpretation is an exaggeration.

The Hon. L. A. LOGAN: Perhaps I should read to the Committee the rest of this section so that members can realise what it is about. It does not apply to every employee in the Railways Department; it applies to only one or two, or probably three or four; and they have to commit a breach while either drunk or under the influence of intoxicating liquor or drugs before anything is done to them. The relevant section of the Act is as follows:—

> If any person employed upon a railway is found guilty while on duty; or is guilty of any breach or neglect of duty which has caused or might have caused personal injury to any person, or whereby the passage of any locomotive, carriage, wagon or train has been or might have been obstructed, or impeded—

That is the only type of person to whom this clause will apply. Surely we are not going to protect anybody who has had more to drink than he should have had with the result that he has caused injury to somebody. I do not think we should. We have every right to protect the individual and to protect the public; and I can see nothing wrong with our leaving the clause as it is.

Clause put and passed.

Clause 14—Section 73 amended:

The Hon. H. C. STRICKLAND: I hope the Minister will not insist upon this clause which provides that the commissioner may impose more than one penalty upon an employee who has been found guilty of misconduct or a misdemeanour. It has been a provision in the Government Railways Act since 1904 that no servant of the railways can be punished twice for the same offence. Paragraph (b) of the clause makes provision for the transfer of an employee without the payment of transfer expenses. Under the clause an officer or servant can be fined; reduced to a lower class or grade; and transferred without the payment of transfer expenses.

The Hon. L. A. Logan: He still gets his cartage free and his furniture shifted.

The Hon. H. C. STRICKLAND: There are three punishments in that phrase.

The Hon. L. A. Logan: How do you make three punishments?

The Hon. H. C. STRICKLAND: He can be reduced to a lower class or grade; he can be fined; and he can be transferred to the bush.

The Hon. L. A. Logan: He might be transferred back to the city.

The Hon. G. E. Jeffery: And pigs might fly!

The Hon. H. C. STRICKLAND: In a case of punishment it is very likely that an employee would be transferred away without receiving payment of transfer expenses. It is absurd. Normally when a man is transferred his expenses are paid. That is part of the contract under which he works.

The Hon. L. A. Logan: It is a condition of employment.

The Hon. H. C. STRICKLAND: That should not be taken away from a man. Transfer him if necessary in order to fulfil a job, but do not deny him his expenses, the payment of which is part and parcel of the conditions of his employment. The clause goes too far. Part of the clause sets out what the commissioner may do where an officer or servant has been suspended for an act or omission. A man is suspended so that inquiries can be made. We cannot have a man in charge of a signal cabin if he appears to be incapable.

The officer in charge must have power to suspend him for the good control of the railways. After the man is suspended there is an inquiry and whatever punishment is set out in the Act for a particular offence is inflicted upon that person; and he then has the right of appeal. That is reasonable enough. That has been in the Government Railways Act since 1904. I do not consider suspension a penalty, but under this clause an employee could be degraded and then transferred into the bush to, say, Meekatharra, without his receiving payment of transfer expenses. That is going too far. I move an amendment—

> Page 5, line 6—Delete the words "and also" and substitute the word "or."

The Hon. L. A. LOGAN: I endeavoured previously to point out to the Committee that an attempt is being made by this amendment to place the employee who has committed a misdemeanour and who is being transferred because of a lowering of his classification in a better position than the employee who asks to be transferred. Surely we do not want that.

As I said before the employee who is transferred at the request of the Commissioner gets the train fare paid for himself, his wife, and his family. He is paid travelling expenses, and he is given one day off from duty before his departure. On arrival he is given another day off duty so he can unpack; and he is paid £10 expenses for the carting of his furniture from his home. A man who requests to be transferred gets free transport for himself, his wife, and his family; and his furniture is carted free of charge.

If an employee commits a misdemeanour and is reduced in classification, he might have to be transferred to another area because of there being no job available, in a lower classification, where he is.

Under this amendment he would get free transport for his wife and family, and his furniture would be carted free; and, in addition, he would be paid travelling time, plus £10 expenses, plus a day off to pack his furniture and another day off to unpack his furniture. In many instances the person being transferred would go to a better area, because there would not be a very big chance of there being a lower-classification job at a small country depot. It seems to me that we want to put the man who has committed a misdemeanour on a pedestal as compared with the ordinary man in the department.

The Hon. G. E. JEFFERY: I think the Minister is drawing a very long bow when he talks about a guilty person being on a pedestal. There are more people in the country desiring a transfer to the metropolitan area than there are in the metropolitan area desiring a transfer to the country. The parent Act provides sufficient penalty for misdemeanours. I suppose one of the greatest penalties that can be inflicted on a worker is to be reduced in grade, because the reduced economic scale goes right through his career until he retires. A railwayman with a young family of high school age could be at a distinct disadvantage. Whoever has advised the Minister has not told him too much about railway workings. If the provisions of the Bill are agreed to, they will make my infamous namesake look like a tyro.

The Act has worked very well, and it has the confidence of the union. The Minister and the Government would be well advised to leave well alone. A reduction in status of a civil servant remains with the civil servant until he retires, and it could mean the loss of thousands of pounds over the years. The Committee would be well advised to show the Government that the age of men is upon us and that childhood has gone.

I thought the new commissioner would bring a breath of fresh air into the department; and to an extent he has, but this provision will destroy trust and goodwill. The Committee would be well advised to support the amendment.

The Hon. C. H. SIMPSON: The picture drawn by the honourable member is a little misleading inasmuch as this is a power sought by the commissioner because, obviously, it was considered that something of the kind was necessary. Power to discipline must be granted to people who have the responsibility of producing efficiency in a service. The great majority of employees who try to do their job would agree that those who do not do their work should be subject to punishment. I do not see that the provisions in the Bill will inflict hardship. I agree with the Minister that in some cases they will work out in favour of a man who has been regressed. Such a man could thank his stars that he was employed in a service which would give consideration to rehabilitating him.

Generally speaking, the officer who takes action against a man is usually an officer of district rank—a district superintendent or a district engineer. He would, in the first place, probably not find it easy to secure evidence in order to justify inflicting punishment; in addition, he has to bear in mind that whatever punishment he inflicts can be reviewed by the punishment appeal tribunal. He will not, therefore, inflict a punishment unless he is satisfied that it is deserved and that, if it is reviewed, the tribunal will be prepared to back him up.

The Hon. H. C. STRICKLAND: Section 45 of the Interpretation Act provides that a person shall not be liable to be punished twice for the same offence. This provision goes back to Act No. 62 Victoria, which would be a very old Act. The Interpretation Act governs the position unless a contrary intention appears. Well, in the Bill, there is a contrary intention; and the more one reads this measure, the worse it becomes because the proviso to paragraph (b) provides for the commissioner to inflict more than one punishment.

The Minister put a lot of weight on the fact that my amendment sought to place a man who asked for a transfer in a worse position than a man who was transferred as a punishment. I am not doing that at all. The Minister means that under my amendment, a man who was transferred as a punishment would have an advantage over a man who asked for a transfer. As I understand the position, if a man applies for a transfer the commissioner has discretion in regard to paying his travelling expenses.

The Hon. L. A. Logan: He gets the two things I have mentioned.

The Hon. H. C. STRICKLAND: If the commissioner so desired, he could reimburse the man.

The Hon. L. A. Logan: It is laid down in the award.

The Hon. H. C. STRICKLAND: If that is so, then I must be wrong. The Interpretation Act ensures that nobody can be punished twice for the one offence, unless otherwise provided for. Last year the appeal board reinstated a railwayman because the magistrate who sat on the appeal board ruled that the officer was being punished twice for the one offence. Personally I think there was some doubt about that, but the appeal board's findings are final. We should not try to circumvent that position, or try to circumvent the Interpretation Act. I do not think it is the commissioner who suggests these provisions, but that section of the department which looks after the department's affairs in this connection.

I hope the Committee will agree to my amendment so that no double or treble penalty may be inflicted on a railway employee. The Act provides that an officer can be dismissed. If the offence committed by an employee is serious enough to warrant two or three punishments, then surely it is serious enough to warrant the punishment of dismissal.

The Hon. L. A. Logan: Not necessarily.

The Hon. H. C. STRICKLAND: Yes. The commissioner may inflict on any officer or servant the punishment of dismissal. An officer can also be transferred without payment of transfer expenses, and he can be fined. In any case it must be a serious offence to warrant any action which the commission considers might be needed. Surely, rather than impose three punishments upon an officer it would be more just to dismiss him.

The Hon. L. A. Logan: You are being harder than I am, now. You are being tough!

The Hon. H. C. STRICKLAND: No, I am not. The offence must be serious and therefore there should be only one punishment. Surely it is not the wish of the Committee to break down the principle that there shall be only one punishment for the one offence. That is the reason why I want the clause amended; namely, so that an officer cannot be punished more than once for the one offence.

The Hon. A. R. JONES: I agree with Mr. Strickland to the extent that if it is a serious offence a man should be punished with dismissal. However, consideration must be given to the fact that an officer might be a married man with a large family. For that reason the commissioner might not be inclined to dismiss such an officer, because his family would be left destitute. Surely it should be left to the discretion of the commissioner to decide whether an officer should be transferred to another job in some other place. I cannot see any justification for Mr. Strickland endeavouring to find all the bad features in this clause. He should at least consider the view I have expressed because the clause may prove to be a benefit to an officer who has committed an offence rather than a hardship.

The Hon. R. F. HUTCHISON: We have reached the Gilbertian stage where we are seeking to make the punishment fit the crime. If a man committed an offence which was extremely serious there is no doubt that he would be dismissed. However, if he were transferred to another centre and to a position in a lower grade that punishment could prove to be almost as severe as dismissal, especially if that officer had a large family, with, say, one or two of his children attending a high school in the metropolitan area. Further, if a man were transferred to some outlying centre without the expenses of his transfer being paid it would constitute a fairly severe punishment on him. On the other hand, it would not cost the Railways Department a great deal to transfer an officer to some other centre.

As Mr. Strickland has said, we are reaching a Gilbertian stage by making the punishment fit the crime.

I agree with Mr. Jeffery that it is a very severe punishment for an officer to be demoted, because he never regains his previous position. Therefore, it is a continuous punishment in more ways than one. I know how such a punishment can bear heavily on a mother and her family.

The Hon. G. BENNETTS: I was once the secretary of a railway union. On occasions I was confronted with the case of officers who had got themselves into trouble and I was obliged to plead to the departmental officers to take into consideration the fact that these men were married with families and that other factors had some bearing on the form of punishment to be inflicted. Officers who have committed offences have often said to me that if the department transferred them further along the line they were prepared to go and would regard that as sufficient punishment.

I have had 36 years of railway experience and it is our aim to see the railways thrive and prosper. If an officer, as a result of his misdemeanour, has got himself into trouble, the commissioner may take into consideration the fact that he has a large family; and he will probably demote him from grade 1 to grade 2 and transfer him from the position he holds in Perth to another position in Fremantle. In that instance there would be no transfer expenses involved, but the officer would have to put up wtih the inconvenience of travelling a greater distance from his home to his place of employment.

I was quartered in a railway van at Golden Ridge for nearly three months because no other accommodation was available. When I was appointed as head of the construction gang I had to travel 450 miles along the line whilst my wife and family remained in Kalgoorlie.

The DEPUTY CHAIRMAN (The Hon G. C. MacKinnon): Order! The amendment before the Chair seeks to delete the words "and also" in line 6. I hope therefore the honourable member will connect his remarks to the amendment.

The Hon. G. BENNETTS: We are dealing with the dismissal and the transfer of an officer who commits an offence. Once an officer is dismissed he would be extremely fortunate if he were reinstated and transferred to another position.

The Hon. L. A. LOGAN: I am surprised at Mr. Strickland adopting the point of view that if a man commits a serious offence he should be sacked. Apparently he does not wish to give him any option.

The Hon. H. C. Strickland: Rubbish! I did not say that. That is what you are saying.

The Hon. L. A. LOGAN: Under the Act, at the moment, a suspension constitutes a punishment. If an employee commits a misdemeanour sufficiently serious to warrant his suspension, and he has been punished once, the commissioner could only reinstate him to his original position or dismiss him. Under this provision, if, following an appeal, it is discovered that the degree of misdemeanour on the part of the officer is not sufficient to warrant dismissal, but is sufficient to warrant his demotion, surely members do not wish to tie the commissioner's hands by denying him the right to determine where the officer shall be transferred. There is always the possibility that there will be mitigating circumstances that would warrant the officer's transfer to some other position; and that is what the provision seeks.

The Hon. W. F. WILLESEE: Briefly, Mr. Strickland's suggestion is that, after a man has been demoted, chastised, or punished in some other form, if he is then transferred to another centre, the cost of such transfer should be borne by the department. That is the whole crux of Mr. Strickland's argument.

The Hon. H. C. STRICKLAND: The Minister is clouding the issue by saying that I want to dismiss an officer. I do not want to do anything of the sort. All I am seeking is to avoid an officer being punished three times for the one offence. The Minister has stated that the commissioner has power only to suspend or to dismiss.

The Hon. L. A. Logan: He has power to reinstate him in his original position.

The Hon. H. C. STRICKLAND: Section 73 of the Act reads as follows:—

> The Commission may appoint, suspend, dismiss, fine or reduce to a lower class or grade, any officer or servant of the Department, and in the exercise of any of those powers, shall not be subject to the Minister except in the cases of such offices and services as shall be prescribed.

There was an amendment to that section in 1955 which excluded those officers who are paid what is known as a justiciable salary. Those officers appeal to a stipendiary magistrate. The section states further—

> Provided that no fine shall be inflicted under the section for any act or omission for which an officer or servant has been punished under section thirty-one or thirty-two of the Traffic Act, 1919-1948, and provided that the Commission shall not inflict on any such officer or servant more than one form of punishment for the same offence.

What the Minister wants is some provision so that in any case where the commission considers the circumstances warrant, the commission may, by way of punishment, reduce an officer or servant to a lower class or grade and also transfer him without payment of transfer expenses.

Whereas the proviso in the section I have just read states that if an officer has been punished under sections 31 and 32 of the Traffic Act, he cannot be punished again by the commission for the same offence, this part of the clause provides that this officer can be punished by the local court as well as by the commission. This provision seeks authority for the commissioner to impose more than one penalty for an offence, and I say that is unfair.

The Hon. G. BENNETTS: Has an employee of the department the right to make an appeal to the appeal board in the cases covered by this clause?

The Hon. L. A. Logan: Yes.

The Hon. C. H. SIMPSON: This provision states that the commission may—not shall—impose the various forms of punishment referred to. If there are degrees of misdemeanours, there should be degrees of punishment; and the degrees of punishment are provided for in this clause. I know of one instance when a guard in the department was guilty of a serious misdemeanour. He was regressed to the grade of porter. At the centre where he was stationed, there was already a porter, and it was not fair to send this porter to another town to enable the guard to take over.

In that case the guard who had been regressed was transferred to another town. The commission considered the misdemeanour to be sufficiently serious as to warrant a regression to the grade of porter, as well as a transfer without the payment of transfer expenses. That was a reasonable attitude adopted by the commission. If an officer considers that he has been unfairly penalised he still has the right of appeal.

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

Ayes—12.

Hon. E. M. Davies	Hon. F. R. H. Lavery
Hon. J. J. Garrigan	Hon. H. C. Strickland
Hon. W. R. Hall	Hon. J. D. Teahan
Hon. E. M. Heenan	Hon. W. F. Willesee
Hon. R. F. Hutchison	Hon. F. J. S. Wise
Hon. G. E. Jeffery	Hon. R. Thompson

(Teller.)

Noes—16.

Hon. C. R. Abbey	Hon. A. L. Loton
Hon. N. E. Baxter	Hon. R. C. Mattiske
Hon. G. Bennetts	Hon. C. H. Simpson
Hon. J. Cunningham	Hon. S. T. Thompson
Hon. A. F. Griffith	Hon. J. M. Thomson
Hon. J. G. Hislop	Hon. H. K. Watson
Hon. A. R. Jones	Hon. F. D. Willmott
Hon. L. A. Logan	Hon. J. Murray

(Teller.)

Majority against—4.

Amendment thus negatived.

The Hon. H. C. STRICKLAND: I move an amendment—

Page 5, lines 1 to 24—Delete all words from and including the word "in" down to and including the word "subsection."

This part of the clause relates to the imposition of a double penalty, and in some cases a triple penalty.

Point of Order

The Hon. H. K. WATSON: I would like your ruling, Mr. Deputy Chairman, as to whether the amendment is in order. The Committee has already dealt with an amendment to delete the words "and also" in line 6 on page 5. Is it now competent for an amendment to be moved to delete the words contained in lines 1 to 24?

Deputy Chairman's Ruling

The DEPUTY CHAIRMAN (The Hon. G. C. MacKinnon): As the Committee has already dealt with the amendment to delete the words "and also" in line 6 on page 5 by rejecting the amendment, it follows that the amendment now moved by Mr. Strickland for the deletion of all words in lines 1 to 24 is out of order. At this stage he can only move for the deletion of words appearing in lines 6 to 24. I rule that the amendment is out of order.

Committee Resumed

The Hon. H. C. STRICKLAND: That being the case, my only alternative is to vote against the clause.

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

Ayes—16.

Hon. C. R. Abbey	Hon. A. L. Loton
Hon. N. E. Baxter	Hon. R. C. Mattiske
Hon. G. Bennetts	Hon. C. H. Simpson
Hon. J. Cunningham	Hon. S. T. Thompson
Hon. A. F. Griffith	Hon. J. M. Thomson
Hon. J. G. Hislop	Hon. H. K. Watson
Hon. A. R. Jones	Hon. F. D. Willmott
Hon. L. A. Logan	Hon. J. Murray *(Teller.)*

Noes—12.

Hon. E. M. Davies	Hon. F. R. H. Lavery
Hon. J. J. Garrigan	Hon. H. C. Strickland
Hon. W. R. Hall	Hon. R. Thompson
Hon. E. M. Heenan	Hon. W. F. Willesee
Hon. R. F. Hutchison	Hon. F. J. S. Wise
Hon. G. E. Jeffery	Hon. J. D. Teahan *(Teller.)*

Majority for—4.

Clause thus passed.

Clauses 15 and 16 put and passed.

Title put and passed.

Report

Bill reported without amendment and the report adopted.

Third Reading

On motion by The Hon. L. A. Logan (Minister for Local Government), Bill read a third time, and passed.

ROAD CLOSURE BILL

First Reading

Bill received from the Assembly; and, on motion by The Hon. L. A. Logan (Minister for Local Government), read a first time.

MARRIED PERSONS (SUMMARY RELIEF) BILL

In Committee

The Chairman of Committees (The Hon. W. R. Hall) in the Chair; the Hon. L. A. Logan (Minister for Local Government) in charge of the Bill.

Clauses 1 to 6 put and passed.

Clause 7—Constitution of Court:

The Hon. R. F. HUTCHISON: I move an amendment—

Page 7, line 4—Delete the words "all parties" and substitute the words "any party."

I have consulted the Minister about this amendment and the only explanation I desire to make, which I hope will be sufficient, is that if a justice of the peace is present, it could be very embarrassing to the defendant, or to a person making a consent order.

The Hon. L. A. LOGAN: I have no objection to this amendment. As a matter of fact, the circumstances which led to this amendment were made known to me and I can appreciate the position in which the person was placed. This amendment will rectify the position, and I am prepared to accept it.

Amendment put and passed.

The Hon. R. F. HUTCHISON: I move a consequential amendment—

Page 7, line 4—Delete the word "elect" and subsitute the word "elects."

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 8 and 9 put and passed.

Clause 10—Relief:

The Hon. E. M. DAVIES: I have not risen to raise any objections to this clause, but merely to take the opportunity of bringing before the Minister's notice two points which appear to me to be most important. First and foremost, I would like to know whether the Minister can give any indication to the Committee whether a method has been evolved to apprehend persons who have deserted their wives and who are in other parts of the Commonwealth.

The Minister stated the other evening that there is a large number of people who desert their wives in and around Australia. However, I dealt with a particular case some time ago in which the desertion was premeditated. A seaman transferred

from a ship calling at the Port of Fremantle to another ship which did not call at the port at all. Although he had made an agreement to pay maintenance to his wife and children he could never be apprehended for not doing so because the ship was on a run from Melbourne, *via* New South Wales, Queensland, Japan, and the Islands, and return.

I understand a warrant was issued and sent to Melbourne whereupon it was forwarded to Sydney and so on, but the warrant was never in the port when the ship arrived. Therefore, although it was known where the offending husband was, there were no ways and means whereby he could be apprehended and made to meet his responsibilities. It is for this reason I desire the Minister to indicate whether any method has been evolved whereby such a person can be apprehended.

Although the matter of workers' compensation payable to deserted wives does not come within the ambit of this legislation, I know the Minister will not object if I raise the subject. It may or may not be generally known that wives who have been deserted and who cannot prove that they are receiving maintenance, are not entitled to receive workers' compensation in the event of their husband being killed.

I was concerned with a case which was brought to my notice. An offending husband had died as a result of an accident; and, because no proof was obtainable that he was maintaining his wife, she was not entitled to receive any compensation under the Workers' Compensation Act. That is a very harsh law. The woman had reared her family and had played her part as a citizen of this State. She had been a good wife and mother; and when her husband, for no apparent reason except because of incompatability, walked out and decided he would not live with her, he was summonsed in the Married Women's Court, and a verdict was given against him for maintenance. Because she had taken him to court he vowed and declared he would never pay the maintenance.

His wife, having regard for her children, would not take any further action to have him committed. So no claim could be made upon him for the payment of the maintenance. When eventually he met with an accident which proved fatal, it was not possible for her to receive any worker's compensation and thereby have any comfort in the declining years of her life. While this does not come within the ambit of the Act, I would be pleased if the Minister would take this matter up through his department. The Child Welfare Department has always been sympathetic towards such cases and does its best, according to the law and its ability, to render service wherever possible. I hope the Minister will be good enough to ascertain a few facts with a view to remedying the position.

The Hon. R. THOMPSON: The point raised by Mr. Davies concerning seamen not being served with a notice came about through the Federal Act. Seamen could not be taken off their ships while in any port in Australia for maintenance proceedings. This Act was amended last year and notice may now be served against seamen and proceedings taken against them.

The Hon. L. A. LOGAN: I am not aware of the circumstances outlined by Mr. Davies. I can assure him, however, that everything possible is done to trace deserting husbands, and every endeavour is made to ensure that wives and families receive the maintenance due to them. It is in our own interests to do those things, otherwise the maintenance becomes a further charge upon the State.

As soon as maintenance payments cease, the department endeavours to locate the person concerned. If the person cannot be found, then the police are brought in. If he is in the Eastern States, the Child Welfare Department tries to find him; and, if necessary, the Police Department in the State concerned is called in to trace a person.

As I pointed out in my second reading speech, I do not know the complete steps which the police in other States take in order to trace these missing persons; and I do not think we are in a position to tell them what to do. We can only rely on their good offices. On some occasions they have gone to a lot of trouble to find these people. But very often by the time a missing person has been located and the department here has been notified, and a registered letter or a warrant has been sent, the person concerned has moved elsewhere. The cost of trying to keep up with these people is such that very often it is better to forget about them altogether. However, in reply to Mr. Davies, I will have a look at the matter and give him the information in writing.

Clause put and passed.

Clauses 11 to 13 put and passed.

Clause 14—Variation of orders:

The Hon. L. A. LOGAN: I move an amendment—

> Page 15—Add after subclause (5) in lines 18 to 20 the following new subclause:—
>
> (6) An application may be made under this section notwithstanding that matrimonial proceedings have been commenced by one of the parties in a superior court.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 15 to 21 put and passed.

Clause 22—Enforcement of orders:

The Hon. J. G. HISLOP: When the Minister was introducing this Bill I received the impression that this continuous imprisonment for failure to pay maintenance had been altered substantially, and that some of the conditions which we had seen in the past would not continue. But it still does not seem to me that we have gone far enough in the matter. It would seem that a man cannot be imprisoned for the same default in any one payment. But if, after he has come out of gaol, he continues to be in default he can be imprisoned again. We have known cases where a wife has simply gone on imprisoning her husband. I would say that after a man had been in gaol for a period of, possibly, a fortnight, it would be most difficult for him to obtain gainful employment. From reading this clause, if there is a particular sum in default he can be imprisoned for that amount; but he cannot be imprisoned for the second time for the same amount. The clause reads—

> Any default of payment occurring after the termination of that imprisonment is, for the purposes of this section, a fresh default.

So that if a man comes out of gaol, he can be gaoled again before he has a chance of securing employment. There have been several cases in the past where a man did not appear to have a chance of keeping out of gaol for any length of time. I would like the Minister to tell me whether I am correct in my interpretation of this clause.

The Hon. L. A. LOGAN: I think this has to be read in line with other clauses. My notes go on from clause 22 to clause 25. Clause 22 says—

> (b) that imprisonment does not operate as a satisfaction or extinguishment of any amount of which payment is in default; but that person shall not again be imprisoned, by operation of that Act, for the same default or be thereby imprisoned for any other default made prior to the issue of the warrant under which he is then imprisoned;
>
> (c) any default of payment occurring after the termination of that imprisonment is, for the purposes of this section, a fresh default.

The Hon. J. G. Hislop: It could go on and on.

The Hon. L. A. LOGAN: What happens today is that the term of imprisonment does not satisfy the debt. While at the moment the debt is still piling up against the person in prison, under this Bill the debt ceases while he is in prison. The charges do not pile up against him during that period. However, if there is another default against him later, he is liable to be sentenced to a further term of imprisonment.

The Hon. A. L. Loton: If he is again imprisoned, what chance has he of getting employment?

The Hon. L. A. LOGAN: He is entitled to receive child welfare assistance for the first fortnight; until such time as he can receive Commonwealth social services benefits. It is not enough to keep his wife and family on, but it gives him something until he can get back on his feet. It has got to be a fresh default before he can be again imprisoned.

The Hon. A. R. Jones: When do maintenance payments start?

The Hon. L. A. LOGAN: As soon as he comes out of gaol. No magistrate is going to put a man in gaol for a default if he has only been out of gaol a week. He will be given an opportunity to pay his debt.

The Hon. J. M. THOMSON: I can appreciate the difficulty raised by Dr. Hislop. It may not be easy for a man to obtain work which will provide him with sufficient remuneration to meet his commitments during a period of, perhaps, a month after he has come out of gaol. And by the end of the month he could be sent back to gaol because he had defaulted. From reading the clause I do not think the Bill fulfils the requirements we desire. I hope the Minister will have a further look at this clause with a view to bringing about a desirable state of affairs.

The Hon. E. M. HEENAN: I think this Bill provides a good deal of relief which was not provided previously. Under the Act as it stands, if a man, against whom an order was in existence, failed to keep up his payments, and he owed, say, £40 to £50 arrears of maintenance, and his wife took out what is called a warrant of commitment, and he was imprisoned because he did not pay the amount that was due, he has the right to go to the court and get the order suspended while he is in gaol. But in lots of cases such husbands are ignorant of that right or careless of exercising it, and they do not get the orders suspended. After a period of imprisonment they come out and vindictive wives in certain cases quickly take out fresh warrants and put them back again. Really the fault lies with the husband for not getting the order suspended.

The Hon. R. F. Hutchison: Not really.

The Hon. E. M. HEENAN: We are supposed to know the law. This Bill recognises the frailties of human nature, and the ignorance of the average person in these things, and provision is made accordingly in paragraph (a) on page 20. Under this, if a husband goes to prison for default, the order is automatically suspended until he comes out. That is a big improvement on the old system.

The Hon. J. G. Hislop: What about the £40 or £50?

The Hon. E. M. HEENAN: He still owes it, and if he does not set about complying with the order when he comes out he will quickly get into more trouble.

But we also have to bear in mind the welfare and the interests of the poor unfortunate wives and children. If he comes out and he cannot get a job, there are plenty of provisions in this Bill under which he can go to the court and explain his position and get the order further suspended. However, we should not say willy-nilly that the husband is to get every protection while the State meets his obligations.

The Hon. A. L. Loton: If the husband is in prison he cannot do anything for his wife.

The Hon. E. M. HEENAN: The husband's duty and obligation is to provide for his wife and children. No court will make an order against him if he is unable to meet his obligations through no fault of his own; if he is unable to meet them through such things as sickness or unemployment. It has to be proved that he has the means and ability to do the right thing; it has to be established that he is earning so much, and then the court orders him to pay a given amount. If he flouts that order and does not meet the obligation which every other citizen is expected to meet, what are we to do with him? What remedy have we got in those cases? A warrant is taken out against him, and if he still refuses to pay he goes to gaol. Now the law provides that while he is in gaol the order is suspended.

The Hon. A. F. Griffith: But when he comes out of gaol?

The Hon. E M. HEENAN: When he comes out of gaol surely he has to resume his obligations!

The Hon. A. F. Griffith: Yes, but then he can make application to the court if he has not got a job.

The Hon. E. M. HEENAN: That is so; or if he is sick. If it is a genuine case the court will give him a fair go and further suspend the order.

Sitting suspended from 9.52 to 10.14 p.m.

The Hon. E. M. HEENAN: Another feature I could mention is that in the old Act the term of imprisonment could be up to six months, whereas in this Bill the period is limited to three months. There are pretty wide powers in the Bill for the court to grant relief in the case of a man who comes out of gaol; and, I think, to make the relief retrospective to one month if he overlooks to apply immediately he comes out. It goes a considerable way in extending relief as compared with the former Act.

The Hon. R. F. HUTCHISON: I wish to tell the Committee that I am quite earnest in what I have to say in regard to this clause. The person with whom I am most concerned is the woman with a small family who, after being deserted, does her best to rear those small children. After the husband leaves the wife she has to fend for herself; and if he has really deserted her he does not send her any money. Therefore, the woman is reduced to hardship and she has to approach the Child Welfare Department for help because her small children must be fed. She approaches the department to obtain money and she is given a certain time in which to see whether her deserting husband is going to send her any money. During this period she receives Child Welfare Department relief; and she has to sign a declaration that that department has first call on any moneys which may be paid to her.

I know the taxpayer has to be protected, but this law has become stilted. When a deserted wife obtains an order from the married women's court she is vindicated in law and the department should make the woman an allowance, provided she has no means. When an order is made against the husband, instead of making the wife chase him and take out an order of execution and an order of commitment to put the huband into gaol, the department should acknowledge that the woman has proved her case and that she and her family need help. At this point the department should take over and issue the warrant. The department should take over the woman's case in order to protect her and her children. The department should issue an order against the defaulting husband; and in nine cases out of 10 there would be no trouble in getting the man to pay the maintenance.

In many cases a woman is reluctant to commit her husband to prison because she is frightened of the effect this may have on her children later on. There is another aspect which must be considered: A man is strong and is able to threaten his wife if she contemplates going to court. He could easily disfigure her.

I know of a woman who went through years of misery because her husband would not pay up. Eventually, she divorced her husband, and a Supreme Court order went through for maintenance of £2 10s. per week. After a few weeks the Child Welfare Department sent for her and told her there was a cheque in her name for £20. She said, "You have made a mistake." But the department said, "It is through an order against your husband." That man paid for eight years and never defaulted because he knew he had to answer to the court. That would be the position in nine cases out of ten.

In 1955 I wrote to the department suggesting it take over in these cases and the reply I received was as follows:—

> The department's interest in Mrs. Hutchison's proposals centres on the possibility that the proposals would

> result in deserted wives with dependent children receiving maintenance from their husbands more quickly and more regularly than is now the case in very many instances.

Apparently someone thought I was right. If the deserting husband knew that he was liable for contempt of court, he would meet his maintenance commitments. If the present Bill does not meet the position I have outlined, I feel we should do something in that regard. If an Act is inadequate something should be done about it. I oppose the clause, and I shall certainly oppose clause 5, to see whether we can have the Bill withdrawn and brought back in a better form next year.

The Hon. G. C. MacKINNON: I add the weight of my voice to the recommendations made by Mrs. Hutchison. The point she has raised could be the subject of earnest consideration by the Minister and his department, because the wife and mother virtually has to continue with summonses to the stage where the husband decides to pay, and continues to pay, or go to gaol. Very often, despite the arguments between the husband and wife, a genuine feeling of friendship still exists; and there is always the over-riding fact that the husband is the father of the wife's children, and she does not want to be the cause of his going to gaol.

A new approach could be made to this question and a new system worked out whereby, perhaps, the wife could declare that she was a deserted wife, and the court would take action against the husband. I do not think it is fair that a man should walk out and leave his wife and children, and assume no responsibility for them at all. Some new approach could be worked out whereby the distasteful job of the wife having to hound her husband with judgment summonses could be avoided. I expect we have all had the experience of having to advise wives who have been deserted by their husbands; and one knows just how harrowing the situation is, because in the case of many broken homes, the husbands and wives are quite nice people.

Whilst I am not prepared to take the steps that Mrs. Hutchison has suggested, I do raise my voice with hers in the hope that the Minister will have another look at this provision.

The Hon. J. D. TEAHAN: I would not like to say anything to cause the Bill to be set aside, but I do agree with Mrs. Hutchison. In the few cases I have had contact with, salt has been poured on the wounds when the wife has been forced to take out a summons against the husband, because some friendship has still existed between them. When she has taken out the summons, there has been a wound which has not easily healed. Do not let us do anything to cause a wound which will never heal.

The Hon. G. Bennetts: It puts a scar on the children.

The Hon. J. D. TEAHAN: I am on the children's side. Rather than take action against the husband, the mother will probably suffer in silence in order to preserve the good name she would like the children to enjoy.

The Hon. E. M. Heenan: Whom do you suggest should keep the wife and children?

The Hon. J. D. TEAHAN: I suggest that the Child Welfare Department, or somebody other than the wife, should take action. The husband should know that the action did not come directly from the wife.

The Hon. R. THOMPSON: The person who can draft this sort of legislation to suit everybody would be a super man. I am not happy with the clause as it stands. Mrs. Hutchison wrote to the department, and the following comments were made as a result of her letter:—

> I suggest that this statement be referred to the Crown Law Department which is responsible for the Married Women's Protection Act and to the Chief Secretary's Department, because of its interest in the Marriage Act.
>
> This department would agree completely that the onus of placing her husband in gaol should be removed from the wife because—
>
> (a) Many wives delay too long in exerting pressure on their husbands. That delay imposes hardship on the woman and her children and makes later recovery much more difficult.
>
> (b) The exercise of the onus generally completes the destruction of the marriage.

Most of us will agree that when the wife is placed in the position of having to commit her husband to prison, there is not much chance of a reconciliation.

I feel that any order made against a husband should be a procuration order payable to the Child Welfare Department, and that from then on the onus should be on the department to pay the wife and to take any action if the husband defaulted.

Coming to the point raised by Mr. Davies, in August of last year I submitted the following letter to this Chamber:—

> I am writing to request you to bring a compensation anomaly before the notice of Mr. Watts, the Attorney-General for Western Australia. You will remember, Ron, from talks we had before you became our member, that I had to pay my ex-wife alimony at the rate of £6 weekly.

> Last week I had the misfortune to injure my back at work, but against my doctor's advice I had to carry on working as I could not afford to go on workers' compensation. A man in my position receives compensation rates of a single man and yet I am obliged to carry on paying my ex-wife alimony at £6 per week. To stop these payments while one was on compensation at single rate would cost fifteen guineas for legal expenses. These costs I ascertained from one of Perth's leading solicitors.
>
> Surely this anomaly must be regarded as unjust especially when one also takes into consideration the fact that the Federal Government takes the alimony payer as a single man.
>
> If you consider that injustice exists, which can or should be amended by our State Parliament, I would be extremely grateful if you would bring this matter to the notice of the Attorney-General, Mr. Watts.

That chap's case is, perhaps, a little remote from the clause with which we are dealing. His wife is living with another chap, but if he does not pay his wife she can take out an order and have him placed in gaol. But that would not serve any good purpose.

There is another angle I am not very keen on; and I can see the danger that will creep into the way of life of people in these circumstances. The women who are classified as widows through six months' desertion are paid social service, or widows' pensions. If the husband realises that he will be placed in prison, it will be necessary for him to pay maintenance for only about six months to deprive his wife of social service benefits. One would have to be a mastermind to think of all the situations that could arise. A great deal more consideration should be given to this clause. In my opinion it would be advisable if it were deleted; and, after further consideration by officers of his department, the Minister could introduce an amending Bill next session to incorporate a similar provision in the Act.

The Hon. J. M. THOMSON: On the occasion of my address to the Committee previously in connection with the provision contained in clause 22, I pointed out that after a man had been discharged from prison he would not be in a position to meet his commitments and, as a result, he would soon find himself in gaol again. However, I have ascertained, after reading clause 13, that upon a man being discharged from gaol he will be protected. I am quite satisfied, therefore, that the concern I previously expressed to the Committee no longer exists.

I hope the Bill will be passed. I would not like to see it withdrawn or defeated. The Bill has considerable merit; and as the debate has proceeded I am sure there are many members who agree with me that it is an important measure and that it will achieve its objective. I fully appreciate the point raised by Mrs. Hutchison and I respect her views. I support the clause.

The Hon. J. G. HISLOP: I do not think that any honourable member has in mind that the Bill will be defeated. It is merely a question of handling this problem in a better way than it is handled at present. The Bill goes a long way towards overcoming the difficulties, but it does not present a complete solution. I do not think anyone can fully realise what passes through a woman's mind when her husband walks out on her. She has the fear of want and the prospect of a lonely life ahead. The law to a woman is a frightening affair and there are many women who would prefer to battle on the best way they can rather than try to pursue the law in their own interests.

I think there is a great deal of merit in what Mrs. Hutchison has said; namely, that a section of the department could be set aside to look after the woman's interests in such matters; and, quite possibly, by this means a woman would receive a good deal more than she receives now. I would ask the Minister to give us the assurance that he will instruct his officers to have a further look at this problem with a view to taking steps next year towards relieving women of the strain.

As a Parliament we must pay tremendous regard to the broken home. It represents one of the greatest dangers to our present civilisation and one of the principal causes of juvenile delinquency. Some action to protect the woman, once she has been deserted by her husband, should be taken. I hope the Minister will ask his department to look into the question of trying to relieve a woman of the responsibility of taking action to improve her position after her husband has left her. When a woman takes action to imprison her husband it only causes bitterness which would continue for a lifetime.

The Hon. L. A. LOGAN: The discussion seems to have drifted away from clause 22. This measure represents the result of 38 years' experience in the courts administering the provisions of the Married Women's Protection Act, and it has been drafted after considering the results of four years' investigation in Great Britain. It is the result of a close scrutiny of the position by the Law Society of Western Australia; of close scrutiny by the Attorney-General and the Crown Law Department of this State; women's organisations and two magistrates who are continually sitting on the Bench considering these cases. Therefore, for any honourable member to say that the measure is badly framed and that it should be thrown out so that a new Bill can be introduced next session is absolutely ridiculous.

In regard to the issue raised by Dr. Hislop before the suspension for supper, the position is that instructions will be issued to prison warders that in those cases where a man is in prison for non-payment of maintenance he will be advised on the day of his discharge that he can make application to the court for the suspension of the order. In such circumstances the court will suspend the order long enough for such a man to obtain employment. If at the end of a month's suspension a man is still unemployed he can reapply to the court for a further suspension.

The Hon. A. R. Jones: That is, if he is still in Western Australia.

The Hon. L. A. LOGAN: If he is not, what can be done about it? If, during the term of the suspension, a man is successful in obtaining a job at Wyndham and he advises the court that he will not be able to make a payment for at least a further month until after he receives his first pay cheque, the court can issue an order for his maintenance payments to commence after one month. Should any man, following his discharge from prison, not apply for a suspension of the order through illness or some other reason, and he later makes application for the suspension of the order, the court can make such suspension retrospective. If members will read the Bill clause by clause, they will find that it covers every aspect of the situation. Clause 13 deals with the suspension of an order and clause 22—the one we are now discussing—deals with the enforcement of an order.

In regard to the Child Welfare Department taking over the responsibility of the wife, we have to make a start somewhere. Therefore, the wife must raise the complaint. When she does, it is the duty of the court to try to get both the husband and the wife into the court for the purpose of effecting a reconciliation. In my opinion the personnel that now sit on the court will do everything in their power to effect a reconciliation. At the invitation of Mr. Taylor, I took the opportunity this morning to inspect the court premises and I can assure members of the Committee that it is an excellent set-up.

I am certain that good results will be achieved in that atmosphere under the jurisdiction of Mr. Taylor. If members will study clauses 9, 10, and 11 they will realise that no department can enter the court to represent the wife. The wife herself must be present for the court to perform its duties efficiently. Having reached that stage and a maintenance order is issued against a husband, members are now saying that if he does not meet the payments the department should take action to have him imprisoned.

The Hon. J. G. Hislop: None of us has asked for that.

The Hon. L. A. LOGAN: Some members have suggested that the department should issue the order for imprisonment of the defaulting husband.

The Hon. H. K. Watson: As agent fc the wife.

The Hon. R. F. HUTCHISON: The Minister has the wrong impression of what I have put forward. I said that when a wife had proved her case, from that point onwards the department should take over the issuing of the warrant of execution and the order for imprisonment.

The Hon. L. A. LOGAN: That confirms what I have said. The honourable member wants the department to issue the order for imprisonment. There is only one person who can do that in fairness to all, and that is the wife.

The Hon. F. R. H. Lavery. We want that procedure to be altered, so that the department will take over.

The Hon. L. A. LOGAN: The department does not. Why should the Minister or the department have to decide whether the husband should be imprisoned? In most cases the wife does not desire the husband to be imprisoned, yet it has been suggested that the onus should be placed on the department.

The Hon. J. G. Hislop: Does the Minister realise that everybody who has spoken to this clause has asked for the deletion of the word "imprisonment?"

The Hon. L. A. LOGAN: They have not.

The Hon. F. R. H. Lavery: That was the intention.

The Hon. L. A. LOGAN: Only Dr. Hislop has asked for the deletion of the word "imprisonment."

The Hon. R. Thompson: How does a procuration order work?

The Hon. L. A. LOGAN: When a maintenance order is made and the wife and children are given assistance by the Child Welfare Department, the procuration order is made out to the department.

The Hon. R. Thompson: What happens if the husband does not continue paying?

The Hon. L. A. LOGAN: The wife and the children have to rely on the assistance of the department. It does everything possible. The penalty of imprisonment should not be deleted from the Bill. If it is, a defaulting husband would be able to move from place to place, in an effort to dodge a maintenance order. Dr. Hislop has asked the department to look into this aspect; it has already done so on many occasions. I contend that it is not the duty of the department to take the initiative in issuing an order for the imprisonment of a defaulting husband. I have discussed this provision with magistrates who have dealt with these cases over many years. They are all enthusiastic about the measure; and they are the ones who have to administer the legislation.

The Hon. R. F. HUTCHISON: I do not want this Bill to be defeated, because it has many good parts in it. I inspected the new court today and I found it a great advance on the old set-up where women had to rub shoulders with all sorts of people in the corridors. The new court is very precious to the womenfolk of this State, and I would not like to see it interfered with in any way.

I have suggested that the department should take over when a wife has proved her case. The husband who does not provide for his offspring is a moral coward. From the time the wife has proved her case she has done all that can be expected of her. She should not be compelled to take further steps, in view of the mental strain which is generally associated with women placed in these situations. I say the department should take over when the wife has proved her case, because the husband will not be prepared to fight against the department. The wife will not be as successful as the department in taking action.

The Minister should agree to progress being reported to enable the views of the department to be sought on the suggestions I have made. I say that if a defaulting husband has to face up to the department, instead of to the wife, there would be more likelihood of obtaining maintenance from him. I realise that if a husband is injured or becomes unemployed, he cannot continue paying the maintenance; in such cases the department realises that and it will not press the husband. Where the husband is in a position to pay, the department should take the necessary action.

The Hon. R. THOMPSON: The Minister should not hold the view that any member in this Chamber wants the measure to be defeated.

The Hon. L. A. Logan: I did not say they did. I said one honourable member wanted to defeat the clause.

The Hon. R. THOMPSON: The Minister should agree to postpone the consideration of this clause, to enable the provision to be drafted in more suitable wording. Once an order is made against the husband, the department should take over the responsibility of collecting the maintenance and handing it to the wife. The Minister led us astray.

The Hon. L. A. Logan: I did not.

The Hon. R. THOMPSON: If he did not, then he does not know what goes on in his department.

Any one of us in this Committee who has worked among the people and knows of these cases realises what goes on. This is what occurs: If a husband does not pay up following a maintenance order, the wife becomes penniless and the department pays her the maximum of the £5 17s. 6d. a week. If the husband does not respond to letters asking him to attend the department, the department will ask her to go to court and have an order obtained and made over to the Child Welfare Department. She will still receive the maximium of £5 17s. 6d. If the order is made for a greater amount and the husband does pay up, the department will pay that to the wife too. If the husband does not pay up after a certain time the department takes action and he is gaoled.

What Mrs. Hutchison is attempting to do, and I think that every member, with the exception of the Minister, agrees with her, is to have the order of the court made over to the department, and to make the department responsible for paying out the money, and any excess, when it is paid in by the husband. If he does not pay up on Monday morning, the department takes action on Tuesday.

I ask the Minister to postpone the clause in order that it might be amended in a manner which will satisfy everyone, thus saving a lot of work for members of this Chamber and officials of the Child Welfare Department.

The Hon. G. C. MacKINNON: I do not know whether the Minister was misled by what Mr. Baxter said yesterday when he gave his ideas on the duties of Parliament; but this is a Legislative body in which our individual rights and desires have as much weight as those of the Minister. I say that with all due respect to the Minister. His duty is to operate in Cabinet; and here we are legislators and our duties, rights, and desires have as much weight as have those of the Minister.

The Hon. L. A. Logan: Who is denying that?

The Hon. G. C. MacKINNON: No one is denying it; but the Minister is stating what he wants. He states that this Bill has been considered by committees, magistrates, and women's organisations. There is no better microcosm of the community than there is in this Chamber; and that is the fundamental basis of Parliament. This is the body whose opinions count—this Parliament. As long as the institution remains, that is the viewpoint I will uphold.

I do not know how many women's committees or magistrates have any contrary views, but the attitude towards this Bill tonight has been sympathetic in the extreme. Other members, as I understand them, have asked that a certain matter should receive consideration. With some points I disagree and with some I agree: but I disagree with nearly all members on at least one point.

I disagree with Dr. Hislop when he says that the imprisonment penalty should be removed, because I think that in regard to anything there should be some ultimate method. I disagree with Mr. Ron Thompson when he states that the clause should be delayed, because I think all of us

would be quite prepared to accept the Minister's assurance that the matter would be studied.

I do not think the situation will ever arise where the department would have the responsibility for all deserted wives. I do not think every wife would desire help. Some have money and others can obtain jobs.

The Hon. R. F. Hutchison: They do not go to court.

The Hon. G. C. MacKINNON: Some do out of vindictiveness. There are anomalous cases which take a little working out. There are even some wives who drive their husbands to desertion; and the women are fortunate that in the goodness of their hearts, the husbands do not do something worse.

Be that as it may, when the woman has to rely on social service payments, and it is proven that the husband has deserted his wife and family, then, as I said earlier, she would have no option but to ask the court or the department to pursue the case to its logical conclusion. If that logical conclusion is the imposition of the ultimate penalty, this being imprisonment, then to that extent the court would have to order the imprisonment. However, very often when these people receive a summons, they start paying the maintenance money which they had been neglecting to do.

I point out that the general attitude towards this Bill has been sympathetic in the extreme. Because of harrowing experiences, members have been able to tell us what occurs; and it is obvious from the way they have spoken that they feel the same way as I do. They feel the position is not just right or humane, and if anything can be done about it, it should be done.

I repeat that tonight the Minister has obtained the view of the best cross-section of opinion that he could obtain in Western Australia; that is, this House of Parliament. I do not care what committees, magistrates, or women's organisations, have said, the best advice that can be obtained is from this cross-section of the people who have equal rights and privileges with each other to decide what legislation shall be placed on the statute book.

Initially I made it clear that I am prepared to vote for this Bill because I think it is a vast improvement. However, I would be appreciative if the Minister would have this provision studied further in the light of all that has been said tonight, in order that it might be ascertained whether a different approach could be made to the question.

The Hon. E. M. HEENAN: The Minister pointed out that the Act, except for amendments in 1926 and 1954, has remained unaltered since 1922. Although Mr. MacKinnon has spoken about the cross-section of the community which is represented here—and this cannot be denied—I will by no stretch of the imagination agree with him that the cross-section represented here is better placed than the magistrates and others who have been responsible for this Bill.

As a matter of fact, I think it is necessary for a person to attend the courts from time to time in order to gain a proper understanding of the situation. I doubt whether many members of this Committee have done that. I sympathise with the Minister because I think that this is an excellent measure as far as it goes, and I have had a lot of experience both as a member of Parliament and a practising solicitor. If it is the wish of Parliament for a State department to take over the affairs of deserted wives—

The Hon. H. K. Watson: How many are there?

The Hon. E. M. HEENAN: There are thousands I imagine scattered all over the State.

The Hon. R. F. Hutchison: There were 10,000 three years ago.

The Hon. E. M. HEENAN: Mrs. Hutchison says that there were 10,000 three years ago. I want to pay the greatest tribute to the Child Welfare Department and to the courts.

The Hon. F. R. H. Lavery: No-one is criticising them.

The Hon. E. M. HEENAN: Mrs. Hutchison talks about the moral cowards who desert their wives. Members ought to go down and listen to the evidence given about some of these husbands who come home and belt their wife and children and use the most obscene language one could think of, and then clear off with some other woman.

The Hon. R. F. Hutchison: Wouldn't you call them moral cowards?

The Hon. E. M. HEENAN: Call them what you like. Magistrates do not make orders against these people unless the facts are conclusively proved, and then the department gives the wives every assistance. We have had some excellent clerks of courts in Kalgoorlie, these including Mr. Leffey, Mr. Smith, Mr. Schroeder, and others; and we have had excellent ones in Perth also. They give married women every possible assistance. They do not issue warrants willy-nilly, but they cannot be blamed if they do so if a person continually defies them.

I cannot see anything wrong in a woman, whose husband has deserted her for another woman, and who is avoiding his obligations, going to a kindly helpful officer like some of those I have mentioned—

The Hon. R. F. Hutchison: They are not all kindly.

The Hon. E. M. HEENAN: I would like the honourable member to mention some who have not been kind and helpful.

I doubt whether the honourable member could. I have always found, everywhere I have been in this State, that these people have been kindly and helpful. Frequently they write out the forms. What is wrong with signing a warrant to make a worthless husband, who is not looking after his wife and children, pay up?

If a policeman comes along with a warrant and says, "I have here a warrant for your arrest, unless you pay up this £20 or £30 which you owe your wife and children," and the man is having a bad time the policeman will probably say, "All right, I will hold on to it for a week or two longer." That sort of thing is done.

This Bill has been drafted from the experience of the Act which has been operating for the past 28 years; from the wisdom of magistrates who have been administering the law and who have been meeting husbands and wives every day in the week; and from the experience of the Crown Law authorities, the Law Society, and others. If we compare the provisions of this Bill with the present state of affairs we will see that it has a lot of meritorious provisions.

To introduce extraneous subjects, and talk about things that have no bearing on the matter, does not help us at all. The Child Welfare Department helps out in every way; it does not let wives and children starve. It has given thousands of pounds to help out in cases where husbands have cleared out and avoided their obligations.

The Hon. F. R. H. Lavery: That is our complaint. The department has not the authority to collect the money. The wife has to do it.

The Hon. E. M. HEENAN: If the honourable member is owed some money, does he go to a department to ask it to collect the money for him, or does he issue a warrant? If the department issued a warrant I bet the wife would be running and complaining to the department; and very often we would find the husband and wife living together again the following week. The department would be placed in an impossible position. At present a wife can go along to a kindly officer and get every assistance.

At some future time it might be possible to devise some better method, but for goodness sake put up something practical.

The Hon. R. F. Hutchison: What is more practical than the department issuing the warrant and taking the responsibility?

The Hon. E. M. HEENAN: I think it is most impractical; I do not think it would work. To attack the Bill and put the department and others in a false position is quite wrong. The department is doing an excellent job, and this Bill goes a long way. If next year someone can put forward a better way of collecting the money, by all means do so.

The Hon. F. R. H. LAVERY: I realise that the hour is late, but on many occasions I have sat here until 3 o'clock in the morning waiting for a Bill to go through, and I intend to have my say on this occasion. I am rather surprised that Mr. Heenan should go to town on everybody who criticised the Bill. I would say that this Bill has not been criticised at all except on one point. I said on the second reading last night that it was a good Bill, and I supported it fully; but I reserved the right to criticise it. The Minister has had a most difficult time this year with several Bills; some of the measures he introduced were the most difficult ones that have been introduced. His co-Minister has got off rather lightly.

I have not heard anyone talking piffle, as Mr. Heenan said, in criticising the department, the magistrate, or the Bill.

The Hon. A. L. Loton: The honourable member never used the word "piffle."

The Hon. F. R. H. LAVERY: If the honourable member wants to make a speech, let him get up and do so! We are asking the Minister to give further consideration to this clause before the next session of Parliament to see whether some system along the lines suggested can be evolved. When I first became a member of Parliament a domestic matter was referred to me, and I took the deserted wife to see Mr. Mather, who is a most capable officer in the Child Welfare Department. He discussed the matter with me for about an hour after the lady had gone and he gave me some good advice which helped me considerably in dealing with these cases. I have the greatest respect for the Child Welfare Department, because I know the work it is doing and the thousands of pounds it is paying out to assist wives whose husbands have deserted them.

We are asking the Minister to evolve some scheme so that the wife will not have to make an application every three months. In the case I mentioned the lady was told by an officer of the Social Services Department that her "B"-class pension had been cut out because in the three months she had not made an attempt to find out where her husband was. He was a leading footballer in this State for many years and up to that stage had not been guilty of any misdemeanours.

He was working on the waterfront and every three months he used to get a transfer to one of the other States. Then it would be some time before his wife would find out the State to which he had gone, and Mr. Mather pointed out to me that the Commonwealth Social Services Department was forcing payments from the Child Welfare Department to assist the wife when the Commonwealth department should have been paying the money.

We are asking for a scheme to be evolved so that the Child Welfare Department will take over the collection of the

money. This evening Mrs. Hutchison talked about moral cowards. There are plenty of them about, and they do not all desert their wives; but a man who deserts his wife and children is a moral coward. If a man in uniform goes up to such a person he will have more chance of getting him to meet his obligations than if the wife goes to see him.

If the man does not pay surely that is contempt of court. I was fined for speeding the other day and I did not pay the fine on the due date. Five days later a constable came to see me and said he had a bill for £10 8s. Although I knew what it was for I said that I did not know and when he reminded me of it I said that I did not have any money. He then said, "We will take out a warrant." So I paid up. I venture to suggest that in these cases if a man in uniform went to collect the money it would be paid, whereas if the wife went along, the husband would say, "Get along you so-and-so, I am not paying you."

We are not criticising the Minister, the department or the Government, but we want something along the lines suggested to be evolved for the future.

The Hon. R. F. HUTCHISON: I do not want to weary the Committee; but I feel that a woman should not have to wait until the husband approaches the department before she gets her maintenance. This uncertainty has a detrimental effect on the woman and the children. I cannot see anything wrong with the department taking over this matter and enforcing the order. The fact that the man knew that this was to happen would ensure that the maintenance was paid. After all, husbands know their wives better than most other people do, and the men would pay up if they knew that they had to face the department. It is not right that a woman should be taken to court before receiving any maintenance. We should do nothing which would engender bitterness between husband and wife. On the other hand, we should do all we can to protect the marriage. The Minister should report progress and see whether he can make anything out of this.

The Hon. L. A. LOGAN: I would like to reply to Mr. MacKinnon who seemed to take me to task. Nobody has been denied anything in this Chamber. I sat here for about an hour and a quarter after supper without moving. The Bill has been here a fortnight, and was in another place a fortnight, and every member has had a chance of saying all he wished to say on it. Members also have had the opportunity to place amendments on the notice paper, and the fact that there were no amendments on the notice paper led me to believe that members were satisfied with the Bill. All that members say is taken back to the department; that is done with all speeches. I move an amendment—

Page 21—Add after subclause (4) in lines 4 to 9 the following new subclause:—

(5) Without prejudice to any of the foregoing provisions of this section, where any order sought to be enforced under this section, including an order registered in the Court, pursuant to section one hundred and five of the Matrimonial Causes Act 1959 of the Commonwealth, does not direct the manner of its enforcement, that order shall, on default, be enforceable by imprisonment in the first instance and the provisions of section one hundred and fifty-eight of the Justices Act, 1902 shall apply to that order, as though the order directed that the person in default should be imprisoned.

Amendment put and passed.

The Hon. R. F. HUTCHISON: I would like to move an amendment to the effect that when a wife has secured an order through the court the department shall be responsible for carrying out the order against the husband.

The CHAIRMAN (The Hon. W. R. Hall): I take it the honourable member wants to insert an amendment in this clause.

The Hon. R. F. HUTCHISON: Yes.

The CHAIRMAN (The Hon. W. R. Hall): I am afraid the honourable member would be out of order because an amendment has been passed to add a subclause.

Clause, as amended, put and passed.

Clauses 23 and 24 put and passed.

Clause 25—Rights of person arrested on default:

The Hon. L. A. LOGAN: I move an amendment—

Page 22, line 5—Delete the words "section one hundred and fifty five of".

This amendment has been on the notice paper for some time. It merely deletes the reference to section 155 of the Justices Act which was misplaced in the Bill.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 26 to 54 put and passed.

Schedule put and passed.

Title put and passed.

Bill reported with amendments.

ADJOURNMENT OF THE HOUSE: SPECIAL

THE HON. A. F. GRIFFITH (Suburban—Minister for Mines): I move—

That the House at its rising adjourn till 2.30 p.m. tomorrow.

Question put and passed.

House adjourned at 12 midnight.