Legislative Council

Tuesday, the 14th October, 1975

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

AUDITOR-GENERAL'S REPORT

Tabling

THE PRESIDENT (the Hon. A. F. Griffith): I wish to table the report of the Auditor-General for the financial year ending the 30th June, 1975.

QUESTION WITHOUT NOTICE

HIGH SCHOOL STUDENTS

Yanchep

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

My question arises out of an article on page 2 of today's issue of *The West Australian* under the heading "Yanchep parents go it alone for school". If the Minister has read the article would he care to comment on the following—

(1) As it is stated the Education Department was not opposed to the idea, does this mean in areas where there are no high schools and children are compelled to board at a facility many more miles away than the Yanchep children have to to travel to and from their homes each day, that any group of people, or a shire council by rating, could create a fund in any country town to employ teachers to carry out the service of high school education?

(2) If this is the case, what recompense would be paid by the Government to the parents under such circumstances?

(3) As in the case of Yanchep the parents are considering using a sail loft as a classroom, what criteria, if any, relating to teaching accommodation would be stipulated by the Education Department?

The Hon. G. C. MacKINNON replied:

I did see the article in this morning's paper, and on the 14th August I received a communication from a Mrs Morgan who is very interested in this problem at Yanchep; indeed she made a very good submission for the establishment of some kind of educational facility there. I answered her letter on the 5th September. The Premier wrote to the lady on the 9th September, and the Director-General of Education has also written to her.

The problem is there are some 25 to 40 children and it is admitted that the distance they have to travel is about the limit one should expect any child to travel. This situation will probably continue until 1977. As I explained to Mrs Morgan, the situation in the northern corridor is probably the most difficult in the State, in that the normal population increase is running at about 1.8 per cent whereas in that area it is running at 8 or 9 per cent. It is very high. Most of the families who have moved there are in effect leaving vacancies in other classrooms and we must build again for those children. We are having some difficulty in coping. We expect Greenwood and Craigie high schools to be built for 1976 and the Wanneroo high school for 1977, and this would ease the problem.

Specifically in answer to the question—

(1) Any group of parents who would like to get together can establish a school and, provided such school meets the criteria of an "efficient school", as judged by the superintendents, that school can operate. It would be classed as an independent school.

(2) In relation to recompense, such school would then be eligible for the normal subsidies and the like which are available to independent schools. A school comprising 25 to 40 children would have to offer at least the core subjects—there are eight or nine of them, as I understand—and some options. It would be extremely expensive to set up—far too expensive. One alternative is the living-away-from-home allowance so that the children can board; and the honourable member will be aware of the current experiments being conducted with the isolated matriculation, which is another form of assistance to some of these people. The recompense would be in the terms of the normal allowances made to any independent school.

(3) I noticed that Mr Bond has offered a sail loft as a classroom. Provided the study facilities exist, this would be acceptable, and there is no reason that it should not be classified as an "efficient school". The members from the Fremantle area would be

aware of the Fremantle community school which has been used in some quite difficult situations. Nevertheless, the end results of that school have been sufficient to allow it to be classified as "efficient" and it has received both the State and the Federal payments. Indeed, it received quite a generous, though small, grant under the innovations programme of the Karmel Schools Commission by way of a travelling classroom in the form of a bus.

I am referring to a school which I have seen and which is run by Gary Bourke.

I think I have covered all the points asked by the member. Briefly, the Education Department establishes schools where the numbers are big enough; and below a certain number it is just absolutely out of the question to establish a school not only from the point of view of adequate education but also from the point of view of costs. Anybody who so wishes can start a private school and, if it measures up to the requirements of an efficient school it is eligible for recompense. The accommodation must be acceptable to the parents and the children, and it must be such that the children can be taught efficiently in its environment.

QUESTION ON NOTICE

REGIONAL ADMINISTRATOR

Pilbara: Applications

The Hon. J. C. TOZER, to the Minister for Justice representing the Minister for the North-West:

(1) How many applications were received for the advertised vacancy of Pilbara Regional Administrator for which applications closed on the 26th September, 1975?

(2) Of this number, how many came from within the Public Service?

(3) When is it anticipated that an appointment will be made?

(4) How many applications were received for the position of Assistant Regional Administrator?

(5) Of these, how many came from within the Public Service?

The Hon. N. McNEILL replied:

(1) 57.

(2) 5.

(3) January, 1976.

(4) 58.

(5) 13.

ELECTORAL DISTRICTS ACT AMENDMENT BILL

Assembly's Message

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

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 2)

Second Reading

Debated resumed from the 9th October.

THE HON. S. J. DELLAR (Lower North) [4.42 p.m.]: This Bill seeks to make quite a number of amendments to the Local Government Act, and although the Bill itself is not large the length of the speech notes of the Minister when he introduced it last week more or less prompted me to adjourn the debate when in fact we could have gone straight on with it.

In general the amendments proposed are acceptable to us. I note the Minister has assured us that both associations involved were in fact responsible for initiating the amendments with the exception of two cases which are purely to correct some anomalies which have arisen as a result of previous amendments.

I do not wish to go into the annual "confab" about how well local government works and how the need to amend the Act is always with us in order to keep it up to date. I would say most of the amendments proposed are of a sensible nature and will allow for greater efficiency in the operation of the Act.

However, I raise one query in respect of clause 9, which seeks to amend section 244. I am not violently opposed to this amendment, but perhaps further clarification should be given in respect of it. Section 244 (o) refers to the by-law making powers of local authorities and at present gives them the right to make by-laws prohibiting people from leaving vehicles and/or animals in a street, way, or public place, and it gives them the right to authorise their officers or members of the Police Force to remove the offending vehicles or animals.

Apparently some problems have arisen in respect of the recovery of costs, and I assume the proposed amendment in clause 9 on page 5 of the Bill is designed to overcome these problems. We appreciate the fact that if a vehicle is abandoned it will not go away of its own volition but will remain in that position until such time as it is removed either by its owner or by an officer of the local authority or the police. However, the point I make is that the situation is a little different with animals. We must bear in mind that local authorities already have the authority to make by-laws regarding straying stock; and they have the right to impound such stock and to sell it at a later date to defray expenses. However, in this case we

are talking specifically about animals or vehicles which are obstructing a portion of the street, way, footpath, or public place.

I wonder how this provision will work in practice. It is quite easy to remove a motor vehicle intact to the shire depot or some other place and then later to sell it to recover the costs involved, and to recover any additional costs in court. However, I think that would be a little difficult in the case of animals unless it is a case of a horse, dog, or cat being tied up in a street or a cage full of guinea pigs being left on the street. Apart from that I cannot see how an animal will obstruct or could be abandoned in such a way that it will obstruct unless it remains stationary for the whole time it is there.

We are not opposed to the clause, but we wonder whether the Minister could give us some idea regarding how it will work in practice. My main query is that we cannot classify an animal with a motor vehicle, because a motor vehicle is a solid object which can be removed and sold to recover costs. Additional costs will be involved with animals because they must be maintained and fed until sold, whereas a motor vehicle may be simply removed to a central point to remain there until the appropriate action is taken.

The other amendments are acceptable. Other members of the Opposition may require additional clarification, but I feel this could be done in the Committee stage. Apart from the query I have raised, we have no objection to the provisions contained in the measure.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (the Hon. Clive Griffiths) in the Chair; the Hon. N. McNeill (Minister for Justice) in charge of the Bill.

Clauses 1 to 5 put and passed.

Clause 6: Section 73 amended—

The Hon. R. F. CLAUGHTON: I am a little puzzled by the need for this amendment. I believe the Act provides that where a position is not filled by election the previous members are assumed to be continuing in office. The Minister explained that where no election was held all existing members of the council would continue to be members. These are the only people about whom we can speak.

The Hon. J. C. Tozer: They would have to nominate, surely.

The Hon. S. J. Dellar: That is elementary.

The Hon. R. F. CLAUGHTON: If there is no election the existing councillors would continue. Would not that be the case?

The Hon. J. C. Tozer: No.

The Hon. S. J. Dellar: They would have to nominate.

The Hon. R. F. CLAUGHTON: The position is that if for some reason there is a breakdown in the procedure the existing councillors will be considered to be continuing in office, and if there is no election the procedure would be that the member who was the chairman of the local authority would continue to be chairman, or where a chairman retires from that position in mid-term the rules that operate would continue to apply in this case since, in fact, there has been no annual election and there are no new members of that local authority.

We are not talking about members who have been newly appointed on the council as a result of a by-election. The only members who can be considered are those who were in office before the 24th May. If he can, I would like the Minister to clarify the position as he sees it.

The Hon. N. McNEILL: In the light of the explanation I have already given, I am not sure I understand the import of Mr Claughton's question. Perhaps Mr Claughton may correct me if I have misinterpreted what he has said. I understood him to say that members continue to be members in the event of there being no election.

The Hon. R. F. Claughton: That is the problem that arises, is it not?

The Hon. N. McNEILL: Yes. This clause has been introduced principally because of circumstances in one particular case. Mr Claughton commenced by saying that there was no need for the amendment, but in the circumstances that have been related to me it does appear that there is a need and, in those particular circumstances, as there was no election at the time it was not possible to proceed beyond that point. I can see from Mr Claughton's face that he does not understand what I am trying to convey to him.

The Hon. R. F. Claughton: The point is that if there were no election the existing councillors would continue.

The Hon. N. McNEILL: My understanding is that if there is a statutory election date, any member who continued to be a member would be only a continuing councillor, because I imagine the others would no longer be members of that council as their terms of office would have expired. Perhaps I have not got the position crystal clear, but that is the way I see it. However, I am subject to correction on that point.

The Hon. R. F. CLAUGHTON: I follow the points made by the Minister. The assumption is that when the term of the existing councillors is concluded they are no longer councillors, but because of the failure of the election procedures—I must confess I have not checked this point in the Act—I believe those councillors, even

though they had not been nominated, would continue to be regarded as councillors. Also, since there was no election and the councillor who had been chairman had retired as chairman, the existing provisions of the Act—which provide for a situation where the chairman retires from that position before an election—would apply.

I will not persist with the argument but I believe that is the way the Act should be applied in this case, and I doubted whether this amendment was in fact necessary. I rose to speak only for that reason.

The Hon. J. C. TOZER: I rise merely on a point of explanation. Unfortunately I have not had time to examine section 41 of the Act, but quite clearly a councillor is elected for a given time from a given date. So three years hence, on that given date he would no longer be a councillor. That is the first point Mr Claughton has misunderstood.

The Hon. R. F. Claughton: There is a provision in the Act which allows them to continue in these circumstances.

The Hon. J. C. TOZER: In the case in question, at Port Hedland, a man who nominated was unfortunately shot before the election was held and thus the election was declared void. The strange part was that had there been wards in the Shire of Port Hedland this unfortunate event would not have voided the election; the other ward elections would have been held in the normal way. However there are no wards in the Shire of Port Hedland, and so the electors of the whole of the shire elect one-third of the councillors each year. Because no election was held, under the provisions of the Act the council was not empowered to elect a president.

It has been said that the law is an ass, and it certainly was in this instance. That was the state of affairs, and so for 12 months there was only a deputy president because of the terms of the law at that time. Amendments have been presented to us now to rectify this rather foolish situation.

The Hon. S. J. DELLAR: I fully understand what Mr Tozer is getting at, but I am a little confused with what Mr Claughton is trying to tell me. I did not know the case related to Port Hedland. The situation there was presumably that the person who met with the unfortunate accident was a councillor or a person intending to nominate.

The Hon. J. C. Tozer: It did not make any difference whether he was a previous councillor.

The Hon. S. J. DELLAR: Of course apparently the honourable member does not want to be helpful.

The Hon. J. C. Tozer: He was a candidate for election.

The Hon. S. J. DELLAR: On page 8 of his notes, the Minister said—

> However, as was found to be the case at a particular council in 1974, no annual election whatever was held.

Because someone died, the election was invalidated, so how could it be said there was no election?

The Hon. J. C. Tozer: They had an extraordinary election a month or some time later.

The Hon. S. J. DELLAR: We are not talking about an extraordinary election, but what the Minister said. It appears to me that if the annual election was held, and then it was invalidated because someone died, the third of the councillors up for election would have renominated for that annual election. Perhaps the unfortunate person who met with the accident intended to oppose one of the councillors who was a retiring councillor seeking re-election. I do not know. I am confused now.

The Hon. N. McNEILL: In my second reading notes I referred to a particular event without giving details. They have now been referred to by Mr Tozer. Perhaps I could give the details which have been supplied to me.

In 1974 in Port Hedland, no annual election was held because of the death of a candidate. As has been explained, the Port Hedland council is not divided into wards and consequently the annual election is conducted on a district basis. When the candidate died, the election subsequently held became an extraordinary election, not an ordinary election.

The Hon. S. J. Dellar: It was an extraordinary annual election.

The Hon. N. McNEILL: The council therefore was unable to elect a president because, under the present law, no annual election had been held and therefore no first meeting was involved. No first meeting was held after the election, and that is the important point. The council therefore had to operate for a full year with only a deputy president. It was curious wording and in actual fact such a circumstance was not foreseen. If the council operated on a ward system then I can visualise the situation would have been quite different.

The Hon. S. J. Dellar: I am happy.

The Hon. R. F. CLAUGHTON: The section of the Act which provides for continuing members after their term of office has been concluded is section 41 (3) (b), but I realise the Minister is talking about a different circumstance. What we are trying to rectify then is terminology.

In the circumstances I believe that the best way to overcome the problem would be to include a provision stipulating that in the event of an election having been

made invalid, the subsequent election held to fill those positions is to be regarded as the annual election. Under the amendment before us now the Minister is to nominate at which meeting the president can be elected.

I do not want to press the matter, but simply wish to express my view.

The Hon. N. McNEILL: As has been said, it is a matter of terminology. We could go one step further and ask: when is an extraordinary election no longer an extraordinary election? The answer would be: when it becomes an extraordinary annual election. If we were to spell out what would constitute an extraordinary election or an annual election under extraordinary circumstances, we would almost certainly create more anomalies and, rather than go into those convolutions of words, the resoltuion is to give the Minister certain power. In this way a case such as the one under discussion could be dealt with on its merits. I cannot think of any particular situation at the moment, but I am sure if we adopted Mr Claughton's suggestion and tried to be specific, we would create further problems. I think the simple and direct way is to give the power to the Minister.

The Hon. R. F. CLAUGHTON: What process was used to determine when the annual election would be held? Someone said it was held a month later. Is that correct?

The Hon. N. McNeill: There was a deputy president for 12 months.

The Hon. J. C. Tozer: The terms of the extraordinary election are clearly spelt out; it was an extraordinary election, not an annual election.

The Hon. S. J. Dellar: We are well aware of that now.

The Hon. R. F. CLAUGHTON: It seems to me that someone should be able to decide when an annual election would be held after the regular one has been invalidated. Who decided when the extraordinary election would be held? Was it the Minister or the court?

The Hon. J. C. Tozer: The Parliament in 1960.

The Hon. N. McNeill: The Act.

The Hon. R. F. CLAUGHTON: I must apologise for not checking this more carefully before I rose to speak, but I believe that rather than make this provision there should be an automatic process which stipulates when the annual election shall be held. Under the amendment we could be creating further difficulties. It seems in the case under discussion that there was no annual election, but only an extraordinary election. That is the terminology with which the matter is being complicated. A provision should stipulate that when an annual election has been invalidated an annual election will be held at a certain later time.

I do not expect the Minister to reply. Perhaps my remarks can be examined at some future stage.

The Hon. N. McNEILL: I think Mr Claughton should bring his mind back to the particular reason for this amendment. He asks specifically why there cannot be a provision that in the event of an election being invalidated some other date might be stipulated under the law. If we were to adopt that approach we would necessarily create some as yet unknown anomalous situations.

In the case under discussion, if the Minister had had the power he could have prescribed a particular meeting as being the one at which the president or mayor could have been elected. He has no such power at present. However, that could be the criteria for the selection of such a date.

The Hon. R. F. Claughton: All I say is that under the amendment before us some other loophole may be created because, in fact, there has been no annual election.

The Hon. N. McNEILL: That is right. According to the law as such, there has been no annual election in this instance.

The Hon. R. F. Claughton: I suggest there should be an automatic provision for an annual election to take place when all the other things could be taken care of.

The Hon. N. McNEILL: The Committee has indicated it is prepared to accept this provision and in the circumstances all I can say is that Mr Claughton's remarks will be noted.

Clause put and passed.

Clauses 7 and 8 put and passed.

Clause 9: Section 244 amended—

The Hon. S. J. DELLAR: Could the Minister clarify the query I raised on this clause or alternatively could he give us an assurance that he will do so at the third reading stage?

The Hon. N. McNEILL: To ensure that I understand Mr Dellar's point clearly I think he said that because vehicles are fixed and, in most cases, stationary objects, it is possible to take them into custody and hold them or sell them and thereby as a consequence of these amendments the board has the power to recoup the costs, and so on. Animals, on the other hand, are mobile—they are not fixed—and this raises the physical difficulty of taking such creatures into custody. If I am correct in my assessment of Mr Dellar's remarks I would say that I feel the honourable member is referring to the mechanics of how this can be done.

The Hon. S. J. Dellar: It is the difficulty of putting an animal and a vehicle in the same category, although when by-laws are brought into force there may be some way of overcoming this.

The Hon. N. McNEILL: For argument's sake there could be types of animals which are of a highly mobile nature and difficult to apprehend; but that would be the only difficulty.

What is being said is that there is a power to do this and a power to recoup the cost. The same might well be said of motor vehicles—it might be very impractical to take into custody motor vehicles or certain types of machinery and dispose of them in the same way.

I am not sure that the query raised by Mr Dellar has the significance that he is perhaps conveying to us. There may be some difficulties and probably the regulations, to the extent that it is necessary, might set these out, though I do not know how they would. For example in the country areas wild cattle could be involved.

The Hon. R. Thompson: Possibly buffaloes or donkeys.

The Hon. N. McNEILL: That is so. The purpose of the amendment is to make sure the law is clear and that the officers concerned have the power to recoup the costs associated with these animals. I think Mr Dellar is raising a physical difficulty rather than a statutory one.

The Hon. S. J. DELLAR: I do not want to be dogmatic about this.

The Hon. N. McNeill: Or catty!

The Hon. S. J. DELLAR: Accepting that this is a physical difficulty would the Minister give an assurance that he will give us some explanation for the necessity to include these provisions when under other by-laws local authorities have power in connection with the impounding of animals, and so on?

The Hon. J. C. TOZER: A look at section 244 will show that the council may make by-laws, and one of these by-laws relates to the provision that is in the Bill before us and under discussion now. Clearly if the council is advised by a capable shire clerk in connection with this matter, it will accept his advice. The Act provides the authority for the council to make an appropriate by-law and to frame it as it sees fit and one has to assume the Council will do just this. So the provision in the Bill is satisfactory for the situation it seeks to cover.

The Hon. N. McNEILL: Mr Dellar asked why this should be spelt out in this section of the Act when in fact under the Local Government Act, certain powers are available in connection with the impounding of straying stock, and so on. I can only say I will get the explanation from the Minister concerned and make this available to Mr Dellar.

The Hon. R. F. CLAUGHTON: I am glad Mr Tozer got to his feet because had he not done so I would not have understood the clause!

I support the remarks made by Mr Dellar. On pages 13 and 14 of the Minister's notes we find that section 244 as it stands does not authorise the making of by-laws giving the councils the right to recover the shortfall in sale proceeds. The Minister's notes further state that legal advice which has been sought from the Crown Law Department is to the effect that there is also considerable doubt whether some of the existing provisions of the draft model by-laws relating to the sale and recovery of seized vehicles are authorised by the existing legislation.

The emphasis there is on seized vehicles. One can understand that there is a constant problem faced by local authorities as it relates to the cost of disposing of these vehicles. If there is any machinery under which they could recover these costs from the owners the provision would have our support.

The question we raised relates to a situation covered by existing paragraph (o) in the Act where someone has stopped for a while and left his dog tied up, his horse hitched to a rail, or his car parked in such a way as to cause obstruction. A police officer or a council officer then removes the obstruction in the public interest and the owner can be fined for what is in fact only a temporary obstruction. It does not constitute an abandonment of these things.

Would not it be preferable, as is done in many other cases where the two things are separate, for the remedies to be clearly different in both cases? However, the Minister has agreed to obtain the information sought by Mr Dellar.

The Hon. N. McNEILL: Mr Claughton extends the discussion a little wider into an area with which we need not concern ourselves at the moment. I do, however, come back to this question of animals as against vehicles. If we bear in mind that the purpose of the amendment is to recoup the shortfall of the sale proceeds I think we will achieve our purpose. There does not appear to be any opposition to that principle.

As I have said I will obtain the information from the Minister concerned and pass this on to Mr Dellar.

Clause put and passed.

Clauses 10 to 17 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

JURIES ACT AMENDMENT BILL

Third Reading

Bill read a third time, on motion by the Hon. N. McNeill (Minister for Justice), and passed.

TOWN PLANNING AND DEVELOPMENT ACT AMENDMENT BILL

Report

Report of Committee adopted.

WORKERS' COMPENSATION ACT AMENDMENT BILL

Second Reading

THE HON. G. C. MacKINNON (South-West—Minister for Education) [5.30 p.m.]: I move—

That the Bill be now read a second time.

This is a Bill to amend the Workers' Compensation Act to clarify the meaning of "weekly earnings", which is the basis for the assessment of payment of weekly compensation during incapacity. Comprehensive amendments to the Workers' Compensation Act were sought in 1973, and an all-party Select Committee of Inquiry was appointed by the Legislative Council, and its recommendations were accepted substantially by Parliament.

Prior to the 1973 amendment, weekly compensation was based on flat rates for the worker and dependants, but was amended so that the worker's pre-injury ordinary wage for the ordinary hours he worked would be paid, and clause 2 of the first schedule was altered accordingly to convey this recommendation of the Select Committee. This took effect on the 27th December, 1973.

Although clause 2 was briefly stated, those particularly concerned with the application of industrial awards and agreements, including the insurers themselves, generally accepted the clause to mean the ordinary wages paid for the number of hours which, under the award, constituted a week's work, plus overaward payment, but excluding overtime and allowances. This seemed to be the object of the Select Committee's recommendation which expressly included overaward payment but excluded overtime, bonuses, and allowances.

However, a reference to the Workers' Compensation Board in the case of a worker who was incapacitated in an accident in the north-west and who had a contract engagement on the basis that he would normally work 60 hours a week, was determined by the Workers' Compensation Board to mean that the employee was entitled to be compensated for a full 60 hours—$167.50 per week—whereas the rate recognised by insurers for compensation was for a 40-hour week under the appropriate award, assessed at $91.40.

This case was then referred to the State Full Court which ruled against the board and found that "ordinary hours" referred to by the amendment Act meant hours without overtime. The case went further, to the High Court of Australia, which reversed the judgment of the State Full Court. The High Court ruled that compensation should equal a worker's ordinary weekly earnings before injury, including payments for overtime normally worked.

The ramifications of this case would have proved disastrous financially to insurers if widely applied, but insurers have continued to assess for compensation on the lower quantum of hours being a week's work. A further challenge to the insurers' interpretation is contemplated, and it is considered necessary to amend the Act to clarify the position which could cause insurers to fail to be able to underwrite workers' compensation if the compensable amount of weekly earnings is not immediately brought within the limits which premium funds will finance.

It must be emphasised to members that the amendments proposed are an interim measure, in order to hold the position so that insurers can meet their financial commitments. In regard to the worker who is injured, his compensable rate will continue to be the rate which the 1973 amendment was believed to achieve; that is, 100 per cent of his ordinary wage plus overaward payment, but not to include overtime and allowances. Incidentally, the members of that committee were myself as chairman, the Hon. D. K. Dans and the Hon. L. A. Logan.

Members will be aware of the publicity given recently to the appointment by this Government of an inquiry with wide terms of reference to inquire into, report on, and recommend in respect of the future operation of the Workers' Compensation Act. This inquiry has been sought by industry and insurers, in the belief that a complete review should be conducted. Many problems have arisen, and much concern has been expressed about the steepness of premium rates, financing, adequacy of compensation, and other associated matters. The Select Committee of 1973 in its report stated—

> . . . All witnesses agreed that the Act, through successive amendments since its inception in 1912, has become exceedingly complex.
>
> It would be no exaggeration to say there are very few people indeed who would have a total understanding of all the provisions of the Act.
>
> It is strongly recommended by your committee therefore that a small expert committee should be set up to clarify and adjust the Act. In short, to rewrite it . . .

This Bill deletes and re-inserts a new clause 2 of the first schedule. It attempts reasonably to provide across-the-board cover for workers in different types of industry, piece workers, workers with concurrent contracts, part-time workers and

the like, so that an appropriate award can be fairly applied to assess a weekly rate to compensate equitably a worker incapacitated by injury or industrial disease.

There is an amendment designed to cover the worker who is paid on a time basis and whose conditions are normally regulated by an industrial award or agreement, or application of such by common rule may be appropriate.

It will embrace the piece worker and should cover adequately such workers employed in the mining industry. A piece worker is often distinguished from other workers only in that he is paid in accordance with the quantum of work done, whereas ordinary workers have their remuneration calculated on a time basis. Piece rates are designed to reward ability and output, and it is the essence of the system to enable such a worker to earn more than a time worker. He is paid according to what he does, and is an employee—as distinct from contract work done under conditions which exclude the relationship of employer and employee.

The basis of compensation is not on an actual earnings-related basis in all cases, and particularly in the case of a worker who may be remunerated very highly under an agreement for engagement on piece rates, bonus, or commission, at rates which may even form part of the award. That agreement is disregarded, and the assessment is made on the ordinary earnings for the hours which constitute a week's work, under the award, for a similar category of worker not on any special rate.

In the case of a part-time worker, who is employed solely in one job on a part-time basis, compensation will be assessed at the *pro rata* rate which the number of hours actually worked has to the hours in a week's work. This *pro rata* payment is the assessment made at present by insurers for a part-time worker.

On the other hand, a person who may be performing two or more jobs a week will obtain the benefit of the compensable amount for a week's work under the award relevant to the work being done at the time of the injury.

Representations from the Confederation of WA Industry, WA Employers' Federation, Chamber of Manufactures, Chamber of Mines, Chamber of Commerce, and Insurance Council of Australia, sought a number of amendments, but in the light of the pending wide scale inquiry, those bodies were informed that a sole amendment, purely as a holding measure, would be introduced, and that all parties would then have the opportunity to place their views before the inquiry.

Representatives of the WA Trades and Labor Council, who recently saw the Minister for Labour and Industry on this matter, have also been informed accordingly, together with the members of the Minister for Labour Industrial Relations Advisory Committee. I commend the Bill to the House.

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

GOVERNMENT RAILWAYS ACT AMENDMENT BILL

Second Reading

Debate resumed from the 9th October.

THE HON. D. K. DANS (South Metropolitan) [5.37 p.m.]: We oppose this Bill. It seems an insignificant looking piece of legislation until one examines it closely. I would like to quote from the Minister's second reading speech as follows—

> It is intended to provide parking facilities for both the general public and railway staff who will be employed at the new railway administration/terminal building, which is under construction at East Perth, and which is scheduled for completion early next year.

The Minister went on to say that whilst it is not intended at present to apply this policy of providing parking facilities to other railway stations and land owned by the Railways Department, in fact it gives the commissioner the power to do just that.

We are living in a period of rampant inflation. Governments have called on all sections of the community, and in particular the trade union movement, to moderate wage demands in an endeavour to cut costs and to do all those other things which are necessary to live within our budget; and yet here we have this measure brought along for the express purpose of providing the Government with another avenue of taxation.

It may well be that there is some justification for restricted periods or areas of parking at the terminal, but for the life of me I cannot see the necessity to introduce a Bill of this nature which seeks not only to put a cost on parking at the terminal, but also to extend by regulation the powers of the commissioner or his officers in regard to other railway station parking areas and other railway property.

Nowhere in the Bill and nowhere in the Minister's second reading speech do we find how much the public will be charged to park their cars at the East Perth terminal. Yet we find in a letter to the West Australian Railway Officers' Union, dated the 4th September, 1975, the Acting Secretary for Railways (Mr K. H. York) clearly outlines to the railway officers the amounts they will be charged for parking. I quote from his letter as follows—

> I refer to your letter of 31st July, 1975 concerning staff parking at the new administration terminal building.
>
> Basically, the proposal is that, for an annual fee of $26—for convenience,

deducted fortnightly through the payroll—employees working in the administration building will have parking space available to them twenty four hours a day, seven days a week, including periods of leave.

It is recognised that the extent to which they are able to take advantage of this facility outside normal working hours will vary according to factors such as the location of their homes and the nature of their private activities, including activities during periods of leave. Quite clearly some will obtain greater value for their 50 cents per week than others.

The decision to operate on the basis of an "annual charge", without rebate for periods of leave, is of course, not related to the ability of the computer to handle adjustments but rather to the cost of the clerical work involved in administering a rebate or refund scheme.

The proposed annual fee of $26 per annum or 50 cents per week is low by comparison with rates applicable in public parking areas and justification for such a low figure rests on our ability to minimise administration costs.

In the circumstances I think you will agree that the proposed arrangements are logical and in the best overall interests of prospective users of the parking facilities.

One would have thought, in view of that letter which refers only to railway staff, the Minister would tell us how much it is proposed the general public will have to pay for parking at the East Perth railway terminal. I think you would agree, Mr President, that it will be only a matter of time before the Minister or the commissioner have recourse to the other provisions available to them in the Bill—and I will quote these shortly—to try to raise revenue through a charge for parking at suburban railway areas. For the life of me I just cannot follow this attitude.

First of all we have a situation at this terminal where a large number of railway officers and other personnel have had some parking facilities made available to them gratis. This practice is not unusual in a whole host of other enterprises. One could well imagine what would happen if the Fremantle Port Authority suddenly said to the waterside workers, "All members of the Waterside Workers' Federation who park their cars on the Fremantle wharf will have $1 a week subtracted from their wages."

The Hon. I. G. Medcalf: They would not mind that, would they?

The Hon. D. K. DANS: They may not mind it, but they would have a great deal to say about it, and they would make my life fairly miserable for a while, I imagine.

The Hon. J. Heitman: We will start to cry now.

The Hon. D. K. DANS: We are now at the stage of trying to attract people onto public transport. Even with all the best assurances in the world, within a matter of weeks, months, or a year, we will find that the principle of having to pay for parking facilities on railway property will be extended to almost every metropolitan railway station and every railway station in the vicinity of Perth. How is that intended to attract people to the railways?

The Hon. J. C. Tozer: The Bill says nothing about other stations.

The Hon. D. K. DANS: Mr Acting President (the Hon. Clive Griffiths), had Mr Tozer been listening to me, he would have heard me say that in a few moments I will quote the passage in the Bill giving the commissioner power to extend this principle to other areas.

The Hon. J. C. Tozer: What about dealing with it now?

The Hon. D. K. DANS: I will deal with it in due course. I am worried about this aspect of the legislation because almost daily we are told about pollution, the cost of providing freeways, the cost to the public of the road toll, and the necessity for all of us to become oriented to public transport. Yet almost overnight the Government plans to put this impediment in the way of the people, by starting off with the imposition of parking fees at the East Perth terminal.

If the Government wants to get people to use our railway system, whether they are travelling locally, into the country areas or interstate, I suggest it is not in the best interests of railway finance or of attracting people to the public transport system to make it more difficult for people to park their motorcars at railway stations. In fact, I would be surprised if the fee of 50c a week to be applied to the staff working at East Perth will be applied to the public.

I should like to refer to a bulletin issued by the Royal Automobile Club of WA and sent to the member for Collie by Mr Solloway, the General Manager of the RAC. It states—

> The Royal Automobile Club of W.A. is critical of the State Government's proposal to amend the Railways Act enabling the Commissioner of Railways to charge parking fees on all railway land where parking is permitted.

The legislation does not say that the commissioner must impose fees; it merely gives him that right. The bulletin continues—

> "When reviewed against the government's overall transport aim, particularly its intention to retain and

upgrade the urban passenger rail system, the proposal is unrealistic," R.A.C. President, Mr K. G. Bott, said today.

"Because of its inflexibility, the rail system to be a viable one must rely heavily on attracting large numbers of patrons from areas some distance from local stations.

This seems to have been forgotten in the framing of the legislation. The bulletin continues—

"To a degree the modal transfer could be achieved by feeder buses, but the motor car would obviously be the prime mover of people to and from rail stations."

Mr Bott said the introduction of a parking fee at stations would effectively kill any hope of encouraging more commuters to use the rail system. The fact that any parking fee by-law would need government approval was not good enough.

"Once legislative machinery to generally charge parking fees is built into the Act, it will be only a matter of time before someone puts it in motion," he added.

Even if no-one else agrees with me, evidently Mr Bott does.

The Hon. W. R. Withers: I would not object to parking fees being imposed at railway stations in my province.

The Hon. D. K. DANS: I will bet Mr Withers would not. I do not know whether Mr Withers remembers, but he used to have a little railway line in his province, and an engine called Kate; it used to cost 6d. to travel from the wharf to the pub or the running sheds. I heard a story once about a member of Parliament who disembarked from one of the State Shipping Service vessels and, when asked for his 6d., flashed his gold pass.

The Hon. W. R. Withers: It was not I!

The Hon. J. C. Tozer: What about Marble Bar?

The Hon. D. K. DANS: I recollect that the railway went to Marble Bar as well. As we are reminiscing, I recall helping carry the railway lines when the line was removed. I also remember the last engine driver who had a relief car which he used to race up and down the small stretch of macadamised road; that was his pastime.

New paragraph (23b) (a) states—

prescribing charges payable by any person using, or in respect of any vehicle occupying a parking or standing area and exempting any person or vehicle or class of person or class of vehicle from paying all or any of those charges;

However, it does not specify who shall pay those charges. As I said, this is one of those small Bills which often sneaks through the House.

The Hon. N. E. Baxter: You are not proposing that we attach a schedule to the Bill listing everyone who is likely to use the car park, are you?

The Hon. D. K. DANS: If Mr Baxter is prepared to do that, I will welcome it. He has just committed himself by his interjection.

The Hon. N. E. Baxter: I have not committed myself at all. I am just pointing out that you are asking for something quite ridiculous.

The Hon. D. K. DANS: I will not hold Mr Baxter to his interjection. The Bill goes on to provide for exemptions from complying with parking restrictions. Subparagraph (f) then states—

prescribing the method and the means by which any charges or penalties prescribed by any by-law made pursuant to this paragraph may or shall be paid and collected, or recovered;

We then have an obnoxious little provision which used to be popular in the city of Sydney. Subparagraph (g) states—

prescribing the circumstances under which an officer or servant of the Department or Commission may remove a vehicle, or cause it to be removed, from a parking or standing area to a specified place, prescribing his further powers in relation thereto, prescribing the scale of charges to be paid to recover the vehicle from that place, and authorising the Commission to hold the vehicle until the prescribed charges are paid;

Perhaps a situation could arise where a person has parked his vehicle at the East Perth terminal, and has been away for longer than he anticipated. Under this subparagraph he is likely to come back to find his vehicle has been towed away.

The Hon. I. G. Pratt: He could have been on a trip to Sydney.

The Hon. D. K. DANS: He may have been travelling on the *Prospector* to a particular country town, and may have been delayed.

The Hon. N. E. Baxter: Do you think a person would be likely to park his vehicle for such a length of time?

The Hon. D. K. DANS: I do not understand that interjection because one of the things this Bill sets out to do is to permit employees to use the parking facility while on leave. I do not think this power to remove vehicles still applies in New South Wales because of the problems created by people who flatly refused to go and recover their vehicles. They had a great stack of cars where the Opera House now stands.

The Hon. N. E. Baxter: I cannot see where the legislation refers to employees on leave using the parking facility.

The Hon. D. K. DANS: It is not specifically mentioned in the Bill. I remind the Minister of the letter from the Acting Secretary for Railways to the General Secretary of the Railway Officers' Union, where he indicated that a fee of $26 a year would be charged to employees and that there would be no rebate for periods of leave; he also said that some employees may wish to use the parking facility while on leave.

What I am getting at is that the Government is creating a situation where, initially, only employees working at the East Perth terminal will be charged a parking fee. However, the legislation is so framed as to permit the Commissioner of Railways to extend the parking fee to all other railway stations and to apply it to the general public.

During a period when we are asked to contain costs, the Government is using another method whereby it can raise taxes; in a period when we are trying to encourage people to use the public transport system, the Government is making it harder for the public to do so; and not only is the Government to make it harder; it is also threatening to tow the vehicles away.

These vehicles will be towed away and hidden in some place until such time as the prescribed charges are paid.

The Hon. N. E. Baxter: Do you really think that?

The Hon. T. O. Perry: Does the Bill say "hide"?

The Hon. D. K. DANS: It does not say "hide", but it does not say where the vehicles are to be put, and I presume they are going to hide them.

The Hon. J. Heitman: What makes you presume they will be hidden?

The Hon. D. K. DANS: It is something like wringing the necks of possums.

The Hon. N. E. Baxter: That is illegal, too.

The Hon. D. K. DANS: I believe this Bill should be re-examined. It is another one of those things which puts a charge on the general public and certainly is not designed to encourage people to use the public transport system. The Bill does not tell us how much the parking fee will be, or what penalties will apply. It does not lay down how much it will cost a person to recover his vehicle. Above all, neither the Bill nor the second reading speech gives any reason for imposing such a fee.

I have quoted from the RAC bulletin. In addition, opposition is expressed in a letter written by the WA Amalgamated Society of Railway Employees Union, which is worried not only about having to pay parking fees but also about the effect such legislation may have on the use of our rail facilities. I have a lengthy letter from the West Australian Locomotive Engine Drivers', Firemen's and Cleaners' Union, also expressing opposition to the legislation.

I could just about read like a book what could happen once this legislation is enacted. Firstly, there will be a claim for an increase in margin to cover the cost of parking to be subtracted from employees' pay packets; secondly, the general public will not like the proposal; and, thirdly, once the scheme gets under way it will be found that it will not be profitable for the Railways Department to operate the parking areas and, similar to the situation at Perth Airport, the parking franchise will be offered to a private company.

The Hon. N. E. Baxter: Does the Bill provide for any power of that nature? Of course it does not.

The Hon. D. K. DANS: Again, the Minister has not been listening; I said that this is what could happen. This is Parkinson's law; it will be found that the Railways Department cannot handle the scheme because it will not be profitable and it will be handed over to a private operator who, in turn, also will find it unprofitable and, in order to make it reasonably attractive to the private operator, the scheme will be extended to cover other suburban railway stations.

I oppose the Bill on the basis that it is unnecessary. It will impose another charge on the people and will increase the inflationary spiral, at the same time doing nothing to attract people to the public transport system. In fact, if the parking fees are implemented this legislation will do plenty to drive the people away. I also oppose the Bill on the grounds that it will impose a charge on railway employees and in some cases may lead to industrial disputation.

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

House adjourned at 5.58 p.m.

Legislative Assembly

Tuesday, the 14th October, 1975

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

QUESTIONS (27): ON NOTICE

1. APPRENTICES

State Housing Commission Contracts

Mr HARMAN, to the Minister for Housing:

(1) How many apprentices are employed by the State Housing Commission?